

# MEMORANDUM OF AGREEMENT OF LEASE

MADE AND ENTERED INTO BY AND BETWEEN

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With the RSA I.D Number: -----  
(Hereinafter referred to as the lessor of the one part)

and

-----  
With the RSA I.D Number: -----  
(Hereinafter referred to as the lessee of the other part)

## 1. LEASE OF PREMISES

The Lessor hereby lets to the Lessee who rents subject to the terms and conditions set out in this agreement the following premises:

An unfurnished/furnished dwelling situated at:

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Including/Excluding the grounds and parking bay/garage on this property grounds

## 2. INTERPRETATIONS AND DEFINITIONS

2.1 The clause headings of this Agreement are inserted for reference purposes and shall in no way govern or affect the interpretation thereof.

2.2 Unless the context indicates a contrary intention an expression which denotes any gender includes the other genders, a natural person, a juristic person and vice versa, the singular includes the plural and vice versa.

2.3 Unless inconsistent with the context, the expressions set forth below shall bear the meanings assigned to them.

2.3.1 Commencement Date: -----

2.3.2 Deposit: R \_\_\_\_\_, \_\_\_\_\_ (\_\_\_\_\_)

2.3.3 Monthly Rental payable for the premises: R \_\_\_\_\_, \_\_\_\_\_ (\_\_\_\_\_  
\_\_\_\_\_)

#### 2.3.4 Domicilia and Notices

The parties hereby choose *domicilium citandi et executandi* for all purposes under this Agreement at the addresses set out below (not being a post box or post restante).

LESSOR: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

LESSEE: The Premises being leased subject to this agreement.

Any notice given by or either Party in terms of this Agreement shall be given in writing and shall be delivered by hand to a responsible person present at or sent by facsimile transmission or prepaid registered post to the domicilium chosen by the addressee in terms of this Agreement and whereupon it shall be deemed to have been received when so delivered or faxed or 4 (four) business days after being so sent by post.

### 3. COMMENCEMENT AND PERIOD

The lease of the Premises is entered into for the initial period of \_\_\_\_\_ months commencing on the Commencement Date (as stipulated in Clause 2.3.1) hereafter this Lease shall continue as a monthly tenancy, terminable by either party giving the other 1 (one) calendar month's notice in writing.

### 4. USE OF PREMISES

The Premises shall only be used for private residential purposes and no other use whatsoever, nor shall the Lessee allow the premises to be inhabited by more than \_\_\_\_\_ persons at any one time, save with the Lessor's prior written consent and subject to provisions contained in the House Rules annexed hereto if applicable.

Birds, animals and all other pets shall be/shall not be permitted on the premises.

### 5. RENTAL

5.1 The monthly rent payable by the Lessee to the Lessor for the hire of the Premises is the sum of R \_\_\_\_\_, \_\_\_\_\_ which amount shall escalate at 10% on each anniversary of the Commencement Date.

5.2 The Lessee shall pay the rent monthly in advance on the first working day of every month free of all bank charges and when effecting payment clearly identify each payment made by him by use (if possible) of an identifying bank payment reference.

5.3 All monthly rent shall be paid on or before the due date, without deduction or set off at such place as the Lessor may indicate in writing from time to time.

5.4 Payment of rentals received after the 7<sup>th</sup> day of the month will be subject to a surcharge of R250.00 to cover collection fees and/or additional administration costs.

5.5 Any payment received shall first be allocated to rental costs, administration fees, legal costs and interest and thereafter to rental.

## **6. DEPOSIT**

6.1 As security for the fulfillment of all the Lessee's obligations in terms of this Agreement, the Lessee shall deposit with the Lessor upon signature of this Agreement, an amount of R\_\_\_\_\_ (\_\_\_\_\_)

6.2 It is specifically recorded that the deposit may not be applied by the Lessee as payment for the last months rental or for any other rental due to the Lessor in terms of this Lease.

6.3 The Lessor shall be entitled to deduct from such deposit any amount payable by the Lessee hereunder unpaid and any amount owing by the Lessee for damages suffered by the Lessor, and in the event of such deduction during the lease period, the Lessee shall upon request by the Lessor, forthwith reinstate the deposit to its full amount.

6.4 The Lessor shall invest the deposit in an interest bearing account for the benefit of the Lessee in accordance with the requirements of the Rental Housing Act 50 of 1999, interest accruing to the Lessee.

6.5 On termination of this Lease and provided that no amounts are due and owing, the Deposit together with any interest shall be refunded to the Lessee.

6.6 Should the Lessee wish to extend the current Lease, then the new Lease shall be on all the conditions contained herein save that the monthly rental shall be negotiated. The Lessor shall have the right to increase the deposit to be equivalent to the newly negotiated rental.

6.7 The lessee may at any time by notice to the lessor request proof that the funds as stipulated in this clause is still in such an account and the lessor agrees to provide the statement for the calendar month in question to the lessee within 48 (forty eight) hours upon receipt of the request.

## **7. AGENT AND COMMISSION**

7.1 There is no agent's commission due by either party and shall for the duration of this agreement both parties warrant that there shall be no agent commission payable.

## **8. RECEIPTS**

8.1 The Lessor shall provide the Lessee with receipts for payments made. No receipt will be issued for direct bank deposits or internet transactions as these are sufficient proof of payment.

8.2 In the event of a receipt being issued each receipt shall contain the date of receipt of payment, the address of the premises where the payment is made, in respect of which period the payments is made and in respect of what the payment is made i.e rental, electricity, deposit etc.

## **9. RATES, TAXES, LEVIES**

The Lessee shall pay all rates, taxes and levies payable in respect of the Premises during the Lease period. Should these amounts increase during the Lease Period, the Lessor shall be entitled to increase the monthly rent payable by an amount equal to such increase.

## **10. SUPPLIES TO THE PREMISES**

10.1 The Lessee shall make all arrangements necessary to procure the supply to the Premises of electricity and water and shall be responsible for the payment thereof to the supplier for all electricity and water consumed and for all telephone installation or reconnection, rental and calls during the Lease Period and for the payment of any other charges payable in connection with the aforesaid.

10.2 If the Premises are let with a telephone, the Lessee shall pay all charges levied by the postal authorities in relation to the telephone within the time limit allowed for payment and the Lessee shall do nothing which may lead to the suspension or termination of the telephone service or to a change of number or directory entry.

10.3 The Lessee indemnifies the Lessor against any damages suffered by him as a result of any failure or interruption of any supplies to the Premises and the Lessor does not warrant that any such supplies will be continued for the duration of the Lease Period. The Lessee undertakes to perform no act or omission to prejudice the continuation or resumption of such supplies.

## **11. FIXTURES AND FITTINGS**

11.1 The Lessee shall be entitled to affix any fixtures, fittings or drive nails into the walls of the Premises on condition that to the discretion of the lessee, the premises shall not suffer severe damage by such affixment and if it is seen to be possible for such damage, the lessee shall be required to obtain prior written approval.

11.2 Should the Lessor consent, all fixtures, fittings and nails shall, unless otherwise agreed by the Lessor in writing, be removed by the Lessee by no later than the date of the Outgoing Inspection, by which date all damage occasioned by the original fixing and/or by the removal of such fixtures, fittings and nails shall have been made good at the instance and cost of the Lessee who shall restore the Premises to the condition that it was in on the Commencement Date.

11.3 Should the Lessee fail to remove any authorized fixtures and fittings on or before the Outgoing Inspection, such fixtures and fittings shall become the property of the Lessor, without any obligation to compensate the Lessee therefore.

## **12. ALTERATIONS**

The Lessee shall not effect any alterations or additions, whether structural or not, to the Premises without prior consent of the Lessor, which consent shall not unreasonable withheld.

## **13. INCOMING INSPECTION**

13.1 The Lessor and the Lessee shall jointly inspect the Premises prior to the Commencement Date as per the Rental Housing Act 50 of 1999. Should the Lessee fail to meet the Lessor at the Premises on the date and at the time arranged by both parties, the Premises shall be deemed to be free of defects.

13.2 Any defect or damage noted or found at the Premises shall be recorded in writing in a list of defects (Snaglist), which shall be signed by the Lessee and the Lessor and attached to this Agreement. The Lessee must obtain a copy of this Lease Agreement, once it has been signed by all parties.

13.3 The Premises are let and hired in the condition in which they are at the Commencement Date, without any warranty express or implied, as to the absence of latent or patent defects therein, but subject always to the Lessee's maintenance obligations in terms of Clause 14 below.

13.4 The Snaglist must be submitted to the Agent by the Lessee within (7) seven days of the Commencement Date. Let it be noted that should the Lessee not furnish the Agent with a detailed snaglist in writing, it will be accepted that there were no faults. Should further faults be discovered after the initial snaglist has been submitted, such faults must also be recorded in writing.

## **14. MAINTENANCE BY THE LESSEE**

The Lessee shall for the duration of the Lease Period and at his own cost, maintain the interior and all the fixtures and fittings therein of the Premises in a state of good repair, fair wear and

tear accepted, and shall on termination of this Agreement re-deliver the Premises to the Lessor in the same condition as it existed on the Commencement Date.

14.1 The Lessee's maintenance obligations in terms of his clause shall include but not be limited to:

14.1.1 The repair or replace, any door handles, locks and keys, glass, window fasteners, electrical fittings, baths, basins, sanitaryware, water taps, burglar alarms, automated gates/garage doors, sprinkler systems, pool pump, filter, automated pool cleaner which are damaged by the Lessee. The Lessee shall also replace at his expense, any light bulbs, fluorescent tubes, tap washers and water ballasts on the Premises.

14.1.2 keep and maintain all sewerage pipes, water/downpipes, guttering and drains free of obstruction and blockage and shall remove, at his cost, any blockage or obstruction therein. If the blockage is caused by tree roots, the cost of drain clearing will be for the Lessor's account.

## **15. MAINTENANCE OF GARDEN**

15.1 The Lessee shall keep the grounds (if any) of the Premises in a clean, tidy condition, free from all litter, and keep the hedges trimmed, keep the lawn watered and mowed, keep the flowerbeds watered, neat and free from weeds. The Lessee shall not cut or remove trees or plants or effect any alterations to the garden, without the Lessor's prior written consent. The garden shall, at the termination of this Agreement, be returned to the Lessor in substantially the same condition that it was in at the Commencement Date.

15.2 The costs of any garden services employed as well as the costs of goods or materials required to restore the garden to substantially the same condition that it was at the Commencement Date, shall be for the Lessee's account and shall be payable immediately upon demand by the Lessor.

15.3 The Lessee shall be responsible for the maintenance and upkeep of the Pool. The provisions of Clause 15.2 shall apply, *mutatis mutandis* to the Lessor's right to employ pool maintenance services and the Lessee's obligations to pay all costs incidental thereto on condition that such charges shall be reasonable of sort.

## **16. DAMAGE TO THE PREMISES BY THE LESSEE, VISITORS, FAMILY**

16.1 The Lessee shall repair any damage caused to the Premises during the Lease Period immediately upon called to do so.

16.2 The Lessee shall not knowingly or negligently cause or allow to be caused any obstruction or blockage of any sewerage pipes, drains and other supply equipment and installations serving the Premises and shall remove at his own cost any obstruction or blockage

which occurs in such pipes or drain as a result of his actions and, where necessary, shall cause, at his own cost, such sewer, pipe or drain to be repaired.

## **17. INSURANCE**

17.1 The Lessee shall not do or permit to be done any act which may render the Lessor's insurance of the Premises against risk of loss or damage attributed to any of the clauses insured against which may increase the rate of premium payable by the Lessor in respect of the Premises with regard to such insurance.

17.2 The Lessee shall be responsible for insuring his personal property brought onto the Premises. The Lessor shall not be responsible for any loss, theft or damage to the Lessee's property, regardless of how such loss, theft or damage is caused.

## **18. NUISANCE**

The Lessee shall not act, nor permit any act, in relation to the Premises which may be a source of annoyance or nuisance or cause damage or disturbance to the occupants of any neighbouring premises or properties.

## **19. INSPECTION OF PREMISES DURING THE LEASE PERIOD**

The Lessor shall, at all reasonable times during the lease Period and with prior arrangement with the Lessee be entitled to have access to and inspect the premises after 7 days written notice in writing to the lessee of due effect.

## **20. COMPLIANCE WITH LAWS AND RULES**

20.1 The Lessee shall at all times for the duration of the Lease Period observe and comply with all applicable laws, statutory, municipal, other by-laws and regulations. Where applicable, the House Rules in relation to the control, management, administration, use and enjoyment of the Premises are annexed hereto.

20.2 The Lessee shall at all time for the duration of the Lease period, observe and comply with the rules and regulations where applicable and attached hereto.

## **21. LESSOR'S MAINTENANCE OBLIGATIONS**

The Lessor shall at his cost keep and maintain in good order and condition, fair wear and tear accepted, the exterior of the Premises, which shall include the roof, gutters and drain pipes of the Premises, and include the windows and doors of the Premises, with inclusion of general maintenance.

## **22. SUBLETTING, CESSION AND ASSIGNMENT**

The Lessee shall be entitled to cede or assign this Lease Agreement, and sublet the premises, and part with possession of the premises, and place any person in occupation of the premises, and any portion thereof, with or without the prior written consent of the Lessor.

## **23. RENEWAL PERIOD**

The Lessee may apply to the Lessor, in writing, for the Lease Period to be renewed, provided such written application is received at least 2 (two) calendar months prior to the Renewal Period. Any renewal of the Agreement will be entirely at the Lessor's discretion and on the terms to be negotiated between the Lessee and the Lessor which terms should be reduced to writing.

## **24. INDEMNITY**

The Lessor hereby indemnifies the Lessee for any loss or damage to property or injury to persons suffered on the Premises as a result of any act or omission by the Lessee or its servants or agents.

## **25. DESTRUCTION OR DAMAGE**

25.1 Should the Premises at any time during the Lease Period be destroyed or be so damaged, by whatever cause, as to deprive the Lessee of the beneficial use of the Premises, then this Agreement shall terminate, and each party shall remain liable for its obligations in terms of the agreement up to the date of such termination but, save for the aforesaid and subject to clause 25.5 below, neither Party having any further claim against the other.

25.2 In the event however of the Premises being only partially damaged by any cause aforesaid, then this Agreement shall continue in force and effect and the Lessor shall, as soon as is reasonably possible, repair such damage. The Lessee shall be entitled to a reduction of rent during the period in which the Premises are not wholly suitable for occupation. If agreement cannot be reached, the Parties shall agree on an independent third party to decide upon such reduction.

25.3 Notwithstanding the provisions of clause 25.2, the Lessee shall in the event of the Premises being only so partially damaged, continue to pay the full amount of rent until such time as the reduction of rent is determined by the Lessor.

25.4 After the amount of the reduced rent has been determined, the Lessor shall credit the Lessee with such amount as the Lessee may have paid in excess of the reduced rent.

25.5 The provisions of clause 25.1 above shall not prejudice any claim which the Lessor may have against the Lessee where any destruction of or damage to the Premises is caused by the



act or negligence of the Lessee or of any person whose action the Lessee shall be responsible for.

## **26. OUTGOING INSPECTION**

26.1 The Lessor and the Lessee shall, on the termination of this Agreement jointly inspect the Premises for any damage thereto at a pre-arranged time on the last day of the Lease as per the mandatory inspection referred to in the Rental Housing Act 50 of 1999.

26.2 The Lessee shall ensure that the Premises shall be vacant at the time of such inspection.

26.3 The carpets will be cleaned by a reputable carpet cleaning company upon vacating. This cost is to borne by the Lessee. Should the Lessee house any pet at the property during the currency of this Lease the Lessee shall have the property professionally fumigated at the Lessor's expense.

## **27. REPAYMENT OF DEPOSIT**

27.1 Should no amounts be owing by the Lessee to the Lessor either for monies owing and unpaid in terms of this Agreement, or for the costs or repair in terms of clause 26.3, then the Lessor shall pay the full amount of the deposit plus any interest thereon to the Lessee within 7 (seven) days after the termination of this Agreement.

27.2 Should the Lessor deduct the reasonable cost of repairing damage caused to the Premises or any monies owing by the Lessee in terms of this Agreement from the deposit, the Lessor shall pay the balance of the deposit (if any) and the interest thereon to the Lessee no later than 14 (fourteen) days after the restoration of the Premises to the Lessor.

27.3 Should the Lessee fail to attend the Outgoing Inspection as contemplated in Clause 26, the Lessor shall, on termination of the Agreement, inspect the Premises within seven (7) days from the termination date in order to assess any damages or loss which occurred during the Lease Period. Without detracting from any other right or remedy which the Lessor may be entitled to in terms of this Agreement, the Lessor may deduct from the Lessee's deposit and interest, the reasonable cost of repairing damage to the Premises and the cost of replacing lost keys. The balance of the deposit (and interest thereon) shall be refunded to the Lessee by the Lessor no later than twenty one (21) days after the termination.

27.4 At the request of the Lessee, the Lessor shall make all receipts/invoices which indicate the cost of the repairs effected in terms of clauses 27.2 and 27.3 herein available to the Lessee for inspection as proof of the costs incurred by the Lessor.

27.5 Upon failure on the side of the lessor to repay the deposit, the lessee shall be entitled to prosecute the matter with any court having jurisdiction on the matter, at the expense of the

lessor. The lessor agrees that the lessee shall be entitled to commit any action to enforce the repayment of the deposit.

## **29. INTEREST**

Interest at the rate of 2% plus the Prime Rate as published by ABSA BANK LIMITED from time to time on any overdue amounts in terms of this lease.

## **30. BREACH**

30.1 Should any amount payable by the Lessee hereunder not be paid on due date or should the Lessee commit any breach of any other provision of this Agreement and should such amount not be paid or breach not be remedied, as the case may be, within 21 (twenty) days of receipt of written notice from the Lessor requiring the Lessee to make such payment or to remedy such breach, the Lessor shall be entitled to cancel this Agreement by notice given to the Lessee to such effect. Such cancellation to be without prejudice to any claim that the Lessor may have for any arrear rental or such damage or cost which the Lessor may suffer by reason of such breach and/or cancellation.

30.2 In the event of the Lessor canceling this Lease within his rights and in the event of the Lessee disputing the right to cancel and remain in occupation of the Premises, the Lessee shall, pending settlement of such dispute either by negotiation, litigation or by determination of the Rental Tribunal established under Section 7 of the Rental Housing Act, continue to pay an amount equivalent to the rent provided for in this Agreement and shall continue to pay, on due date any other amounts for which he is responsible and shall not in any way effect the Lessor's claim for cancellation.

30.3 Should the dispute be determined in favour of the Lessor, payment made and received in terms of clause 30.2 above, shall be deemed to be amounts paid by the Lessee on account of damages suffered by the Lessor but without prejudice to any other claim which the Lessor may have against the Lessee for damages or otherwise. Should the dispute be determined in favour of the Lessee, payments made and received by the Lessor in terms of clause 30.2 shall be deemed to be on account of the rent payable by the Lessee in terms of this Agreement.

30.4 Any notice which the Lessor requires to give to the Lessee, shall be deemed to have been validly given, if sent by prepaid registered mail to the Lessee at the property, or left by the Lessor or his Agent at such address, which notice shall be deemed to have been received 4 days after the posting by registered mail, or on the day the notice was delivered by hand.

## **31. CONSENT TO MAGISTRATE'S COURT JURISDICTION**

The Lessee consents to the jurisdiction of any Magistrate's Court with jurisdiction under section 28 of the Magistrate's Court Act 1944, in regard to any legal proceedings instituted by the

Lessor in connection with this agreement provided that the Lessor shall be entitled to institute such proceedings in the High Court.

### **32. LEGAL COSTS**

Should the Lessor have to take legal action against the Lessee to enforce its obligations in terms of this Agreement, the Lessor shall pay all legal costs, including collection commission incurred by the Lessor on an attorney and own client scale.

### **33. NO VARIATION**

No variation of, or addition or agreed cancellation to this Agreement shall be of any force or effect unless it is reduced to writing and signed by or on behalf of the Parties.

### **34. INDULGENCES**

No relaxation, indulgence or concession granted by the Lessor in respect of any of his obligations hereunder shall constitute a novation of any part of this Agreement nor otherwise prejudice, derogate from, or affect, any rights which the Lessor may have against the Lessee.

### **35. GENERAL**

Should two or more persons sign this Agreement of Lease as Lessors or Lessees, the said persons shall be jointly and severally liable in solidum for the due performance of the Lessees or Lessors obligations, as the case may be, in terms of this Lease.

### **36. COSTS**

The Lessor shall be liable for the costs of preparation of this Agreement and stamp duty payable thereon, which shall be paid in advance on the date of signature hereof. The Agent shall provide the Lessee with a breakdown of such costs and charges for which the Lessee will be liable during the period of this Lease.

### **37. PAYMENT BY EFT AND BANK TRANSFER**

In the event that the lessee wishes to make payment of any due funds to the lessor in this agreement, the lessor agrees and accepts the following banking account to be used for any bank payments or transfers:

**BANK NAME:** \_\_\_\_\_

**ACCOUNT NUMBER:** \_\_\_\_\_

**BRANCH NAME:** \_\_\_\_\_

**BRANCH CODE:** \_\_\_\_\_

ACCOUNT HOLDER: \_\_\_\_\_

PAYMENT REFERENCE: \_\_\_\_\_

**38. ACCEPTANCE**

The Lessor and the Lessee acknowledge that they have read and understood the contents of this Agreement of Lease, and that all queries relating thereto have been raised with and explained to them by the Agent.

**39. SPECIAL CONDITIONS**

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Thus done and signed at ..... on the ..... Of  
..... of the year 20.....

LESSOR ..... WITNESS. ....

LESSEE ..... WITNESS. ....