



PJC Attorneys

Registered as PJ Coetzee Attorneys trading as
PJC Attorneys

WANDERERS WAY 15
LANGEBAAN
Cell : 0836522061
Cell : 0824617616
E-mail : info@pjgroup.co.za
Web: www.pjgroup.co.za

AGREEMENT OF LEASE

(in terms of the Rental Housing Amendment Act, No. 35 of 2014)

THIS IS AN AGREEMENT BETWEEN:

Name(s) and ID/Reg No(s)

(called the "**Landlord**")

A N D

Name(s) and ID/Reg No(s)

(called the "**Tenant**")

1. **DEFINITIONS**

In this agreement, unless the context clearly indicates otherwise:

- 1.1 the "**landlord**" means the party defined as such above.
- 1.2 the "**tenant**" means the party defined as such above.
- 1.3 the "**common areas**" or "**common property**" are those parts of the building and land which on the sectional plan are denoted as common property.
- 1.4 the "**premises**" means the building or buildings together with the land situated at

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- 1.5 the "**lease period**" means the period commencing on the _____ (called the "**commencement date**") and terminating on the _____

- 1.6 the "**rental**" is the monthly rental payable by the tenant to the amount of

(_____) (Amount in words)

- 1.7 the premises are let and leased for use as a residence only by the tenant and his/her family and the premises shall not be occupied by more than 6 (six) persons on a permanent or semi-permanent basis.

- 1.8 1.8.1(a) the landlord's domicilium citandi et executandi is

1.8.1(b) the tenant's domicilium citandi et executandi is :

provided that as from and including the commencement date defined in 1.5, the tenant's domicilium citandi et executandi shall be the premises hereby leased.

1.9 the "**deposit**" is the amount of

1.10 a reference to the masculine, feminine or neuter gender will, where applicable, be a reference to the other gender and a reference to the singular will, where applicable, be a reference to the plural and vice versa.

2. **LEASE**

The landlord hereby lets the premises to the tenant who leases it at the rent agreed upon, for the period and subject to the provisions contained or referred to in this document.

3. **PERIOD**

3.1 Subject to 3.2, the lease shall be for the lease period stated in 1.5 above.

3.2 If after expiry of the lease period the tenant remains in occupation of the premises and continues to pay the rental and other amounts due in terms of this agreement and the landlord accepts such payments, their legal relationship will be that of a monthly tenancy terminable by either party giving to the other not less than one calendar month's written notice of termination. All the other provisions of this agreement shall apply to their legal relationship, mutatis mutandis.

3.3 This lease is subject to the Consumer Protection Act, therefore section 14 (read with Regulation 5) of the CPA shall apply to this lease. The term of lease may therefore not exceed a single, continuous fixed-term of 24 (twenty-four) months, unless the Landowner is able to show a demonstrable financial benefit to the Tenant.

- 3.4 Not more than 80 (eighty) and not less than 40 (forty) business days before the Expiry Date, the Landowner or its duly authorised Agent shall deliver a written notice to the Tenant advising the Tenant of:
- 3.4.1 the impending expiry date; and
- 3.4.2 any material changes which would apply if the lease is renewed or may otherwise continue beyond the termination date or alternatively whether the lease will terminate on the expiry date.
- 3.5 In terms of section 14 of the Consumer Protection Act, the Tenant shall be entitled to cancel this lease for any reason during the lease period by giving the Landowner 20 (twenty) business days' written notice of such cancellation. Should the Tenant exercise this right, he or she shall be liable to pay the Landowner a reasonable cancellation penalty.
- 3.6 The Tenant agrees that a reasonable cancellation penalty in terms of this clause shall constitute the following:
- 3.6.1 An amount equal to a maximum of 2 months rental; PLUS
- 3.6.2 Any reasonable costs incurred by the Landowner marketing or re-advertising the premises for the purpose of acquiring a Replacement Tenant.
- 3.7 The Landowner (or the Agent as the case may be) shall be obliged to take all reasonable steps to find a replacement Tenant. In the event that the Landowner does find a replacement Tenant within 2 months after the termination of this agreement, the Landowner shall refund to the Tenant a proportional amount of the cancellation penalty.
- 3.8 Should the Tenant vacate the Premises before the expiration of the lease, without notice to the Landowner/Agent, the lease will be deemed to have expired on the date that the Landowner/Agent established that the Tenant had vacated the Premises and in such event the Landowner shall retain all his, her or its rights arising from the Tenant's breach of the lease

4. **RENTAL**

- 4.1 **Amount** - The rental payable by the tenant during the lease period is stipulated in 1.6 above.
- 4.2 **Time and place of payment** - The tenant shall pay the rental for the first calendar month of this lease on signature hereof by the tenant and thereafter the rental shall be paid monthly in advance by not later than the first day of each calendar month into bank account no.
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by whatever means of payment the tenant chooses, provided that the payment is made timeously.

5. **ELECTRICITY - WATER – MUNICIPALITY OR BODY CORPORATE**

5.1 The landlord is liable for payment of all rates and taxes, sewerage and rubbish removal fees, which amounts are included in the amount levied by the Municipality in respect of the property hereby let.

5.2 The account with the supplier of water and electricity, will stay in the name of the landlord and the tenant shall pay any deposit to such supplier and is liable for payment of the costs of water and electricity consumed on or in respect of the premises.

6. **PURPOSE**

The premises are let and are to be used for the purpose described in 1.7 above. The tenant shall not be entitled to use the premises for any other purpose without the landlord's prior written consent.

7. **DEFECTS IN PREMISES ON OCCUPATION**

By not later than 7 (seven) days after the date upon which the tenant is entitled to occupy the premises in terms of this lease, the landlord and the tenant or their representative/s will meet at the premises in order to compile a written record of defects in the premises, if any. Should the tenant fail to comply with this obligation, the landlord will be entitled to prepare such a list. In either event the list will only serve as a record of the condition of the premises upon commencement of the lease and it places no obligation on the landlord to effect any repairs, improvements or alterations. If at any time during the currency of this lease a serious defect in the premises becomes manifest, the landlord will be obliged as soon as reasonably possible to eliminate the defect at the landlord's expense, provided only that if the defect was caused by the tenant's fault, the tenant shall eliminate the defect at the tenant's expense as soon as reasonably possible.

8. **FIXTURES, FITTINGS AND ALTERATIONS**

8.1 The tenant shall not attach to the inside of the premises any fixtures or fittings without the landlord's prior written consent, which consent, however, it will not be unreasonably withheld.

- 8.2 The tenant shall not be entitled to make any alterations or additions to the premises, whether of a structural nature or otherwise, without the prior written consent of the landlord. The landlord shall be entitled to refuse any such consent sought by the tenant or to grant its consent upon such terms and conditions as the landlord in its entire discretion may deem fit.

9. **PROHIBITIONS**

The tenant shall not -

- 9.1 cede, assign, mortgage or otherwise encumber this lease or any part thereof or sub-let the premises or any part thereof without the written consent of the landlord, which consent shall not be unreasonably withheld;
- 9.2 mutilate or damage the walls, doors, ceilings and floors of the premises in any manner;
- 9.3 interfere with the electrical, plumbing or other installations on the premises;
- 9.4 install any air-conditioning apparatus or any other electrically operated equipment without the landlord's prior written consent, which may not be unreasonably withheld. Any item installed with the landlord's said consent, will mutatis mutandis be subject to the provisions of 8.1;
- 9.5 display or store any goods outside the premises;
- 9.6 allow or permit anything to be done or omitted upon the premises which is or may become a nuisance or disturbance to neighbours or to the general public.

10. **MAINTENANCE AND REPAIRS**

- 10.1 Fair wear and tear excepted, the tenant shall be responsible for the proper upkeep and maintenance of the premises in the condition in which they were received from the landlord. This will be done at the tenant's own cost. Furthermore, fair wear and tear not excepted, the tenant shall, at her own cost, replace broken glass, broken window panes and/or defunct light bulbs and fluorescent tubes and starters and shall replace lost keys and shall also maintain the garden in a neat and tidy condition and regularly water the garden.
- 10.2 The landlord shall maintain the structure of the building, that is, the structure of the roof, walls, floors, foundations, water supply system, electrical supply system and the sewerage system, unless any damage to or malfunctioning in those items is caused by the tenant in which event the tenant shall forthwith repair them at her own cost.

11. **REFUSE REMOVAL**

11.1 The tenant shall keep the inside of all buildings in a clean, tidy and tenable condition.

11.2 The tenant shall not allow the accumulation of any filth, litter or rubbish in or outside the premises and shall be responsible for the removal of all refuse from the premises to any central collecting point on the land.

12. **FAILURE OF SERVICES**

The tenant shall have no claim of any nature whatsoever, whether for damages, remission of rent or otherwise, against the landlord, nor be entitled to cancel the lease by virtue of any failure of or interruption in the supply of water, electricity, heating or other amenities such as cleaning services (if any); provided the landlord shall within a reasonable time after being notified of the disruption of such services take reasonable steps to have the disruption remedied if it shall have resulted upon any act or omission on the part of the landlord. If the disruption shall have been caused by the tenant's fault, the tenant shall forthwith and at her cost, do whatever is required to remedy the position.

13. **LOSS OR DAMAGE / INJURY OR DEATH**

13.1 The landlord shall not be liable for any loss of or damage suffered by the tenant to her goods or otherwise by virtue of the tenant's occupation of the premises, whether such loss is occasioned by fire, rain, hail, leakages, earthquakes, riot, vis major burglary or any other reason whatsoever. Furthermore, the tenant will have no claim against the landlord by virtue of the death or personal injury of any persons in or about the premises.

13.2 The tenant hereby indemnifies the landlord against any damage which the latter may suffer by virtue of any claim instituted against her by virtue of the death or injury of any person or by virtue of the loss of or damage to property, suffered in or about the premises.

14. **ACCESS BY LANDLORD**

The landlord's caretaker, workmen or agents shall be at liberty at all reasonable times to enter upon the premises to inspect them and to do or carry out any work that may be required by any authority to be done upon the premises and to make any repairs, alterations or improvements thereto, after having made mutually acceptable arrangements for this with the tenant. The tenant shall not be entitled to any remission of rental nor to cancel the lease, by virtue of the foregoing activities. The landlord is entitled at all times to have in her possession a key to the main entrance to the premises (including any security door which may exist).

15. **COMPLIANCE WITH LAWS AND RULES**

The tenant shall comply with all laws, by-laws and regulations affecting the premises. The tenant is in particular obliged to immediately forward any notices intended for the landlord and delivered or posted to the premises, to the landlord.

16. **INSURANCE AND FIRE HAZARD**

16.1 The tenant undertakes not to keep any combustibles or hazardous goods on the premises which could in any way endanger the property.

16.2 The landlord is obliged to properly insure the property (but not the content of any premises) through an in company of the landlord's choice against damage or destruction by fire, storms , riots and such other risks as properties are commonly insured against. The landlord is obliged so to insure the property for its replacement value from time to time and to keep it insured for such value throughout the period of this agreement.

17. **DAMAGE OR DESTRUCTION OF PREMISES**

17.1.1 If, as a result of any cause whatsoever, including the negligence of the landlord but excluding the fault of the tenant or her family, co-occupants, employees, representatives or other people under her control, the leased premises are destroyed completely or are rendered completely unfit for the purpose for which they are leased, this agreement shall terminate and the tenant will have no claim for compensation against the landlord.

17.1.2 Should the premises be destroyed or rendered so unfit for the purpose for which they are leased by the fault of the tenant, her family, co-occupants, representatives or employees or any other person under her control, then at the landlord's volition:

(a) the agreement will not terminate but shall remain of full force and effect in which event the tenant shall have no claim for remission of rental or cancellation against the landlord and the landlord will be obliged to reinstate the premises as soon as possible, but in doing so will not be obliged to expend more money than is paid to the landlord by its insurer in respect of the destruction or damage; **or**

(b) the landlord may cancel the lease and claim her damages from the tenant.

17.2 Should the leased premises be partially damaged by any cause whatsoever to an extent which does not prevent the tenant from having beneficial

occupation of the premises, then the landlord will ensure that the premises are repaired as soon as reasonably possible and the tenant will be entitled to a reasonable reduction of the rental for the period during which the premises are being repaired; provided that the tenant will not be entitled to any reduction or remission of rental or to cancel the lease if the premises are partially damaged through the fault of the tenant, her representatives or employees or any other person under her control and provided further that under the said circumstances the tenant will be liable for the landlord's damage.

- 17.3 Any dispute as to whether the premises have at any time been rendered completely untenable as contemplated in 17.1 or partially untenable as contemplated in 17.2, or any dispute as to the remission of rental to which the tenant may be entitled, or as to whether or not any destruction or damage was caused by the fault of the tenant (or the other parties referred to in 17.1), shall be submitted for determination to an architect appointed by the landlord. The architect shall act as an expert and not as an arbitrator and his decision shall be final and binding on the parties. The architect's charges (fees and/or disbursements) for determining the dispute will be paid by the party against whom the determination is mainly made and the architect will decide against whom the determination is mainly made. The architect's decision in this regard will also be final and binding on the parties.

18. **BREACH**

- 18.1 Should the tenant breach any provision of this agreement, whether it be of a financial nature or otherwise and whether it goes to the root of the contract or not, and fail to remedy such breach within 10 (ten) days of receipt by the tenant of written notice calling on her to remedy such breach, or should the tenant apply for the voluntary surrender of her estate or for the provisional or final sequestration of her estate, then, in any of those events, the landlord will be entitled without prior notice and without prejudice to any other rights which he/she may have:

18.1.1 to cancel this lease and claim damages from the tenant;
or alternatively

18.1.2 to enforce specific performance by the tenant of his other obligations under the lease and to claim damages from the tenant.

In the event of cancellation of the lease by virtue of the tenant's breach, the landlord will be entitled immediately to repossess the premises and to eject the tenant there from immediately, without prejudice to any claim he/she may have for unpaid rental, or damages in lieu of rental for the unexpired period of the lease, or otherwise.

- 18.2 In spite of the provisions of 18.1, should the tenant during any uninterrupted period of 6 (six) months on more than 2 (two) occasions have failed to pay

any amount due in terms of this lease timeously and the landlord have called upon the tenant in writing to remedy such breach (as contemplated in 18.1), then in respect of any further failure to pay any amount due, the landlord will be entitled to the remedies referred to in 18.1.1 or 18.1.2 forthwith and without first having to call upon the tenant by written notice to remedy such breach.

- 18.3 Should the landlord breach any provision of this agreement or otherwise fail to comply with her obligations in terms of this agreement and fail to remedy such breach or to eliminate such failure within a reasonable period of time after receipt by the landlord of written notice calling on him/her to do so, the tenant will then be entitled without prior notice and without prejudice to any other rights which she or he may have, to the remedies described in 18.1.1 or 18.1.2.

19. **LATITUDE**

No latitude granted by either party to the other will novate this agreement or bind the relevant party.

20. **DOMICILE AND NOTICES**

- 20.1 A party is entitled to amend her domicilium citandi et executandi reflected in 1.8 by giving written notice thereof to the other party and the amended domicilium will become effective upon receipt of the said notice by the party being notified thereof.

- 20.2 Unless the contrary is proved:

20.2.1 any notice despatched by prepaid registered mail to a party at her address chosen in terms of 1.8 will be deemed to have been received by such party and its contents to have come to such party's notice on the 7th (seventh) day after the date upon which it is posted.

20.2.2 any written notice delivered at the tenant's domicile to any person apparently residing or employed there and apparently over the age of fourteen years, will be deemed to have been received by and the contents to have come to the attention of the tenant upon such delivery.

The foregoing provisions do not prevent a party from giving notice to the other party in any other manner. The said provisions, without derogating from their general applicability specifically apply to any notice required in terms of clause 18.1.

21. **RE-LETTING**

Should it so desire, the landlord shall have the right during the last two months of the lease period to exhibit a "To Let" notice on the premises and the tenant agrees to allow any prospective tenants access to the premises at all reasonable times during this period.

22. **LEGAL COSTS IN CASE OF BREACH**

Should the tenant breach any provision of this agreement and the landlord instruct an attorney to demand compliance by the tenant with the relevant provision, whether or not a summons is issued, then the tenant will be liable for the landlord's legal costs on an attorney and own client basis.

23. **RESTRICTION IN RESPECT OF NEW LEASE OR EXTENSION**

The parties agree that:

- 23.1 subject to the other provisions of this agreement the period of the lease determined in this document shall not be extended; and
- 23.2 they will not be entitled to enter into a new lease, option to lease, right of first refusal to lease or other agreement with each other in respect of the occupation of the premises or any part thereof with regard to a period after the termination date of this agreement; otherwise than in a written document signed by both parties.

24. **DEPOSIT**

- 24.1 The tenant shall pay the deposit defined in 1.9 into the following account _____

The deposit will be paid to the tenant upon termination of the lease, subject to the proviso that if the deposit is insufficient to make good any damage caused or shortfall in any amount due by the tenant, then the interest may be utilised to supplement any such shortfall.

- 24.2 The landlord will be entitled to utilise the deposit or any portion thereof to make good any damage caused to the premises by the tenant and for which the tenant is liable in terms of this lease or to supplement any shortfall in the rental or any other amount due by the tenant at any time. As soon as any amount of the deposit has been expended by the landlord, the tenant shall immediately pay an equivalent amount to the landlord so as to ensure that

the landlord is at all times possessed of the full amount of the deposit. For purposes of calculating the full amount of the deposit, interest earned on the deposit (if any) shall not be taken into account.

- 24.3 Upon termination of this lease the landlord shall within 21 (twenty one) days after the premises have been vacated pay the deposit (or any remaining balance there off) to the tenant and shall account in writing to the tenant for any amount of the deposit which may have been utilised.

25. **PAYMENT OF RENTAL IF CANCELLATION DISPUTED**

If the landlord cancels the lease and the tenant disputes its right to cancel and remains in occupation of the premises, the tenant shall, pending settlement of any dispute either by negotiation or litigation, continue to pay (without prejudice to its rights) an amount equivalent to the sum of the monthly rental and any other amounts payable as provided for in this lease, monthly in advance on the first day of each month, and the landlord shall be entitled to accept and recover such payments. Such payments and the acceptance thereof shall be without prejudice to, and shall not in any way whatsoever affect the landlord's claim of cancellation then in dispute. If the dispute is resolved in favour of the landlord, the payments made and received in terms of this clause will be deemed to be amounts paid by the tenant on account of damages suffered by the landlord by reason of the cancellation of the lease or the unlawful holding-over of the premises by the tenant.

26. **GENERAL**

- 26.1 **Non-variation** - No alteration, variation, addition or consensual cancellation of or to this agreement (including this clause) will be of any force or effect unless reduced to writing and signed by both parties.
- 26.2. **Whole agreement** - This document contains the whole agreement between the parties and there are no prior or parallel agreements between them. No representation or warranties not contained in this document were made by or on behalf of either party.
- 26.3. **Representations - Warranties** - Neither the landlord nor anyone on his or her behalf has made any representation or given any warranty which induced the tenant to enter into this agreement.
- 26.4. **Severability** - Each and every clause and paragraph of this agreement is severable from each and every other clause and paragraph thereof and should any such clause or paragraph, or any part thereof, be void or voidable for any reason, or be contrary to any statutory or other legal provision, it will be severed from the rest of the agreement and the rest of the agreement shall remain of full force and effect.

- 26.5. **Risk** - Everything brought into or onto the premises or the land by the tenant is brought into or onto the premises or the land at the tenant's sole and exclusive risk.
- 26.6. **Method of payment** - Should any cheque given by the tenant to the landlord in respect of rental or any other amount due in terms of this lease, be dishonoured, then from the date thereof the landlord will be entitled to require the tenant to pay all future rental and other amounts due in terms of the lease by way of bank or bank guaranteed cheques or in such other manner as may be acceptable to the landlord.
27. The tenant is granted the option to extend the lease period by six months, provided the landlord shall not have notified the tenant by not later than two calendar months before termination of the first period that the landlord intends occupying the property himself. If extended as above, the rental shall escalate by agreement on commencement of the second period. If the landlord shall not have notified the tenant that the landlord wishes to occupy the property himself, the tenant must exercise the option by not later than 45 (forty five) days before effluxion of the first period.

SIGNED AT _____ ON THIS _____

DAY OF _____

AS WITNESSES:

1 _____

2 _____

LANDLORD

SIGNED AT _____ ON THIS _____

DAY OF _____

AS WITNESSES:

1 _____

2 _____

TENANT