

AGREEMENT OF LEASE
(for residential property)

Summary

| | | |
|----------------------|----------------------|---------------------|
| The LANDLORD | Name: | |
| | Address: | |
| | Email: | |
| | Telephone: | |
| The TENANT | Name: | |
| | Address: | |
| | Email: | |
| | Telephone: | |
| The Premises | Address/description: | |
| | Garage/parking bay: | |
| Rental | Amount: | |
| Date rent paid | Monthly on: | |
| Deposit | Amount: | |
| Rental period | From: | To: |
| Rental increase | Date of increase: | Amount of increase: |
| Animals/pets allowed | Yes/no: | |

1. Lease

- 1.1 The LANDLORD hereby lets to the TENANT, who hereby hires, the Premises (described above).
- 1.2 The Premises means not only the dwelling let in terms of this lease, but also any of the LANDLORD'S fixtures and fittings in or on the dwelling (including all keys, locks, glass windows, electrical installations, sanitary ware, sewage pipes, stoves, water taps, geysers and other such items plus all the movable goods, if any, specified in the inventory attached as Annexure A).

2. Period

The period of the lease is set out above on the first page of this agreement. This means that the TENANT may move in to the Premises any time from 8am on the first day and that the TENANT must move out of the Premises by midnight on the last day, unless the lease is terminated sooner as provided for later in this agreement.

3. Rental

- 3.1 The rental is the amount stated on the first page of this agreement. It is payable by the TENANT to the LANDLORD each month.
- 3.2 The rental is payable monthly in advance without deduction or set off for any cause whatsoever, on the day of each month stated on the first page of this agreement, or otherwise on or before the first day of each and every calendar month, starting from the commencement date of the lease. If the date for payment is a weekend or public holiday, the TENANT may pay on the next business day.
- 3.3 All rentals must be paid into the banking account provided by the LANDLORD or alternatively directly to the LANDLORD, depending on which method of payment the LANDLORD chooses. The LANDLORD will advise the TENANT in writing of the method of payment or when this method changes.
- 3.4 If there is an increase in the rental as indicated on the first page of this agreement, then this increase will take effect either from the date indicated on the first page or otherwise on each anniversary of the commencement date of this lease.

4. Deposit

- 4.1 As security for fulfillment of all of its obligations in terms of this lease, the TENANT must pay the deposit stated on the first page of this agreement to the LANDLORD, prior to or simultaneously with signature of the agreement. The LANDLORD will hold this deposit while this lease carries on in an interest-bearing bank account, the interest to be for the benefit of the TENANT.
- 4.2 The LANDLORD is entitled to deduct from the deposit any amounts payable by the TENANT in terms of this lease which remain unpaid after due date. If there is such a deduction during

the period of the lease, the TENANT shall, upon the LANDLORD'S request, immediately pay to the LANDLORD more money so that the deposit is back up to its full amount.

- 4.3 At the end of the lease, the LANDLORD may use the deposit and interest towards the payment of all amounts for which the TENANT is liable under this lease, including the reasonable cost of repairing damage to the Premises during the lease period and the cost of replacing lost keys. The balance of the deposit and interest, if any, must then be refunded to the TENANT by the LANDLORD no later than 14 business days after the end of the lease.
- 4.4 The relevant receipts which indicate the costs which the LANDLORD incurred, as contemplated in clauses 4.3 and 6.1.4 must be available to the TENANT for inspection as proof of such costs incurred by the LANDLORD.
- 4.5 Should no amounts be due and owing to the LANDLORD in terms of the lease, the deposit, together with the accrued interest in respect thereof, must be refunded by the LANDLORD to the TENANT, without any deduction or set-off, not later than 7 business days after the TENANT has returned the Premises to the LANDLORD.

5. Inspection

- 5.1 The LANDLORD and TENANT jointly inspected or will jointly inspect the Premises before the TENANT moved/moves in. Annexure A (at the end of this agreement) shows (or will show) any defects in and damage to the Premises. Except for what is stated in Annexure A and subject to clause 6.1.1 below (which allows the TENANT a further 7 days after the TENANT has moved into the Premises to notify the LANDLORD of any defects), **THE PREMISES IS LET VOETSTOETS OR "AS IS" AND IT IS RECORDED THAT AT THE TIME THE LEASE STARTED, THE PREMISES WAS IN A GOOD STATE OF REPAIR AND CONDITION, AND SUITABLE FOR THE PURPOSE FOR WHICH IT WAS LET.**

Full signature by the tenant as acknowledgment and acceptance of the above clause

- 5.2 Within 3 days before the lease expires, the LANDLORD and TENANT must jointly inspect the Premises at a mutually convenient time to determine if there are any defects in or damage to the Premises, other than those referred to in Annexure A. This inspection will not exempt the TENANT from liability for damages to or defects in the Premises, concealed or hidden from the LANDLORD during the inspection, or arising between the date of the inspection and the date

when the TENANT has vacated the Premises. The understanding is that on termination of the lease the TENANT must restore the Premises to the LANDLORD in the same condition as it was at the start of the lease, fair wear and tear excluded.

- 5.3 Failure by the LANDLORD to inspect the Premises in the presence of the TENANT as contemplated in clause 5.2 is deemed to be an acknowledgement by the LANDLORD that the Premises is in a good and proper state of repair; the LANDLORD will have no further claim against the TENANT who must then be refunded, in terms of deposit clause above, the full deposit plus interest by the LANDLORD.
- 5.4 Should the TENANT fail to respond to the LANDLORD'S request for an inspection as contemplated in clause 5.2 above, the LANDLORD must, at the end of the lease, inspect the Premises within 7 business days from the date that the TENANT ceased to occupy the Premises in order to assess any damages or loss which occurred during the lease.

6. The Tenant's obligations

6.1 The TENANT must:

- 6.1.1 pay the rent, timeously and without remission, set-off or deduction for any reason (except where allowed for in terms of clause 11.1 – damage to the Premises);
- 6.1.2 notify the LANDLORD:
- 6.1.2.1 in writing within 7 days of the date of the start of the lease of any defects in the Premises, including the locks, windows, or any fixtures, fittings and installations and, if the TENANT does not timeously do so, the TENANT is deemed to have accepted the Premises in good order and condition (except for any defects already listed in Annexure A);
- 6.1.2.2 of any defects in the Premises that may occur from time to time and which are the responsibility of the LANDLORD to repair;
- 6.1.3 pay all the ordinary 'consumption' charges in respect of the Premises, including the water, electricity, telephone and gas charges on the Premises and such sanitary, sewerage and all refuse removal services that are not included in the annual rates and taxes levied on the Premises;

- 6.1.4 at his own cost, maintain the interior of the Premises (subject to clause 7.3 below) in the condition it was at the start of the lease, fair wear and tear excepted. If the TENANT fails to do so, the LANDLORD may make such repairs or do such maintenance as may become necessary, and is entitled to recover the cost thereof from the TENANT. The relevant receipts which indicate the costs which the LANDLORD incurred must be available to the TENANT for inspection as proof of such costs incurred by the LANDLORD;
- 6.1.5 allow the LANDLORD or its agents reasonable access to the Premises for the purpose of inspecting and repairing the same;
- 6.1.6 maintain all windows and mirrors in the Premises in good order and condition and to replace at its own cost any damaged or broken glass;
- 6.1.7 not drive nails or other objects into the walls or woodwork or ceilings of the Premises, nor do anything which may be calculated to damage the walls or woodwork or ceilings or any portion of the Premises, except with the prior agreement of the LANDLORD;
- 6.1.8 not alter, interfere with or overload the electrical or other lighting or heating installations in the Premises and replace, at the TENANT'S own cost, all keys, locks, fluorescent or incandescent light bulbs and switches and bulbs and sockets in the Premises;
- 6.1.9 not install any fixtures or fittings in the Premises without the written consent of the LANDLORD, which consent shall not be unreasonably withheld. The TENANT may remove any authorized fixtures and fittings, provided that any fixtures and fittings not removed at the end of the lease become the property of the LANDLORD without obligation to compensate the TENANT in respect thereof. The TENANT shall be obliged to make good any damage or blemishes to the Premises on removal by the TENANT of any fixtures and fittings;
- 6.1.10 not make any structural alterations or additions to the Premises without the prior written consent of the LANDLORD. Any alterations, additions or improvements made to the Premises, with or without the consent of the LANDLORD belong to the LANDLORD and the TENANT is not entitled to any compensation;

- 6.1.11 not do anything or allow anything that may cause damage to the Premises and take care to avoid any blockage in any gutter or downpipe or any sewerage or water pipes or drains connected with the Premises, and must have removed at his own cost any obstruction or blockage which occurs in such gutters, downpipes, pipes or drains;
- 6.1.12 maintain any garden area which forms part of the Premises, in good order and appearance, including regular watering and replacement of plants when necessary;
- 6.1.13 at its own expense keep the Premises in a clean and tidy condition, free of all rubbish or litter, and keep the refuse area utilized by the TENANT in a clean, tidy and sanitary condition and free from all vermin, pests and rubbish. The LANDLORD has the right to inform the TENANT when the TENANT, in the opinion of the LANDLORD, is not complying with this clause (without taking away from the LANDLORD'S right to inform the TENANT when it does not comply with any other terms of this agreement);
- 6.1.14 use the Premises solely for residential purposes, unless the LANDLORD grants prior written consent for an alternative use;
- 6.1.15 not sub-let the Premises or any part thereof nor assign this lease nor cede all or any of the TENANT'S rights herein, nor permit any other person to occupy the Premises or any portion thereof, nor to part with possession of the same, without the prior written consent of the LANDLORD;
- 6.1.16 allow the LANDLORD to display a "To Let" notice during the 1 month immediately preceding the end of this lease and a "For Sale" notice at any time during the period of this lease, and to show prospective tenants or buyers the interior of the Premises at all reasonable times;
- 6.1.17 not allow disorderly conduct or noise in the Premises so as to constitute a nuisance to the occupiers of neighbouring or adjoining flats or properties;
- 6.1.18 comply with any 'house rules' (attached as or listed in Annexure B at the end of this document), sectional title or body corporate rules or similar which are in place or may come into being during the course of the lease. The LANDLORD may introduce such rules or new rules from time to time, but the LANDLORD must advise the TENANT of this in writing and give the TENANT a copy of these rules;

- 6.1.19 not allow the Premises to stand vacant for any period exceeding 2 weeks during this lease, except where the TENANT informs the LANDLORD of a longer period of vacancy;
- 6.1.20 not do or omit to do anything or keep in or on the Premises anything or allow anything to be done or kept on the Premises which may be contrary to the terms of any insurance policy held from time to time by the LANDLORD in respect of the building on the Premises and/or of the Premises, or which may render any policy(ies) void or voidable;
- 6.1.21 not, unless indicated otherwise on the first page of this agreement, keep any animals or pets on the Premises;
- 6.1.22 at the end of this lease:
 - 6.1.22.1 return the Premises, vacant, to the LANDLORD in the same good condition and repair, reasonable wear and tear only excepted, as the Premises was at the start of the lease;
 - 6.1.22.2 have all fitted carpets properly cleaned by a professional carpet cleaner immediately prior to vacation of the Premises;
 - 6.1.22.3 return the keys and any remote control or security items that allow entrance to the Premises to the LANDLORD.
- 6.2 Any repairs to the Premises and any replacements of any articles or things in or on the Premises, which are effected by the TENANT must be carried out to the satisfaction of the LANDLORD by competent and experienced workmen employed by the TENANT for such purposes; they must not use any materials which are inferior in type or quality to those in use in or on the Premises at the start of the lease.

7. The Landlord's obligations

The LANDLORD must:

- 7.1 provide vacant occupation of the Premises to the TENANT at the start of the lease and allow the TENANT undisturbed enjoyment of the Premises during the lease;
- 7.2 maintain, at its cost, the exterior and roof, gutters and down-pipes of the Premises (except the glass in windows and doors of the Premises) in good order and condition, fair wear and tear excepted;

- 7.3 maintain or make repairs of a structural nature or of installations inside the Premises where the repair is required through no fault of the TENANT or is not necessarily a direct consequence of the use of the Premises by the TENANT. This may include (but not necessarily so if a breakage or problem occurs that is the fault of the TENANT) the locks, windows, or any fixtures, fittings and installations on or in the Premises. For example, a geyser that breaks as a result of age, will be replaced by the LANDLORD, but a geyser timer that breaks because the TENANT has fiddled with it, will be the TENANT'S responsibility to replace;
- 7.4 in terms of the Rental Housing Act of 1999, provide a written receipt to the TENANT for all payments received from the TENANT. This receipt must be dated and clearly indicate the address of the Premises, and whether payment has been made for rental, arrears, deposit, repairs or otherwise, and specify the period for which payment is made;
- 7.5 return the deposit, or the balance thereof if any, to the TENANT as required in clause 4 above;
- 7.6 inspect the Premises as required in terms of clause 5.2 above;
- 7.7 provide a copy of any 'House Rules' to the TENANT; and
- 7.8 pay the municipal rates and taxes on the Premises.

8. Insurance and Damage

- 8.1 The TENANT shall comply in all respects with the terms of any insurance policy(ies) that the LANDLORD has for the Premises (or for the building or property of which the Premises forms part), provided that if any premium payable in respect of such policy(ies) is increased as a result of the TENANT not complying with the aforesaid provisions, the TENANT shall be liable to the LANDLORD for payment of any such additional premium.
- 8.2 The above insurance is only for the building on the Premises or for the Premises itself, not for the contents of the Premises; the TENANT, therefore, is responsible for any household, car and similar insurance in order to protect the TENANT'S goods on the Premises.
- 8.3 The LANDLORD is not responsible for any damage to the TENANT'S goods, stocks, equipment, books or other articles kept or installed in the Premises; nor shall the LANDLORD be liable for any loss, damage or inconvenience or for any loss of beneficial occupation

caused to the TENANT by reason of any temporary interruption in the supply of water, electricity, lift service, or other amenities to the Premises. The TENANT may not cancel this lease as a result of any such damage or loss.

9. Landlord's Liability

9.1 The TENANT shall not have any claim of any nature against the LANDLORD nor shall the TENANT be entitled to withhold or delay payment of rental or other amounts due to the LANDLORD for any accident, injury, loss or damage:

9.1.1 because the Premises or any portion thereof is in a defective condition or in a state of disrepair or any particular repair not being effected in a proper manner or at all by the LANDLORD, except if the LANDLORD, after written notification from the TENANT, refuses or delays unduly in effecting such repairs to the Premises for which the LANDLORD is responsible;

9.1.2 arising out of any cause either wholly or partly outside the LANDLORD'S control;

9.1.3 caused through any negligence on the part of the TENANT, its guests, agents, servants or employees;

9.1.4 arising out of any act or omission of whatever nature by any other occupier of the Premises.

9.2 The TENANT hereby indemnifies the LANDLORD against any claim made against the LANDLORD by anybody for any loss or damage suffered in the Premises, or as a result of any act or omission of the TENANT.

Full signature by the tenant as acknowledgment and acceptance of this clause, and awareness of the risk

10. Court proceedings

10.1 The parties agree, in terms of section 45 of the Magistrate's Courts Act of 1944, to the jurisdiction of the Magistrate's Court in respect of any actions or proceedings which may be arise out of this agreement, or any breach or alleged breach.

10.2 The TENANT agrees that, should the LANDLORD institute proceedings either in the Magistrate's Court or in the High Court, then the TENANT is liable for all costs which are incurred by the LANDLORD on the attorney and client scale, including collection commission.

- 10.3 Should the LANDLORD institute legal action against the TENANT as above, a certificate signed by a director, secretary or agent of the LANDLORD indicating the amount due to the LANDLORD, shall be sufficient and *prima facie* proof of the amount reflected thereon, for purposes of summary judgment or any other legal proceedings whatsoever.

11. Damage to or destruction of the Premises

- 11.1 If the Premises is damaged by fire or otherwise in such a manner that it is still able to be lived in, then this agreement will not be cancelled and, provided that such damage was not caused by the TENANT or otherwise as a result of this lease, the rental payable will be abated pro rata having regard to the extent to which the TENANT may not enjoy beneficial occupation of the Premises.
- 11.2 Should the Premises be structurally destroyed or structurally damaged to such an extent as to render it unlivable, then this lease will immediately terminate. Furthermore, should any other portion or portions of surrounding buildings or land be so destroyed or damaged as to render it necessary in the bona fide opinion of the LANDLORD for the whole of the Premises to be rebuilt, the LANDLORD is entitled forthwith to cancel this lease simultaneously with the cancellation of all the other tenancies of the building, if any.
- 11.3 In the event of the LANDLORD deciding to let the Premises upon its restoration, the TENANT shall have the right of first refusal to let the Premises at a rental to be agreed to between the LANDLORD and the TENANT.
- 11.4 If the damage or destruction is caused by the TENANT or by anyone or thing allowed on the Premises by the TENANT, the lease will continue unless otherwise agreed by the LANDLORD, and the TENANT will have to pay the full rental (even where the TENANT is not occupying the Premises).

12. Onus and agency

- 12.1 If the LANDLORD withholds its consent to anything proposed to be done by the TENANT under this lease where it is stipulated that the written consent of the LANDLORD thereto is required and that such consent shall not be unreasonably withheld, the onus of establishing that the LANDLORD has acted unreasonably lies with the TENANT.

12.2 The LANDLORD may choose, during this lease, to appoint an agent to manage the lease on the LANDLORD'S behalf. The LANDLORD must advise the TENANT of this in writing and of any changes that this may entail in the lease.

12.3 The TENANT is liable under this lease for its own acts and omissions. The TENANT is also liable for any acts or omissions of his 'household', guests, servants, employees or agents while they are on or in the Premises.

13. Breach

13.1 Subject to clause 13.2 below, should either party breach a term of this agreement, the other party must advise the defaulting party of the breach and give that party at least 5 business days to remedy the breach.

13.2 Should the TENANT:

13.2.1 fail to pay the monthly rental or any other amount due in terms of this agreement on due date; or

13.2.2 repeatedly breach any of the terms of this agreement in such manner as to justify the LANDLORD in holding that the TENANT'S conduct is inconsistent with the intention or ability of the TENANT to carry out the terms of this agreement,

then the LANDLORD may, without prejudice to its right to damages or to its right to eject the TENANT from the Premises or to any other claim of any nature whatever that the LANDLORD may have against the TENANT as a result hereof:

13.2.3 be entitled to cancel this agreement; or

13.2.4 in the case of a failure by the TENANT to make a repair, to remedy such breach and immediately recover the total cost incurred by the LANDLORD in so doing from the TENANT.

13.3 Should the LANDLORD cancel this agreement and the TENANT dispute the LANDLORD'S right to do so and remain in occupation of the Premises pending the determination of that dispute, then:

13.3.1 the TENANT shall continue to pay, on due date, all amounts due by the TENANT in terms of this agreement;

13.3.2 the LANDLORD is entitled to recover and accept those payments;

- 13.3.3 the acceptance by the LANDLORD of those payments is without prejudice to and does not in any manner whatsoever affect the LANDLORD'S claim to cancellation of this agreement or of any other nature whatever.
- 13.4 Should a dispute be determined in favour of the LANDLORD, then payments made to the LANDLORD in terms of clause 13.3.2 above will be regarded as damages paid by the TENANT for loss sustained by the LANDLORD as a result of the holding over by the TENANT of the Premises and, should the dispute be determined in favour of the TENANT, the said payments shall be deemed to be rentals duly paid by the TENANT.
- 13.5 Should the TENANT vacate the Premises before the end of the lease, without notice to the LANDLORD, the lease is deemed to have expired on the date that the LANDLORD established that the TENANT had vacated the Premises, but in this case the LANDLORD retains all its rights arising from the TENANT'S breach of the lease.

14. Notices and Addresses

- 14.1 All notices which may have to be given by either party to the other after the start of this Lease are deemed to have been effectively given if delivered by hand or sent by prepaid registered post by one party to the other at the addresses reflected on page one hereof. The parties choose the aforesaid addresses as their domicilia citandi et executandi.
- 14.2 A notice which is sent by registered post in a correctly addressed envelope to the address specified above will be deemed to have been received (unless the contrary is proven) within 7 business days from the date it was posted. A notice which is delivered by hand to a responsible person during ordinary business hours at the addresses above, will be deemed to have been received (unless the contrary is proven) on the day of delivery.
- 14.3 Either party may by written notice to the other change its domicilium citandi et executandi to any other address in South Africa which is not a P. O. Box or poste restante.

15. General provisions

- 15.1 No variation of this agreement will be of any force or effect unless it is in writing and is signed by both the LANDLORD and the TENANT.
- 15.2 This document contains all the terms and conditions of the agreement between the LANDLORD and the TENANT in regard to the letting of the Premises. Neither party shall have

any right or remedy arising from any undertaking, warranty or representation not included in this document.

- 15.3 Any relaxation or indulgence on the part of any party in exercising any right conferred upon such party (in other words, or as an example, where one party allows the other party more time to do something than the time period allowed in this agreement) in terms of this agreement, does not mean that the right is waived or altered. Any single or partial exercise of any right does not preclude any other or future exercise thereof or the exercise of any other right under this agreement.
- 15.4 The head notes to the various clauses of this agreement have been inserted for ease of reference only and are not to be taken into account when interpreting the provisions of this agreement.
- 15.5 Words importing the singular shall include the plural and vice versa; words importing any one gender shall include the other two; and words importing persons shall include bodies corporate.
- 15.6 This agreement may be signed in one or more counterparts and the signature of one copy by any party has the same effect as if that party signed the same document as the other party.

Signed at *[place]* _____ on *[date]* _____ 20__

LANDLORD

Signed at *[place]* _____ on *[date]* _____ 20__

TENANT

initial by both parties

Annexure A:**List of damaged or broken items on the Premises**

List of Moveable Items of the LANDLORD on the Premises

Annexure B:

List of 'House Rules'