

**ANNEXURE “A”**

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## 1. DEFINITIONS

In this agreement, unless inconsistent with, or otherwise indicated by, the context, the following terms shall have the meanings assigned to them hereunder, namely:-

LANDLORD	the party recorded in Item 1 of the SCHEDULE
TENANT	the party recorded in Item 2 of the SCHEDULE. References to the TENANT as "it", shall include male and female references.
LEASED PREMISES	the premises recorded in Item 3 of the SCHEDULE;
BUILDINGS	the buildings accommodating the LEASED PREMISES;
LAND	the immovable property on which the BUILDINGS are erected;
TENANT'S PROPORTIONATE SHARE	the applicable proportion recorded in Item 7 of the SCHEDULE;
VAT	Value Added Tax payable in terms of the Value Added Tax Act No. 89 of 1991, as amended;
SCHEDULE	the schedule to which this Annexure "A" is attached.

## 2. LETTING AND HIRING

The LANDLORD lets to the TENANT which hires the LEASED PREMISES.

### 3. PERIOD OF THE LEASE AGREEMENT

- 3.1. The duration of the lease agreement shall be as stated in the schedule.
- 3.2. The LEASE shall thereafter automatically renew for three years at a time subject to an annual escalation at 8%, save in the event of notice to the contrary delivered by no later than 3 months prior to the due expiry date at the election of either the LANDLORD or the TENANT, and save further that the Landlord shall have the right not later than 2 months prior to the due expiry date to stipulate for some other escalation rate to be applicable on the renewal date, if any, which shall become binding in the absence of written objection thereto with 7 days of delivery of that notice to the TENANT's domicilium address.

### 4. BASIC MONTHLY RENTAL

- 4.1. The basic monthly rental payable by the TENANT to the LANDLORD during the initial period is that recorded in Item 5 of the schedule.
- 4.2. The TENANT shall pay the basic monthly rental in advance on the first day of each and every month, without deduction or demand and free from bank exchange, at the office of the LANDLORD as recorded in Item 10 of the Schedule or at such other place or places in the Republic of South Africa as the LANDLORD may from time to time by previous written notice appoint.

### 5. RATES, TAXES, INSURANCES, OPERATING COSTS & GROUND

#### RENTAL

- 5.1. **RATES**  
The LANDLORD shall pay all rates and other taxes which may be levied by the local municipal authority or any other competent authority on the land and/or the building.
- 5.2. **OTHER TAXES**

If at any time during the currency of this lease any new tax or levy, not in the nature of or similar to an income tax, is imposed on the land and/or the buildings, the LANDLORD shall pay all such new taxes or levies with effect from the date upon which same becomes effective.

**5.3. INSURANCES**

5.3.1. The LANDLORD shall, through brokers nominated by it, insure and keep insured the BUILDINGS, including fixtures and fittings;

5.3.2. For not less than the full replacement value of the buildings to the LANDLORD as determined by the LANDLORD in its absolute discretion;

5.3.3. Against the risk of fire, lightning, explosion, storm, flood, earthquake, riots (including political riot), strikes and malicious damage and for any other risks selected by the LANDLORD which are freely insurable in the local insurance market;

5.3.4. All premiums, subsequent renewal premiums, all additional premiums and all stamp duties in respect of the relevant insurance policies, shall be paid by the LANDLORD.

**5.4. INCREASES**

Should the rates and other taxes which may be levied by the local municipal authority or any other taxes increase above the rate charged as at the date of the conclusion of this agreement, then at the LANDLORD's election the LANDLORD shall be entitled to pass the amount of such increase onto the TENANTS who shall bear same in their proportionate share.

## 6. VALUE ADDED TAX

6.1. The TENANT shall pay VAT on the basic monthly rental and on all recoveries and/or other charges payable in terms of this lease at the rate prescribed from time to time.

6.2. If it at any time during the currency of this lease, the prescribed rate of VAT varies above or below the percentage applicable as at the date of commencement of this lease, then the tax portions of the basic monthly rental recorded in Item 5 of the schedule shall be adjusted accordingly with effect from the date on which such variation becomes effective.

## 7. TENANT'S RIGHTS AND OBLIGATIONS

### 7.1. **ACKNOWLEDGEMENT**

The TENANT acknowledges that it is fully acquainted with the locality and full details of the LEASED PREMISES.

### 7.2. **USE**

The TENANT shall use the LEASED PREMISES only for the purposes specified in Item 9 of the schedule.

### 7.3. **CONDUCT OF BUSINESS**

The TENANT shall ensure that no damage is caused to any of the floors in the LEASED PREMISES by virtue of the operation of any machine or the carrying on of any manufacturing activity or the transportation of any machine or equipment or goods within the LEASED PREMISES.

### 7.4. **CONDITION OF PREMISES**

The TENANT shall, within 21 (twenty-one) days of the commencement of the lease, notify the LANDLORD in writing of the details of any defects in the condition of the LEASED PREMISES and, failing such notification, the TENANT shall be deemed to have received the LEASED PREMISES in a thoroughly good state of tenantable repair and condition.

### 7.5. **INTERIOR MAINTENANCE**

The TENANT:-

7.5.1. shall, at its own costs and expense, keep and maintain the entire interior of the LEASED PREMISES, including paint work, in good order and repair;

7.5.2. shall, at its own cost and expenses, repair and/or replace all fluorescent tubes, ballast's and electric light globes, electrical fittings, locks, keys and other interior fittings in the LEASED PREMISES that may be damaged, destroyed or lost;

7.5.3. shall do any painting which may be necessary from time to time to the interior of the LEASED PREMISES;

- 7.5.4. shall, at the termination of this lease, hand over and deliver the LEASED PREMISES to the LANDLORD in the same good order and conditions, fair wear and tear excepted, as they were in when the TENANT first took occupation of the LEASED PREMISES, but without releasing the TENANT from any of its obligations to maintain the LEASED PREMISES in terms of this lease.

7.6. **DOORS, GLASS, WALLS, CEILINGS AND FLOORS**

The TENANT:-

- 7.6.1. shall keep and maintain in good order and condition and, if damaged, shall replace all internal and external doors, (including the front door/s to the LEASED PREMISES) internal window frames and sashes, internal window panes, louvers, window or glass displays, glass, office partitions and beading surrounds in the LEASED PREMISES;
- 7.6.2. shall regularly clean the items referred to in sub-clause 7.6.1 hereof according to the LANDLORD's instructions;
- 7.6.3. shall not drive any object into the walls or ceilings or floor of any part of the LEASED PREMISES, save for the purposes of sub-clause 7.7 hereof;
- 7.6.4. shall not do anything which damages the walls or ceiling or floor or any part of the LEASED PREMISES;
- 7.6.5. shall keep and maintain in good order and condition and, if damaged, shall replace any carpet provided in the LEASED PREMISES. The LANDLORD shall not be obliged under any circumstances to replace any carpets in the LEASED PREMISES. Should the TENANT wish to install new or replace existing carpeting, the written consent of the LANDLORD shall first be obtained and on termination of this lease the TENANT shall not be entitled to reimbursement in respect of any carpets, which shall become the sole and absolute property of the LANDLORD.

7.7. **FIXTURES AND FITTINGS**

The TENANT:-

- 7.7.1. shall be entitled, at any time, to install such fixtures or fittings in the LEASED PREMISES for the purpose of its business as are approved by the LANDLORD;
- 7.7.2. shall be entitled, at any time during the currency of this lease, to remove those fixtures or fittings;
- 7.7.3. shall be obliged to remove those fixtures or fittings at the termination of this lease before handing over the LEASED PREMISES, if called upon by the LANDLORD to do so, and in default of the TENANT complying with this obligation, the LANDLORD shall be entitled itself to remove such fixtures and fittings at the cost and expense of the TENANT and any such costs and expenses shall be recoverable from the TENANT as additional rental;
- 7.7.4. shall repair at its sole cost and expense, to the satisfaction of the LANDLORD and/or its agents, any damage caused by such installation or removal before handing over the LEASED PREMISES;
- 7.7.5. agrees that if the TENANT fails to remove those fixtures and fittings at the termination of this lease and the LANDLORD has not exercised its right in terms of sub-clause 7.7.3 hereof, then such fixtures and fittings shall be deemed to form part of the LEASED PREMISES and the TENANT shall have no claim against the LANDLORD for compensation in respect thereof.

7.8. **ELECTRICAL INSTALLATIONS**

The TENANT:-

- 7.8.1. shall not alter, interfere with or overload the electrical or other lighting or heating installations in the LEASED PREMISES.
- 7.8.2. Shall be liable to repair any short circuits or blown fuses or other damage caused by such alterations, interference or overloading.

7.9. **PLUMBING, SANITARY EQUIPMENT AND SEWER BLOCKAGES**

The TENANT:-

- 7.9.1. shall comply with all sanitary and/or other by-laws affecting the LEASED PREMISES and shall keep and maintain all plumbing, sanitary and sewerage equipment, connection, pipes and drains of the LEASED PREMISES in good working order and condition, and

shall, at all times, purge, cleanse, scour, keep and maintain in good sanitary conditions all such drains and sanitary arrangements, including washbasins, sanitary fittings and urinals;

- 7.9.2. shall not cause or permit to be caused any obstruction or blockage of sewerage pipes, water pipes or drains in the building and shall remove and repair at its own cost and expense, any obstruction or any blockage or any sewerage or water pipes or drains so caused;

7.10. **AIRCONDITIONING**

- 7.10.1. The TENANT shall be solely responsible for keeping, maintaining and repairing, at its sole cost and expense, all individual airconditioning units installed in the LEASED PREMISES in working order during the currency of this lease, and the TENANT shall not have any claim against the LANDLORD arising out of any defect in or interruption in the operation of such units in the LEASED PREMISES.

- 7.10.2. The TENANT shall not be entitled, without the prior written consent of the LANDLORD, which consent shall not be unreasonably withheld, to install in or on any part of the LEASED PREMISES any airconditioning units in addition to or in substitution of the units installed as at the date of commencement of this lease.

7.11. **AWNINGS**

The TENANT shall not affix any window blinds, shades or awnings to any part of the LEASED PREMISES or the buildings without prior written consent of the LANDLORD.

7.12. **ALTERATIONS**

The TENANT:-

- 7.12.1. shall not make any alterations or addition as of any nature whatsoever to the LEASED PREMISES or the BUILDINGS or to the electrical installations in the LEASED PREMISES or the BUILDINGS without the prior written consent of the LANDLORD, which consent shall not be unreasonably withheld;

- 7.12.2. shall observe all terms and conditions which the LANDLORD may prescribe in giving consent under sub-clause 7.12.1 hereof;



- 7.12.3. agrees that if the LANDLORD gives consent under sub-clause 7.12.1 hereof, the LANDLORD shall be entitled, upon the termination of this lease, either to call upon the TENANT to hand over the LEASED PREMISES as altered without compensation or payment by the LANDLORD, or to have the LEASED PREMISES restored to their original condition at the expense of the TENANT;
- 7.12.4. agrees that the LANDLORD shall be entitled to require that such alterations or additions be effected and, if applicable, be removed subject to the reasonable approval of an Architect or Consultant appointed by the LANDLORD and that the fees of such Architect or Consultant together with all costs and expenses in respect of such alteration or additions and, if applicable, the removal thereof, be borne by the TENANT;
- 7.12.5. agrees that any removal and reinstatement required by the LANDLORD shall be effected prior to the termination of this lease.

7.13. **ADVERTISING**

The TENANT:-

- 7.13.1. shall not affix or paint any advertising or hanging sign on the exterior of the buildings or on the windows or doors of the LEASED PREMISES without the LANDLORD'S prior written consent, which consent shall not be unreasonably withheld;
- 7.13.2. shall maintain the good appearance of any of its advertising or other signs and shall keep them in proper working order;
- 7.13.3. shall comply with all the requirements of any competent authority in respect of any of its advertising or other signs;
- 7.13.4. shall, upon the termination of this lease, removal all its signs and shall make good any damage caused to the property or the BUILDINGS or the LEASED PREMISES by such removal upon the termination of this lease;
- 7.13.5. shall not permit any decoration or display of window space in the LEASED PREMISES which, in the option of the LANDLORD, may detract from the appearance or image of the BUILDINGS.

7.14. **INSURANCE**

The TENANT:-

- 7.14.1. shall take out and keep in force during the currency of this lease, insurance policies to cover:-
- 7.14.2. public liability for such amount as will provide indemnity in respect of all claims which may foreseeably be made against the LANDLORD arising out of the TENANT's business and/or tenancy of the LEASED PREMISES;
- 7.14.3. provided that if any dispute arises between the parties with regard to the operation of this sub-clause, such dispute shall be referred to an insurance expert nominated by the LANDLORD who shall determine such dispute as an expert and not as an arbitrator and whose decisions shall be final and binding on the parties;
- 7.14.4. shall not keep or permit to be done or kept in or on the LEASED PREMISES anything which may render void or avoidable any fire or other insurance policy of the BUILDINGS or which may give rise to any increase in the premiums without the prior written consent of the LANDLORD; and any increase or loading of the premium payable on any policy of insurance effected by the LANDLORD by virtue of any operations undertaken by the TENANT, or arising in any other way by virtue of the TENANT's occupation of the premises shall be borne by the TENANT and shall be paid by the TENANT to the LANDLORD within seven (7) days of being notified in writing of such amount.

7.15. **LAWS AND BY-LAWS**

The TENANT shall not contravene or permit the contravention of any laws, by-laws, regulations or requirements of any competent authority, relevant to the conduct of the TENANT's business in and occupation of the LEASED PREMISES.

7.16. **NO CLAIMS**

The TENANT shall not have any claim against the LANDLORD for any loss or damage which the TENANT or its employees, customers, invitees, or licensees may suffer:-

- 7.16.1. in consequence of the overflow of water supply or any leakage or of any fault in the plumbing works or the roofing or any electrical fault or by reasonable of the elements of the weather, including flooding or acts of God, provided that there is no failure on the part of the

LANDLORD or its agents or employees to carry out any work reasonably required of them in a proper manner or by reason of negligence on the part of the LANDLORD; or

- 7.16.2. arising out of vis major or cases fortuitous or any other cause, either wholly or partly outside the LANDLORD's control; or
- 7.16.3. arising out of any act or omission by any other TENANT in the buildings; or
- 7.16.4. as a result of the LEASED PREMISES or buildings being damaged or destroyed; or
- 7.16.5. as a result of housebreaking, forcible entry or burglary of the LEASED PREMISES; or
- 7.16.6. as a result of theft;
- 7.16.7. save that where 7.16.5 and 7.16.6 are applicable they shall not operate where the event is due to the LANDLORD's failure to provide reasonably adequate security.

7.17. **INDEMNITY**

- 7.17.1. The TENANT indemnifies the LANDLORD against any claim of whatsoever nature made against the LANDLORD by anyone for any loss or damage;
- 7.17.2. suffered in the BUILDINGS in consequence of any act or omission on the TENANT, or the TENANT's servants, agents, customers, invitees or licensees.

7.18. **NO WITHHOLDING PAYMENTS**

The TENANT shall not be entitled to withhold or delay payment of any amounts due to the LANDLORD in terms of this lease and the TENANT hereby waives any rights that the TENANT may have in common law to hold or delay such payment and furthermore the TENANT hereby abandons all or any rights of set off to which the TENANT may be entitled.

7.19. **NUISANCE AND DISAGREEMENTS**

The TENANT shall not carry on and conduct its business in such a manner as to constitute or become a nuisance to the LANDLORD or any other TENANT in the

BUILDINGS or to the owners or occupiers of neighbouring properties. Any excessive noise or odour pollution caused or permitted to be caused in the LEASED PREMISES or on the PROPERTY by the TENANT shall be deemed to be a nuisance within the meaning of this sub-clause.

The TENANT acknowledges that a measure of cooperation and/or ability to live in harmony with other TENANTS is required in the building and that disagreements may arise between different TENANTS that fall to be tolerated within reasonable limits, but that in the event of any serious disagreement between one or more TENANTS that, in the opinion of the LANDLORD, threatens the overall ability of the TENANTS or some of them to continue to exist in a state of cooperation and/or harmony then the LANDLORD shall have the right to furnish written notice to one or more of the TENANTS involved in any such disagreement to cease any conduct which in the opinion of the LANDLORD is giving rise to a state of a lack of cooperation and/or disharmony, and in the event of the disagreement not ceasing within the period of seven days from the date of receipt of such notice, then the LANDLORD shall have the right summarily to terminate the lease agreement of any or all of the TENANTS as may be involved in that disagreement, all within the exercise of a reasonable and *bona fide* discretion by the LANDLORD.

#### 7.20. **COSTS AND INTEREST**

The TENANT:-

- 7.20.1. shall pay to the LANDLORD interest at the rate of 7% per month reckoned from the due date of payment of such amount to the actual date of payment thereof;
- 7.20.2. shall be liable for any other reasonable administration charges levied by the LANDLORD and/or its LETTING AND ADMINISTRATION AGENTS with regard to the recovery of arrear rents or any other amounts due in terms of this lease;
- 7.20.3. shall be liable for an additional fixed charge of R250 plus VAT (subject to reasonable increase by the LANDLORD) for each written notice and/or letter of demand sent by the LANDLORD and/or its LETTING AND ADMINISTRATION AGENTS with regard to the recovery of arrear rents or any other amounts due in terms of this lease;
- 7.20.4. shall be liable for all legal costs incurred by the LANDLORD as between Attorney and own Client, including collection charges, if any, with regard to instructions given to an Attorney for the recovery of arrear rents or any other amounts due in terms of this lease, or

arising out of same, or arising out of a cancellation or termination of same, irrespective of whether legal action is actually instituted against the TENANT or not.

7.21. **CESSION AND SUBLETTING**

The TENANT:-

- 7.21.1. shall not cede or in any way alienate or encumber any of the TENANT's rights hereunder save to another advocate, and even then shall have no such right without the prior written consent of the LANDLORD which consent shall not unreasonably be withheld;
- 7.21.2. shall not sublet the LEASED PREMISES or any part thereof nor permit a third party to occupy the LEASED PREMISES or any part thereof save to another advocate, and even then shall have no such right without the prior written consent of the LANDLORD which consent shall not unreasonably be withheld.
- 7.21.3. If the LANDLORD furnishes its consent to sub-let, then, without prejudice to any other reasonable conditions which the LANDLORD may stipulate, the TENANT shall be deemed to have ceded in favour of the LANDLORD all its rights against the sub-TENANT, including its right to receive payment of the rental and of other amounts payable in terms of the sub-lease, as security for the TENANT's obligations to the LANDLORD under this agreement of lease.
- 7.21.4. A breach of any of the provisions of this clause shall constitute a material breach of this lease.

7.22. **LICENCES**

The TENANT:-

- 7.22.1. shall be solely responsible, at its own cost and expense, for obtaining the necessary certificates and licences from the local municipal authority and/or any other relevant authorities enabling the TENANT to carry on the business referred to in Item 9 of the schedule in the LEASED PREMISES.
- 7.22.2. shall apply for and at all proper times use its best endeavours to obtain, at its own cost and expense, renewal of the certificates and licences referred to in sub-clause 7.22.1 hereof and pay for the same;

7.22.3. acknowledges that the LANDLORD gives no warranties or assurances whatsoever that such licence or licences which may be required by the local municipal authority and/or any other relevant authorities will be granted or renewed;

7.22.4. shall advise the LANDLORD of any obligation or condition imposed by a competent authority concerning the LEASED PREMISES or the licences held in respect thereof.

7.23. **REFUSE**

The LANDLORD will provide refuse containers located in a suitable area set aside for such purpose on the ground floor of the building. Such refuse containers shall be maintained in good order by the LANDLORD but the TENANT shall be responsible for the removal from the LEASED PREMISES and placing in said refuse containers all waste accumulating in the LEASED PREMISES.

## 8. LANDLORD'S RIGHTS AND OBLIGATIONS

8.1. **EXTERIOR MAINTENANCE**

The LANDLORD shall keep and maintain the exterior (including the damp-proofing of windows), roof, gutters and down pipes of the buildings and any lifts, travelators and hoists in the buildings as well as common areas on the property in good order and condition.

8.2. **ACCESS**

The LANDLORD or its agents or servants shall be entitled to:-

8.2.1. effect any repairs, alterations, improvements and/or additions to the BUILDINGS, or any part thereof, and for such purpose to erect scaffolding, hoarding and/or any other building equipment required for the carrying out of such work and shall be entitled to access to any portion of the LEASED PREMISES as may be reasonably necessary such purpose;

8.2.2. have reasonable access to the LEASED PREMISES for the purpose of inspecting or repairing the LEASED PREMISES or the BUILDINGS;

- 8.2.3. call upon the TENANT to attend to any maintenance or to repair any damage to the LEASED PREMISES for which the TENANT is responsible under this lease, and in default of the TENANT effecting such maintenance or repair within 14 [fourteen] days after receipt of such notice, may itself effect such maintenance or repair at the cost and expense of the TENANT and any costs and expenses incurred by the LANDLORD shall be recoverable from the TENANT as additional rental;
- 8.2.4. in exercising its rights the LANDLORD shall use its best endeavours to cause as little possible interference with the TENANT's occupation of the premises and shall carry out such work as expeditiously as possible.
- 8.2.5. display on the LEASED PREMISES a "To Let" and/or "Let By" notice during the final 6 [six] months of this lease;
- 8.2.6. display on the LEASED PREMISES or the BUILDINGS a "For Sale" and/or "Sold" notice at any time during the period of this lease;
- 8.2.7. show any prospective TENANTS and/or prospective purchasers of the PROPERTY the interior of the LEASED PREMISES during the reasonable hours on business days;
- 8.2.8. display on the LEASED PREMISES, during the final 6 [six] months of this lease, any notice which may be required by the LANDLORD or any of the LANDLORD's TENANTS or prospective TENANTS in connection with any application for a licence for any business to be carried on in the LEASED PREMISES.
- 8.2.9. the TENANT shall not have any claim for remission of rent, compensation or damages in connection with the exercise by the LANDLORD of any of its rights.

8.3. **NO WARRANTY**

- 8.3.1. The LANDLORD does not warrant or represent that the LEASED PREMISES are fit for the purpose for which they are let, or that the TENANT will be granted licences in respect thereof for the conduct of its business or that any licences will be renewed.
- 8.3.2. The LANDLORD shall not be under any obligation at any time during the currency of this lease to make any improvements, additions or alterations, or to carry out any work in respect of the LEASED PREMISES in order to render or to keep them fit for the purposes of

the TENANT's business, and all the requirements in connection therewith shall be carried out, subject to the LANDLORD's approval, at the cost and expense of the TENANT.

8.3.3. If the local Municipal Authority, the Factories and/or Labour Inspector or Officials and/or any other legally constituted authority requires at any time during the currency of this lease that any work be carried out in respect of any alterations, additions or improvements to the LEASED PREMISES or requires that any additional equipment be installed in the LEASED PREMISES for the purpose of the TENANT's trade or business, the TENANT shall advise the LANDLORD of such requirements but shall be obliged to itself give effect to those requirements.

8.3.4. All costs or charges necessitated by any such work shall be borne and paid for by the TENANT and the LANDLORD shall not be called upon to pay any such costs and charges or to comply with any other requirements of any legally constituted authority in regard to the TENANT's trade or business.

8.3.5. The LANDLORD shall be entitled to require that any of the aforesaid work be effected, subject to the reasonable approval of an Architect or Consultant nominated by it and that the fees of such Architect or Consultant be borne and paid for by the TENANT.

#### 8.4. **REPAIRS AND RENOVATIONS ON TERMINATION**

If, on termination of this lease, repairs or renovations are necessary to the LEASED PREMISES by virtue of a failure of the TENANT to carry out the obligations imposed upon the TENANT in terms of this lease, the LANDLORD shall be entitled to carry out such repairs or renovations as are necessary and to recover the costs from the TENANT. The TENANT shall also be responsible for damages for loss of rental during the period the repairs and renovations are being carried out at not less than the basic monthly rental payable immediately prior to termination of this lease and reckoned until the end of the month in which the work is completed.

### 9. USE OF COMMON FACILITIES

The TENANT shall, in concluding its business upon the LEASED PREMISES in terms hereof, give due consideration to the use and enjoyment of the BUILDINGS by other TENANTS, customers and employees.



## 10. DAMAGE OR DESTRUCTION

### 10.1. **TOTAL DESTRUCTION**

If, at any time during the currency of this lease, the LEASED PREMISES are destroyed or damaged by any cause whatsoever to an extent which prevents the TENANTS from having beneficial occupation of the LEASED PREMISES, then:

- 10.1.1. the TENANT shall have no claim of any nature whatsoever against the LANDLORD as a result thereof;
- 10.1.2. the LANDLORD shall be entitled to determine within 21 (Twenty One) days after such destruction or damage, whether or not this lease shall be cancelled and shall notify the TENANT in writing of its decision;
- 10.1.3. if the LANDLORD fails to notify the TENANT of that decision then the LANDLORD shall be deemed to have elected to cancel this lease.
- 10.1.4. if the LANDLORD elects or its deemed to have elected to cancel this lease, then the TENANT shall have no claim of any nature whatsoever against the LANDLORD as a result of such cancellation of this lease.
- 10.1.5. If the LANDLORD elects not to cancel this lease, then:
  - 10.1.5.1. the LANDLORD shall procure the reinstatement of the LEASED PREMISES with reasonable despatch;
  - 10.1.5.2. the TENANT shall not be liable for any rent for so long as the TENANT is deprived of beneficial occupation of the LEASED PREMISES;
  - 10.1.5.3. if the TENANT is given beneficial occupation from time to time of any part of the LEASED PREMISES, then the TENANT shall make payment of the rental therefore on a pro rata basis.

### 10.2. **PARTIAL DESTRUCTION**

If, at any time during the currency of this lease, any part [but not the whole] of the LEASED PREMISES is destroyed or damaged by any cause whatsoever, then:-

- 10.2.1. This lease shall not be cancelled;

- 10.2.2. The rental payable by the TENANT shall be reduced pro rata and to the extent to which the TENANT is deprived of the beneficial occupation of the part of the LEASED PREMISES;
- 10.2.3. The LANDLORD shall procure the reinstatement of the LEASED PREMISES with reasonable despatch;
- 10.2.4. The TENANT shall have no claim of any nature whatsoever against the LANDLORD as a result of the said destruction or damage from whatsoever cause the same arises.

### 10.3. **DISPUTES**

If any dispute arises between the parties:-

- 10.3.1. as to whether the LEASED PREMISES are at any time wholly unTENANTable or not and/or to the period that the LEASED PREMISES are wholly unTENANTable, then such dispute shall be referred to an Architect nominated by the parties jointly, or if they cannot reach agreement of the identity of the Architects. The nominated Architect shall act as an expert and not as an arbitrator and his decision in regard to such dispute shall be final and binding on the parties. Any expenses which may be incurred in referring such dispute to the Architect shall be borne and paid for by the parties in equal shares;
- 10.3.2. in regard to the reduced amount of rental payable at any time or from time to time by the TENANT in terms of sub-clauses 10.2.2 hereof, then such dispute shall be referred to an Accountant nominated by the parties jointly, or if they cannot reach agreement of the identity of the Accountant, the nomination shall be made by the President of Natal Society of Chartered Accountants. The nominated Accountant shall act as expert and not as an arbitrator and his decision in regard to such disputes shall be final and binding on the parties. Any expense which may be incurred in referring such dispute to the Accountant shall be borne and paid for by the parties in equal shares.

## 11. OTHER DAMAGE OR DESTRUCTION

- 11.1. If any other premises in the BUILDINGS are damaged or destroyed, either partially or wholly, and the LEASED PREMISES are affected by such damage or destruction or access thereto is reasonably required for the purpose of effecting the necessary repairs to and/or restoration of such other premises, then the LANDLORD shall have the right [but shall not be obliged] to deal with the

LEASED PREMISES as if they had been totally or partially destroyed and the provisions of Clause 10 hereto shall, mutatis mutandis, be applicable.

- 11.2. The TENANT shall be obliged to forthwith make good, at its own cost and expense, all damage to the BUILDINGS, whether exterior or interior, including windows, window panes, glass, doors, ceilings and roofs caused as a result of housebreaking or forcible entry to the LEASED PREMISES or theft from the LEASED PREMISES and all damages to the LEASED PREMISES as a result of riot.

## 12. BREACH

If:-

- 12.1. the TENANT fails to pay the rental or any other amount due by the TENANT in terms of the lease on due date or commits or suffers or permits the commission of any other breach of any of the other terms of this lease, whether or not such breach goes to the root of this contract, and fail to remedy such breach:-
- 12.1.1. within 7 [seven] days after written notice has been received by the TENANT from the LANDLORD requiring the TENANT to remedy such breach where it is one which is capable of being remedied within such period;
  - 12.1.2. within a reasonable period of time after written notice has been received by the TENANT from the LANDLORD requiring the TENANT to remedy such breach where it is not one which is capable of being remedied within 7 [seven] days; or
- 12.2. The TENANT is placed under provisional or final sequestration, liquidation or judicial management, as the case may be;
- 12.3. In any period of 12 months is guilty of 3 or more breaches of this agreement whether of the same provision or not, or in any period commits so many breaches of any of the conditions of this lease in such manner as to justify the LANDLORD in holding that the conduct of the TENANT is inconsistent with the intention or ability of the TENANT to carry out the conditions of this lease;
- 12.4. the LANDLORD shall be entitled, but not obliged, notwithstanding any previous waiver or anything to the contrary herein contained, to cancel this lease forthwith and to retake possession of the LEASED PREMISES, without prejudice to its claim for any arrear rentals or other sums payable hereunder or for any damages

which it may suffer by reason of such breach and/or cancellation, or to any other remedy which it may have against the TENANT arising out of this lease or in law.

### 13. HOLDING OVER

13.1. If the LANDLORD cancels this lease and the TENANT disputes the LANDLORD'S right to do so and remains in occupation of the LEASED PREMISES, then:

13.1.1. the TENANT shall continue to pay all amounts due by the TENANT in terms of this lease on the due dates of the same;

13.1.2. the LANDLORD shall be entitled to recover and accept those payments;

13.1.3. the acceptance by the LANDLORD of those payments shall be without prejudice to and shall not in any manner whatsoever affect the LANDLORD'S claim to cancellation then in dispute.

13.2. If the dispute is determined in favour of the LANDLORD, then the payments made and received in terms of sub-clause 13.1 hereof shall be deemed to be amounts paid by the TENANT on account of damages suffered by the LANDLORD by reason of the cancellation of this lease and/or the unlawful holding over by the TENANT.

### 14. PREMATURE TERMINATION

Upon premature termination of this lease for any reason [including, without departing from the generality of the foregoing, termination by a trustee or liquidator of the TENANT following insolvency or liquidation], then, until the TENANT or its legal representatives proves to the contrary, the TENANT shall be deemed to be indebted to the LANDLORD, inter-alia, for damages, for loss of rental in a sum equal to the aggregate of the basic and all other charges, which would be payable under this lease but for its termination.

### 15. NO RELAXATION

No relaxation which either party may give at any time whatsoever in regard to the carrying out of any of the other's obligations in terms of this lease shall prejudice or be a waiver of any of that party's rights in terms of this lease.

## 16. NO VARIATIONS

- 16.1. This lease contains all the terms and conditions of the agreement between the LANDLORD and TENANT.
- 16.2. No variation of this lease shall be binding unless it is in writing and is signed by both the LANDLORD and TENANT.

## 17. NOTICES AND DOMICILIA

- 17.1. The parties respectively nominate as their domicilium citandi et executandi the following addresses:

LANDLORD            the place of payment of rental from time to time;

TENANT              the LEASED PREMISES and ADDRESS provided in Item 2 of The Schedule.

- 17.2. All notices shall be delivered by hand during normal business hours, in which event they shall be deemed to have been received on the date of delivery.

## 18. CONSENT TO MAGISTRATE'S COURT JURISDICTION

- 18.1. The TENANT consents, in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court having jurisdiction in respect of the TENANT by virtue of Section 28 of the aforesaid Act.
- 18.2. The GUARANTORS consent, in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court having jurisdiction in respect of the GUARANTORS by virtue of Section 28[1] of the aforesaid Act.
- 18.3. The consent in sub-clauses 18.1 and 18.2 shall not preclude the LANDLORD, at its election, from instituting proceedings in any other Court of competent jurisdiction.

## 19. COSTS AND COMMISSION

All stamp duty payable on this lease, shall be borne and paid for by the TENANT.

## 20. DEPOSIT OR GUARANTEE

- 20.1. The TENANT shall be liable to provide a security deposit equivalent to the first month's rental.
- 20.2. The LANDLORD shall have the right to apply the whole or any portion of the amount covered by the guarantee, towards payment of any liability of whatsoever nature for which the TENANT is responsible. If the whole or any portion of the amount covered by the guarantee, is so applied, the LANDLORD shall notify the TENANT in writing to that effect and the TENANT shall immediately reinstate the deposit to its original amount and/or replace the guarantee in the original amount.
- 20.3. The TENANT shall not be entitled to set off against the amount covered by the guarantee any rental or other amount payable by it.
- 20.4. On termination of this lease, the guarantee held or deposit or the balance drawn down as the case may be, shall be released by the LANDLORD –
  - 20.4.1. after the TENANT has vacated the premises; and
  - 20.4.2. after all the TENANT'S obligations to the LANDLORD in terms hereof have been fully discharged; and

## 21. MISCELLANEOUS

- 21.1. This lease has been drafted with reference to the TENANT in the singular neuter. In the event of the TENANT being a natural person or consisting of more than one person, the provisions of this lease shall be construed accordingly.
- 21.2. The headings in this lease are for the convenience only and are not to be taken into account in interpreting the provisions of this lease.
- 21.3. This agreement is entered into:
  - 21.3.1. by the LANDLORD for itself and its successors-in-title and assigns;
  - 21.3.2. by the TENANT for itself and its successors-in-title and permitted assigns;
- 21.4. Where the consent, authority or permission of the LANDLORD in terms of this lease may not be unreasonably withheld, the onus shall lie on the TENANT should a dispute arise between the parties with regard thereto.

- 21.5. If any of the provisions of this agreement are held to be void, invalid or unenforceable for any reason, such provision shall be deemed to be severable and excluded from this agreement, provided that the remaining terms of this agreement shall nonetheless continue to be of full force and effect.
- 21.6. This lease shall only take effect and become binding upon the LANDLORD when signed by the LANDLORD, failing which the TENANT may not claim the existence of a lease from negotiations having been conducted and concluded in regard thereto or by reason of this lease having been drafted or signed by the TENANT. The signature by the TENANT to this document shall amount to an offer by the TENANT to enter into this agreement upon the terms and conditions set out herein which shall remain open for acceptance and shall be irrevocable for a period of 14 [fourteen] days from the date of signature by the TENANT or until finally declined by the LANDLORD or its agents in writing within that period or an amended contract in writing entered into before the expiry of that period. This offer shall not be affected in any way by subsequent negotiations which may be entered into by and between the LANDLORD and/or its agents with the TENANT, whether such negotiations amount to a counter offer or not.
- 21.7. In the event of any conflict arising between the above terms and conditions and the additional conditions / terms set out in the schedule then the provisions in the schedule shall prevail.

## 22. INDIVIDUAL TERMINATION

In the event that a TENANT ceases to practice as an Advocate within the area of the Durban Metro, then the TENANT shall have the right to terminate his or her lease agreement on three months written notice to the LANDLORD.

## 23. STOP ORDERS

The TENANT shall at the request of the LANDLORD sign a stop order (and necessary amended stop orders) against the TENANT's bank account to facilitate all payments due to the LANDLORD, and failing the provision of that stop order by the TENANT, for any reason, within a period of seven days from request by the LANDLORD, the TENANT shall pay an additional Administration fee of R350 (subject to reasonable increase by the LANDLORD) per month.

## 24. PARKING

In the event of the TENANT hiring a parking bay that is a tandem parking bay then the TENANT undertakes to obtain and leave at reception a duplicate key to his/her vehicle in order to enable that vehicle to be moved during the TENANT's absence and further undertakes to co-operate reasonably at all times in order to ensure the minimum inconvenience to the other tandem TENANT, and the other TENANTS who may park in the building.

## 25. BASIC GROUP CONTRIBUTION

The rental payable in respect of these premises as set out in the schedule, includes the TENANT'S basic Group contribution and is subject to the rights and limitations as set out in the remainder of this lease agreement, and is subject to such other rules and regulations as the LANDLORD may, in its sole reasonable discretion, from time to time decide.

### 25.1. **Receptionist and PABX**

25.1.1. The TENANT acknowledges that the LANDLORD will provide a PABX system at the LANDLORD'S expense and that the LANDLORD will engage a fulltime Receptionist at the LANDLORD's expense in order to control the reception area and to receive calls and take messages on behalf of TENANTS and to receive deliveries on behalf of TENANTS.

25.1.2. That Receptionist will be an employee of the LANDLORD, paid for by the LANDLORD at no additional cost to the TENANT and the TENANT shall, save in the respect of the specified services, have no right to the use of the services of that Receptionist, and in particular, the Receptionist cannot be used by any of the TENANTS for any typing or other duties other than those specified.

### 25.2. **Conference Rooms**

All TENANTS of Atrium Court have the right to use of the conference rooms 1 to 5 for purposes of their practice consultations at no additional charge subject to:

25.2.1. the TENANT pre-booking the conference room with the downstairs receptionist;

25.2.2. availability;



25.2.3. the conference rooms shall not be used for the purposes of any arbitration save on the prior written consent of the LANDLORD who shall be entitled to a reasonable market charge/rental for such use (in addition to the normal rental payable by TENANTS);

25.2.4. the LANDLORD's right to reasonable use of conference room number 1 for arbitration purposes or such other reasonable use as the LANDLORD may decide, for its own account and benefit, including the right to hire it out to outside parties and subject to the LANDLORD's right to convert one or both of conference rooms 4 and 5 for use as Advocates' chambers/offices for the benefit of the LANDLORD should, in the LANDLORD's reasonable opinion, those conference rooms not be sufficiently used by the TENANTS for consultation purposes.

### 25.3. **Gym**

All the TENANTS and staff of Atrium Court shall have the right to use the gym, (including ancillaries: the gym equipment supplied and owned by the LANDLORD, the gym change rooms shower and ablution facilities and the recreational area immediately abutting the gym) provided that the LANDLORD shall be entitled to permit all the TENANTS and staff of Masonic Grove Chambers, and such other persons as may be nominated by the Landlord from time to time (not exceeding 5 in number) to use the said gym and ancillaries.

### 25.4. **Other Common Areas**

All the TENANTS have the right to use the common areas comprising the reception area, the atrium areas (save for the exclusive atrium area abutting office number 19), the passageways, ablution facilities, kitchens and bathrooms, and the common secretarial areas (which secretarial areas shall be office numbers 8 and 16 or in such alternative areas as the LANDLORD in the exercise of a reasonable discretion may decide).

### 25.5. **Cleaning**

25.5.1. The TENANT acknowledges that the LANDLORD will at its own expense employ and pay a Cleaner/Handyman on a fulltime basis, whose employment will entail the cleaning of the bathroom and ablution facilities on a daily basis and the cleaning of the common areas on a daily basis, and the cleaning of individual chambers on a weekly basis, and the TENANTS undertake to afford that employee access for those purposes.

- 25.5.2. That employee will also remove, on a twice weekly basis, the refuse of the TENANT in order that this may be taken to the central refuse area and thereafter removed by the local authority.

25.6. **Servers and Email**

The TENANT acknowledges that the LANDLORD has provided at its own expense a cabling system throughout the entire building, connected to an existing server in Masonic Grove Chambers and an email server, and that the TENANT shall be entitled to utilise that connection subject to the following:

- 25.6.1. The TENANT shall be obliged to pay an email facility charge of R150.00 per month per chambers (subject to reasonable increase from time to time at the Landlord's reasonable discretion), whether or not the TENANT utilises that email facility, which charge does not include any connection and service charges payable to PSI/whoever the service provider may be, which shall be at the TENANT'S own costs;
- 25.6.2. The use of the email facility shall be subject to an email and internet use policy which shall prohibit access by the TENANT to large downloads not for the purposes of an Advocate's practice, for example, large music or video downloads and to pornography. This email/internet policy shall be as reasonably decided upon by the LANDLORD and as may be changed reasonably by the LANDLORD from time to time and published to the TENANTS;
- 25.6.3. subject to their availability the TENANT shall be entitled to connect to electronic libraries, one being presently hosted on the Masonic Grove Chambers server, and such other electronic libraries that may become available on that server and/or on the internet, subject to any and all connection and service charges payable to PSI/whoever the service provider may be, at the TENANT'S own costs, and subject to any subscriptions to Juta and Butterworths or any other library provider being paid for by the TENANT at his/her own cost.

25.7. **The Security System**

The TENANT shall be entitled to use and benefit of the security system operational and to be operational in respect of the building and undertakes at all times to:

- 25.7.1. respect and ensure compliance with the security system;
- 25.7.2. keep confidential all security codes and access information;

- 25.7.3. abide by all security procedures and regulations as they may be published by the LANDLORD, in its reasonable discretion, from time to time.

25.8. **Fixtures and Fittings**

The TENANT acknowledges that the LANDLORD has provided, and owns, fixtures and fittings at the LANDLORD's own cost and that the TENANT shall be entitled to the use thereof as part of the TENANT's group contribution which fixtures and fittings currently comprise the following:

- 25.8.1. the gym equipment;
- 25.8.2. the furnishings in the conference rooms and downstairs reception area such as now exist or may in the future be provided;
- 25.8.3. the blinds in the individual chambers;
- 25.8.4. the carpets in all the chambers;
- 25.8.5. the reception desk;
- 25.8.6. the said security system;
- 25.8.7. all other fixtures and fittings provided by the LANDLORD which shall in any event remain in the ownership of the LANDLORD and may not be removed or interfered with by the TENANT.

25.9. **Not included**

Without limiting the generality of what is not included, the TENANT acknowledges that the following is specifically not included as part of the group contribution:

- 25.9.1. a tea person/messenger and all the costs associated with the provision of tea and/or coffee and/or refreshments, all of which would be subject to separate arrangements and do not form part of the services and/or provisions to be expected pursuant to the basic Group contribution;
- 25.9.2. typing services and equipment and furniture for secretaries are not included;
- 25.9.3. any secretarial services or staff or secretarial (other than the receptionist and cleaning services as defined) or other space that

may be required by the TENANT or TENANTS is not included and may be hired separately at the TENANTS' cost;

25.9.4. The use of a photocopying machine and photocopying services and supplies are not included;

25.9.5. The LANDLORD shall have the right (but not be obliged to do so), if requested to do so by more than 50% of the TENANTS at any one particular time, to supply some or all of the above-mentioned services, at a reasonable charge to be determined by the LANDLORD, in its sole reasonable and *bona fide* discretion, and subject to adjustment from time to time, and payment of such charge shall be compulsory by all of the TENANTS, as an additional rental due in terms of this lease agreement;

25.9.6. parking, and charges for electricity, water and refuse for the building and individual telephone charges are not included in the group contribution and must be paid for by the TENANT separately in accordance with the TENANT'S proportionate share.

25.10. **Non payment**

The TENANTS acknowledge that the rights to use the facilities and services as set out under the heading of Basic Group Contribution do not constitute anything that the TENANT is in possession of or entitled to, and that in the event of the non-payment of rental and any other charge that may be due by a TENANT within 7 days from the date of due payment in any one particular month, then the TENANT'S right to use the said facilities and services shall immediately and automatically forthwith terminate and the TENANT shall automatically become obliged to pay interest and charges as set out in paragraph 7.20 above.