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### Agreement of lease of a furnished flat

#### AGREEMENT OF LEASE

##### 1 Parties

The parties to this lease are

**1.1** (*full name of lessor*) (“the Lessor”); and

**1.2** (*full name of lessee*) (“the Lessee”).

##### 2 Interpretation

**2.1** In this lease, except in a context indicating that some other meaning is intended,

**2.1.1 “the Building”** means the building known as (*name of building*) situated on the Property, and includes, where the context so allows, all permanent improvements on the Property;

**2.1.2 “day”** means any day of the week, excluding Sundays and public holidays;

**2.1.3 “the Furniture”** means the furniture, furnishing, appliances, and other articles and things described in the first schedule to this lease, and (where consistent with the context) includes all replacements thereof, if any;

**2.1.4 “the Lease Period”** means the period for which this lease subsists, including any period for which it is renewed;

**2.1.5 “month”** means a calendar month, and more specifically

**2.1.5.1** in reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and

**2.1.5.2** in any other context, a month of the calendar, that is, one of the 12 months of the calendar, and “monthly” has the corresponding meaning;

**2.1.6 “the Premises”** means flat number (*specify*) in the Building;

**2.1.7 “the Property”** means (*describe*);

**2.1.8 “the Rates”** means the assessment rates payable on the Property and includes any other charges payable by the Lessor to the local authority (such as, but not limited to, refuse removal charges or sanitary fees), but not charges for water, electricity or gas;

**2.1.9 “the Rent”** means the composite rental payable by the Lessee to the Lessor for the hire of the Premises and the Furniture;

**2.1.10 “year”** means a period of 12 consecutive months commencing on the date on which this lease comes into operation or any anniversary of that date;

**2.1.11** references to notices, statements and other communications by or from the Lessor include notices by or from the Lessor’s agent;

**2.1.12** expressions in the singular also denote the plural, and vice versa;

**2.1.13** words and phrases denoting natural persons refer also to juristic persons, and vice versa; and

**2.1.14** pronouns of any gender include the corresponding pronouns of the other gender.

**2.2** Any provision of this lease 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 Premises or any other part of the Property or the Building through, under, by arrangement with, or at the invitation of, the Lessee, including (without limiting the generality of this provision) the family, guests and servants of the Lessee.

**2.3** Clause headings appear in this lease for reference purposes only and shall not influence the proper interpretation of the subject matter.

**2.4** This lease shall be interpreted and applied in accordance with South African law.

### **3 Lease: Letting and hiring**

The Lessor lets and the Lessee hires the Premises and the Furniture on the terms of this lease. This is a single, indivisible lease.

### **4 Duration**

This lease shall come into operation on (*specify date*) and shall subsist for (*specify*) years and (*specify*) months from that date.

*(Alternatively:*

This lease shall come into operation on (*specify date*) and shall subsist from month to month, being terminable on one month's notice in writing from either party to the other (, which notice shall not be given so as to terminate this lease with effect prior to (*specify date*)).)

### **5 Rent**

**5.1** The Rent shall be

**5.1.1** R..... (.....**RAND**) for each month of the first year of the Lease Period;

**5.1.2** R..... (.....**RAND**) for each month of the second year; (*and so on*).

*(Alternative clause 5.1:*

**5.1** The Rent shall be

**5.1.1** R..... (.....**RAND**) for each month of the first year of the Lease Period; and

**5.1.2** an amount for each month of every subsequent year of the Lease Period which is .....% (.....**PERCENT**) greater than the amount of the Rent for the last month of the preceding year.)

**5.2** Whenever the Rates are increased during the Lease Period, the Lessor may, by written notice to the Lessee, increase the Rent by an amount which bears the same ratio to the increase in Rates, calculated on a monthly basis, as the Rent bears for the time being to the total rentals receivable by the Lessor for all the flats in the Building, whether let furnished or not. Every such increase in the Rent shall take effect on the first day of the month following that in which the Lessor's notice of the increase is received by the Lessee or, whichever is the later, the date on which the relevant increase in the Rates takes effect.

**5.3** For the purposes of clause 5.2, any flat in the Building which is unlet for the time being shall be deemed to be let for the rental that was last receivable by the Lessor for such flat (furnished or unfurnished, as the case might be) or, if it was never let, a fair market rental for such flat (unfurnished) determined in good faith by a reputable estate agent appointed by the Lessor.

**5.4** The Lessee shall pay the Rent monthly in advance on or before the (*specify*) day of every month.

### **6 Additional charges**

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In addition to paying the Rent, the Lessee shall reimburse the Lessor, monthly in arrear within (*specify*) days after receiving an account from the Lessor reflecting the amount(s) so payable, with the cost of electricity, water and gas consumed on the Premises, determined at the prevailing municipal tariff of charges in accordance with readings of separate submeters or, if there are no such submeters, on the basis of the Lessee being liable to bear .....% (.....PERCENT) of the total cost of all electricity, water and gas consumed on the Property.

## **7 Payments**

**7.1** All payments due by the Lessee to the Lessor under this lease shall be made to (*specify lessor or agent*) at (*place*) or to such other person, if any, at such other place, if any, as the Lessor has designated for the time being by written notice to the Lessee.

**7.2** The Lessee shall not withhold, defer, or make any deduction from any payment due to the Lessor, whether or not the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee.

**7.3** The Rent and all other amounts payable by the Lessee under this lease shall be inclusive of value-added tax in so far as it is applicable.

*(Alternatively:*

The Rent and all other amounts payable by the Lessee under this lease shall be net of value-added tax in so far as it is applicable and such tax shall be recoverable by the Lessor from the Lessee in addition to the Rent and such other amounts.)

**7.4** The Lessee shall be liable for interest on all overdue amounts payable under this lease at a rate per annum .....% (.....PERCENT) above the (*specify*) rate per annum of (*name of bank*) from time to time, reckoned from the due dates of such amounts until they are respectively paid.

## **8 Deposit**

**8.1** On entering into this lease the Lessee shall pay the Lessor a deposit of R..... (.....RAND), which amount the Lessor may apply, in whole or part, in meeting any payment due by the Lessee to the Lessor at any time during the Lease Period or after the termination of this lease.

**8.2** Whenever during the Lease Period the deposit is so applied in whole or part, the Lessee shall on demand reinstate the deposit to its original amount.

**8.3** As soon as all the obligations of the Lessee to the Lessor have been discharged following the termination of this lease, the Lessor shall refund to the Lessee, free of interest, so much of the deposit as has not been applied in terms of the above provisions.

## **9 Insurance**

**9.1** The Lessee shall not keep or do in or about the Premises anything such as is liable to enhance any of the risks against which the Building or the Furniture is insured to the extent that the insurance of the Building or the Furniture is rendered void or voidable or the premiums of such insurance are, or become liable to be, increased.

**9.2** Without prejudice to any other right of action or remedy which the Lessor may have arising out of a breach of the foregoing provision, the Lessor may recover from the Lessee on demand the full amount of any increase in insurance premiums attributable to such breach.

**9.3** For the purposes of the above provisions, the Lessee shall be entitled to assume that the Building and the Furniture are at all material times insured against such risks, on such terms, for such amounts, and at such premiums as are for the time being usual in respect of similar buildings and the like contents of similar dwellings.

## **10 Assignment and subletting**

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**10.1** The Lessee shall not, except with the prior written consent of the Lessor

**10.1.1** cede or assign all or any of the rights and obligations of the Lessee under this lease;

**10.1.2** sublet the Premises in whole or part;

**10.1.3** give up possession of the Premises to any third party;

**10.1.4** sublet or give up possession of all or any of the Furniture; or

**10.1.5** remove or allow to be removed from the Premises all or any of the Furniture except for repair.

**10.2** The Lessor shall not, however, unreasonably withhold its consent to a subletting of the whole of the Premises together with all the Furniture.

## **11 Sundry duties of the lessee**

The Lessee shall

**11.1** keep the Premises clean, tidy, and habitable;

**11.2** not use the Premises or allow them to be used, in whole or part, for any purpose other than that of a private dwelling;

**11.3** take good and proper care of the Furniture and every item thereof, and refrain from causing or allowing it to be used for any purpose for which it was not intended;

**11.4** take all reasonable measures to protect

**11.4.1** the Furniture and every item thereof; and

**11.4.2** the Premises and all parts thereof (including all fixtures, fittings, appurtenances, appliances and keys not being part of the Furniture),

from abuse, damage, destruction, and theft;

**11.5** not place or leave any article or other thing in or about any passage, lift, stairway, pathway, parking garage, or other common part of the Building so as to cause a nuisance or obstruction;

**11.6** not bring into the Premises or the Building any article which, by reason of its weight or other characteristics, is liable to cause damage to the Building or the Premises;

**11.7** not contravene any of the conditions of title of the Property or any of the laws, rules or regulations affecting owners, tenants or occupiers of the Property or the Building;

**11.8** not cause or commit any nuisance on the Property or cause any annoyance or discomfort to other tenants or occupiers of the Building;

**11.9** not leave refuse or allow it to accumulate in or about the Premises except in the refuse bins provided;

**11.10** refrain from interfering with the electrical, plumbing, or gas installations or systems serving the Premises or the Building, except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this lease;

**11.11** not allow more than (*specify*) persons to reside in the Premises at the same time;

**11.12** not keep any live animals or birds on the Premises except with the prior written consent of the Lessor;

**11.13** not hang washing in any visible place in or about the Premises, or do or display anything else which causes the Premises or the Building to appear unsightly;

**11.14** take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes and water pipes serving the Premises; and

**11.15** provide at the Lessee's own expense all electric, fluorescent, and incandescent light bulbs required in the Premises.

## **12 Maintenance and repairs**

**12.1** The Lessee shall at his own expense and without recourse to the Lessor

**12.1.1** throughout the Lease Period maintain in good order and condition the Furniture, all items thereof, the interior of the Premises, and all parts of the Premises, including (without limitation of the generality of this obligation) all windows, doors, appurtenances, fixtures and fittings contained in the Premises;

**12.1.2** promptly repair or make good all damage occurring in or to the Premises or to the Furniture from time to time during the Lease Period, whatever the cause of such damage, and including damage to any part or item of the Furniture, to the interior of the Premises, or to any window, door, appurtenance, fixture or fitting, and replace all the same (as well as any keys) which have been broken, lost or destroyed (again regardless of cause);

**12.1.3** if any item of the Furniture is destroyed or damaged beyond repair (whatever the cause of the destruction or damage, but subject to clause 19.4), promptly replace it with a brand new, identical item in good and (where appropriate) operative condition or, if an identical item is not obtainable, one which is as closely similar to the original as possible;

**12.1.4** on the termination of this lease, howsoever and whenever it terminates, return the Premises, all such parts thereof (including all keys), and the Furniture to the Lessor in good order, condition and repair, fair wear and tear excepted.

**12.2** If the Lessee notifies the Lessor in writing within (*specify*) days after having taken possession of the Premises of the need for any repairs to or in the Premises or to any item of the Furniture or of the fact that any part of the Premises, including any lock, key, door, window, appurtenance, fixture or fitting, or any item or part of the Furniture is damaged, missing, or out of order, the Lessor shall promptly cause the necessary repair or replacement to be effected at the Lessor's own expense. If or in so far as the Lessee does not give such notice, the Lessee shall be deemed to have acknowledged that the Premises, all parts thereof, the Furniture, and all items thereof, were intact, in place, and in good order, condition and repair when the Lessee took possession of the Premises under this lease.

**12.3** The Lessor shall be responsible for the maintenance of, and for all repairs and replacements becoming necessary from time to time in or to, the Building and all parts thereof other than those which are the responsibility for the time being of tenants or of the local authority, and the Lessor's obligations in this respect shall include the maintenance and repair of the structure of the Building, all systems, works and installations contained therein, the roofs, the exterior walls, the lifts, the grounds and gardens, and all other common parts of the Property.

**12.4** The Lessor shall not, however, be in breach of clause 12.3 in so far as any of its obligations thereunder are not or cannot be fulfilled by reason of any *vis maior* or the acts or omissions of others over whom the Lessor has no direct authority or control, and where the Lessor is indeed in breach of clause 12.3, the Lessee's only remedy against the Lessor shall be a right of action for specific performance.

**12.5** Should the Lessee fail to carry out any of its obligations under this lease with regard to any maintenance, repair, or replacement, the Lessor shall be entitled, without prejudice to any of its other rights or remedies, to effect the required item of maintenance, repair, or replacement and to recover the cost thereof from the Lessee on demand.

## **13 Alterations, additions and improvements**

**13.1** The Lessee shall not make any alterations or additions to the Premises or any item of the Furniture without the Lessor's prior written consent, but the Lessor shall not withhold its consent unreasonably to an alteration or addition to the Premises which is not structural.

**13.2** If the Lessee does alter, add to, or improve the Premises in any way, whether in breach of clause 13.1 or not, the Lessee shall, if so required in writing by the Lessor, restore the Premises on the termination of this lease to their condition as it was prior to such alteration, addition or improvement having been made. The Lessor's requirement in this regard may be communicated to the Lessee at any time, but not later than the (*specify*) day after the Lessee has delivered up the Premises pursuant to the termination of this lease; and this clause 13.2 shall not be construed as excluding any other or further remedy which the Lessor may have in consequence of a breach by the Lessee of clause 13.1.

**13.3** Save for any improvement which is removed from the Premises as required by the Lessor in terms of clause 13.2, all improvements made to the Premises shall belong to the Lessor and may not be removed from the Premises at any time. The Lessee shall not, whatever the circumstances, have any claim against the Lessor for compensation for any improvement or repair to the Premises or the Furniture, nor shall the Lessee have a right of retention in respect of any improvements.

#### **14 Exclusion of lessor from certain liability and indemnity**

**14.1** The Lessee shall have no claim for damages against the Lessor and may not withhold or delay any payment due to the Lessor by reason directly or indirectly of

**14.1.1** a breach by the Lessor of any of its obligations under this lease;

**14.1.2** any act or omission of the Lessor or any agent or servant of or contractor to the Lessor, whether or not negligent, or otherwise actionable at law, and including (without limiting the generality of the foregoing) any act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman, guard, or commissionaire;

**14.1.3** the condition or state of repair at any time of the Property, the Building, or any part of the Property or the Building;

**14.1.4** any failure or suspension of, or any interruption in, the supply of water, electricity, gas, air-conditioning, heating, or any other amenity or service to the Premises, the Building, or the Property (including, without generality being limited, any cleaning service), whatever the cause;

**14.1.5** any breakdown of, or interruption in the operation of, any machinery, plant, equipment, installation or system situated in or on, or serving, the Property, the Building, or the Premises, and including (but without limiting the generality of the foregoing) any lift, escalator, geyser, boiler, burglar alarm, or security installation or system, again regardless of cause;

**14.1.6** any interruption of or interference with the enjoyment or beneficial occupation of the Premises or any of the common parts of the Property or the Building caused by any building operations or other works to or in the Building or elsewhere on or about the Property, whether carried out by the Lessor or by anybody else; or

**14.1.7** any other event or circumstance whatever occurring, or failing to occur, upon, in, or about the Property, the Building, or the Premises, whether or not the Lessor could otherwise have been held liable for such occurrence or failure,

and the Lessee indemnifies the Lessor against all liability to members of the Lessee's household, the Lessee's servants, guests, and other invitees, and all other persons who may occupy or be entitled to occupy the Premises or any parts thereof through or under the Lessee, in consequence of any such matter as is referred to in clauses 14.1.1 to 14.1.7 above.

**14.2** The Lessor shall not, however, be excused from specific performance of any of its obligations under this lease, whether express or implied, and particularly (but not only) its obligations to afford the Lessee occupation and enjoyment of the Premises and the Furniture as contemplated by this lease and to carry out such maintenance and repairs as are incumbent upon the Lessor in terms hereof; and if the

Lessor fails to carry out any such obligation of maintenance or repair with reasonable speed or efficiency, and persists in such default after reasonable notice in writing requiring that it be remedied, the Lessee may cause the necessary maintenance or repair (including any incidental or necessary replacement) to be carried out and may then recover the reasonable cost thereof from the Lessor on demand.

## **15 Lessor's rights of entry and carrying out of works**

**15.1** The Lessor's representatives, agents, servants and contractors may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Lessee or any other occupier of the Premises

**15.1.1** enter the leased Premises in order to inspect them, to carry out any necessary repairs, replacements, or other works, or to perform any other lawful function in the bona fide interests of the Lessor or any of the occupiers of the Property; or

**15.1.2** carry out elsewhere in the Building or on the Property any necessary repairs, replacements, or other works,

but the Lessor shall ensure that this right is exercised with due regard for and a minimum of interference with the beneficial enjoyment of the Premises by those in occupation thereof.

**15.2** The Lessor shall not, however, cause or allow any major building works to be carried out anywhere upon the Property for a duration longer than (*specify period*) from the date of their commencement unless

**15.2.1** such works are necessary and do not merely involve additions to the Building, the construction of additional buildings, or redecorations of a solely aesthetic nature; or

**15.2.2** the Lessee has consented otherwise in writing.

## **16 Servant's accommodation**

**16.1** In addition to the Premises and the Furniture, the Lessor lets and the Lessee hires (*describe room, suite or other accommodation*) together with the contents thereof described in the second schedule to this lease, for occupation by the Lessee's bona fide domestic servant for the Lease Period (*alternatively*, on a monthly tenancy, terminable on one month's notice in writing from the Lessor to the Lessee or vice versa) at an initial composite monthly rental of R..... (.....**RAND**) increasing simultaneously with and proportionately to each and every increase in the Rent for the Premises and the Furniture (whatever the cause or basis of such increase).

**16.2** All the terms of this lease relating to the Premises and the Furniture themselves shall apply *mutatis mutandis* to the accommodation let under clause 16.1 and the said contents thereof except such terms as are obviously inapplicable, and provided that the maximum number of persons who may occupy such accommodation shall be (*specify*).

**16.3** The letting and hiring in terms of clause 16.1 shall at all events terminate simultaneously with this lease in so far as it relates to the Premises and the Furniture.

## **17 Rules**

**17.1** The Lessee shall at all material times comply with such reasonable rules and regulations as are laid down in writing by or on behalf of the Lessor for observance by tenants and other occupiers of the Property and their invitees, including (without generality being limited) rules and regulations in connection with

**17.1.1** the security of the Property and the protection of persons and property thereon, including in particular (again without generality being restricted) any rules for the control and identification of persons and vehicles entering the Property or any parts thereof;

**17.1.2** the driving and parking of vehicles on or about the Property; and

**17.1.3** the utilisation of common amenities and facilities on the Property.

**17.2** Clause 17.1 shall not be construed as implying that the Lessor assumes any liability which it would not otherwise have had in connection with the subject matter of any such rule or regulation.

## **18 Parking**

**18.1** The Lessee shall throughout the Lease Period (*alternatively*, from month to month, such arrangement being terminable on one month's notice in writing from the Lessor to the Lessee or vice versa), have the exclusive use of parking bay/garage number (*specify*) in (*specify where in or about the building*) at an initial monthly rental of R..... (.....RAND), payable in addition to, and increasing from time to time simultaneously with and proportionately to, the Rent for the Premises (whatever the cause or basis of such increase).

**18.2** All the terms of this lease relating to the Premises themselves shall apply *mutatis mutandis* to the parking bay/garage referred to in clause 18.1 except those which are obviously inapplicable.

**18.3** The parking arrangement in terms of clause 18.1 shall at all events terminate simultaneously with this lease in so far as it relates to the Premises.

## **19 Damage to or destruction of premises**

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

**19.2** If the Premises are significantly damaged but can still be beneficially occupied, this lease shall remain in force and the Lessor shall repair the damage without undue delay, but the Rent shall be abated so as to compensate the Lessee fairly for the effects on the enjoyment of the Premises of the damage and repair work. Failing agreement on such abatement or on the applicability of this clause to any particular circumstances, the matter shall be referred to an expert appointed by the parties jointly or, if they do not agree on such appointment, nominated by the President for the time being of The Institute of Estate Agents of South Africa, and the decision of such expert shall be final and binding. The expert's fees and disbursements, including any inspection costs, shall be borne by the parties in equal shares. Pending determination of the abatement the Lessee shall continue to pay the Rent in full as if there had been no damage (*or* be excused from the payment of the Rent), and as soon as the matter has been resolved the Lessor shall make the appropriate repayment to the Lessee (*or* the Lessee shall make up the arrears in the Rent as abated).

**19.3** If any damage to the Premises or the destruction thereof is caused by an act or omission for which either party is responsible in terms of this lease or in law, the other party shall not be precluded by reason of any of the foregoing provisions of this clause 19 from exercising or pursuing any alternative or additional right of action or remedy available to the latter party under the circumstances.

**19.4** The foregoing provisions of this clause 19 shall apply also to any damage to or the destruction of all or any of the Furniture which occurs together with any damage to or the destruction of the Premises, the foregoing references to repairs to be read as including reference to the replacement of any items of the Furniture which are destroyed or irreparably damaged.

## **20 Special remedy for breach**

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



**20.2** Clause 20.1 shall not be construed as excluding the ordinary lawful consequences of a breach of this lease by either party (save any such consequences as are expressly excluded by any of the other provisions of this lease) and in particular any right of cancellation of this lease on the ground of a material breach going to the root of this lease.

**20.3** In the event of the Lessor having cancelled this lease justifiably but the Lessee remaining in occupation of the Premises, with or without disputing the cancellation, and continuing to tender payments of the Rent and any other amounts which would have been payable to the Lessor but for the cancellation, the Lessor may accept such payments without prejudice to and without affecting the cancellation, in all respects as if they had been payments on account of the damages suffered by the Lessor by reason of the unlawful holding over on the part of the Lessee.

## **21 Option of renewal**

**21.1** The Lessee shall have the right to renew this lease upon the terms and subject to the conditions set out below.

**21.2** The period for which this lease may be so renewed is (*specify period*) commencing on (*specify date*) (*or* the date immediately following the date of expiry of the initial term of this lease).

**21.3** All the terms of this lease shall continue to apply during the renewal period, save that

**21.3.1** the Rent shall be (*specify, adapting clause 5.1*); and

**21.3.2** there shall be no further right of renewal.

**21.4** The right of renewal shall be exercised by notice in writing from the Lessee to the Lessor given and received not later than (*specify date*) (*or* at least (*specify*) months/days prior to the date on which the renewal period is to commence), and shall lapse if not so exercised.

**21.5** If the right of renewal is duly exercised, this lease shall be renewed automatically and without the need for any further act of the parties.

**21.6** The Lessee may not, however, exercise the right of renewal while in breach or default of any of the terms of this lease.

**21.7** If this lease does not endure at least for the full term for which it is initially contracted (*or* until (*specify date*)), the right of renewal shall lapse and any notice of exercise thereof given prior to such lapsing shall be null and void.

## **22 New tenants and purchasers**

The Lessee shall at all reasonable times

**22.1** during the Lease Period, allow prospective purchasers of the Property or of any shares or other interests in the Lessor; and

**22.2** during the last (*specify*) months of the Lease Period, allow prospective tenants or purchasers of the Premises,

to enter and view the interior of the Premises and the Furniture.

## **23 Costs**

The legal costs incurred in the preparation of this lease and the stamp duty payable thereon shall be borne by (*specify the lessor, the lessee, or the parties in equal shares*).

## **24 Domicilia and notices**

**24.1** The parties choose as their *domicilia citandi et executandi* the addresses mentioned in clause 24.2 below, but such *domicilium* of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice.

## **24.2**

**24.2.1** The Lessor: (*specify full address*)

**24.2.2** The Lessee: (*specify full address*)

**24.3** Any notice, demand or other communication properly addressed by either party to the other party at the latter's *domicilium* in terms hereof for the time being and sent by prepaid registered post shall be deemed to be received by the latter on the (*specify*) business day following the date of posting thereof. This provision shall not be construed as precluding the utilisation of other means and methods (including telefacsimile) for the transmission or delivery of notices, demands and other communications, but no presumption of delivery shall arise if any such other means or method is used.

## **25 Whole agreement**

**25.1** This is the entire agreement between the parties.

**25.2** Neither party relies in entering into this lease upon any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this lease as warranties or undertakings.

**25.3** No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

## **26 Non-waiver**

**26.1** Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this lease by reason of such party having at any time granted any extension of time for, or having shown any indulgence to the other party with reference to, any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.

**26.2** The failure of either party to comply with any non-material provision of this lease shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.

## **27 Warranty of authority**

The person signing this lease on behalf of the Lessor expressly warrants his authority to do so.

## **28 Suretyship**

This lease is subject to the suspensive condition that (*full name of surety and co-principal debtor*) becomes bound to the Lessor in writing on the terms of the draft document annexed to this lease (and being the (*specify*) schedule thereto) as surety and co-principal debtor for all the obligations of the Lessee to the Lessor under this lease as well as those arising in consequence of any termination thereof. If that condition remains unfulfilled by (*specify time and date*) or any later time and date agreed upon between the parties in writing, this lease shall not come into operation but shall be null and void save that the Lessee shall then solely bear and pay or reimburse the Lessor on demand with the costs of this lease and the Lessor's expenses in reletting the Premises, including any agent's commission and advertising costs.

## **29 Sale of premises**

The validity of this lease shall not in any way be affected by the transfer of the Premises from the Lessor pursuant to a sale thereof. It shall accordingly, upon registration of transfer of the Premises into

the name of the purchaser, remain of full force and effect save that the purchaser shall be substituted as lessor and acquire all rights and be liable to fulfil all the obligations which the Lessor, as lessor, enjoyed against or was liable to fulfil in favour of the Lessee in terms of the lease.

### 30 Termination by death or insolvency

**30.1** This lease shall not terminate with the death of either the Lessor or the Lessee. The executor of the deceased Lessee's estate shall have the option, depending upon the circumstances of the estate, either to abide by the contract for the remainder period of the lease (the successor or successors of the Lessee assuming his rights and obligations) or to cancel this lease by giving the Lessor (*specify number of*) months written notice of termination, such notice to be given not more than (*specify number of*) months after the death of the Lessee.

**30.2** The insolvency of either the Lessor or the Lessee shall not terminate this lease. However, the trustee of the Lessee's insolvent estate shall have the option to terminate this lease by notice in writing to the Lessor. If the trustee does not within three months of his appointment as trustee notify the Lessor that he desires to continue with the lease on behalf of the estate, he shall be deemed to have terminated the lease at the end of the three months.

SIGNED at (*place*) on this (*day, month, year*) in the presence of the undersigned witnesses

Witnesses:

1 .....

2 .....

(Signatures of witnesses)

.....

(Signature of lessor)

SIGNED at (*place*) on this (*day, month, year*) in the presence of the undersigned witnesses

Witnesses:

1 .....

2 .....

(Signatures of witnesses)

.....

(Signature of lessee)

## 10

### Supplementary clause for use when a lease is signed by a trustee or nominee for a company or close corporation as lessee

#### 1 Position of signatory

**1.1** If the signatory to this lease on behalf of the Lessee ("the Signatory") acts in the capacity of trustee, agent or nominee for a company or close corporation to be formed and

**1.1.1** such company or close corporation is not registered within 21 (TWENTY-ONE) days after the conclusion of this lease; or

**1.1.2** if having been so registered it does not adopt and ratify this agreement without modification within 10 (TEN) days after such registration; or

**1.1.3** having so adopted and ratified this agreement, it does not within 10 (TEN) days thereafter give written notice to the Lessor of its registration number and of the adoption and ratification accompanied by a certified copy of the resolution recording the same,  
the Signatory shall be the lessee in his personal capacity.

**1.2** Unless clause 1.1 applies, the Signatory by his signature hereto shall be bound as Lessee for all the obligations of the Lessee under this lease and for the payment of all damages for which the Lessee may become liable to the Lessor in consequence of any breach of this lease by the Lessee or any cancellation of this lease attributable to any such breach.

**1.3** In connection with the obligations undertaken by the Signatory in terms of clause 1.2

**1.3.1** the Signatory chooses *domicilium citandi et executandi* at (*specify*) and agrees that the provisions of clause (*specify clause of the lease dealing with domicilia*) shall apply *mutatis mutandis*; and

**1.3.2** the Signatory agrees that no indulgence extended by the Lessor to the Lessee shall discharge him (*or her*) from liability to the Lessor under clause 1.2.