# **AGREEMENT OF LEASE**

For commercial property between …………………………………………………

And ………………………………………………….

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SCHEDULE

1 PARTIES

1.1

 (“The Lessor”)

1.2

 (“The Lessee”)

2 INTERPRETATION

2.1 In this Lease:-

2.1.1 Clause headings are for reference purposes only and shall not influence its

Interpretation;

2.1.2 The parties shall, wherever necessary or appropriate, be referred to by their defined

Designations as in 1 above;

2.1.3 References to the masculine gender shall include the feminine and neuter genders

And vice versa;

2.1.4 References to natural persons shall include bodies corporate and other legal personae

And vice versa;

2.1.5 References to the singular shall include the plural and vice versa;

2.1.6 All schedules and annexes hereto shall be deemed to be incorporated herein and

Shall form an integral part hereof;

2.1.7 Where a number of days is prescribed, it shall consist only of business days (i.e. days

Other than Saturdays, Sundays and Public Holidays) and shall be reckoned

Exclusively of the first and inclusively of the last day;

2.1.8 Where the day upon or by which any act is required to be performed is not a business

day, the parties shall be deemed to have intended such act to be performed upon or

by the first business day thereafter;

2.1.9 where an expression has been defined (whether in 2.2 below or elsewhere in this

Lease) and such definition contains a provision conferring rights or imposing

obligations on any party, effect shall be given to that provision as if it were a

substantive provision contained in the body of this Lease;

2.1.10 any reference to the period, currency, unexpired period, termination or date of

termination of this Lease, shall include any renewal or extension thereof;

2.1.11 any reference to the Lessor shall include the Lessor and its successors-in-title and

their respective agents, employees, servants, contractors and workmen;

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2.1.12 any reference to the Lessee shall include the Lessee’s agents, employees, servants,

customers, clients, licensees, contractors, invitees, visitors and guests;

2.1.13 any reference to a “pro rata proportion” shall mean the proportion which the area of

the Leased Premises bears to the total area of all lettable shop premises in the

Building;

2.1.14 if figures are referred to in numerals and words, the words shall prevail in the event of

any conflict between the two.

2.2 In this Lease, unless inconsistent with or otherwise indicated by the context, the following

expressions shall bear the meanings assigned to them hereunder and cognate

expressions shall bear corresponding meanings:-

2.2.1 “the Property” certain business site being Erf Township

corresponding to ;

2.2.2 “the Building” collectively, all improvements erected on the Property comprising, inter

alia, shops, flats and related outbuildings;

2.2.3 “the Leased Premises” certain shop premises in the Building being shop/s no/s

 ;

2.2.4 “the Commencement Date” ;

2.2.5 “this Lease” collectively, this Schedule and Annexes “A” and “B” hereto.

3 INTRODUCTION

3.1 The Lessor is the registered owner of the Property.

3.2 The Lessor and the Lessee have agreed to the letting and hiring respectively of the

Leased Premises, subject to all of the provisions, terms and conditions contained in this

Lease.

4 LETTING AND HIRING

The Lessor hereby lets and the Lessee hereby hires the Leased Premises.

5 COMMENCEMENT OF LEASE

Subject always to the provisions of 4 of Annex “A” hereto, and notwithstanding the date of

signature hereof, this Lease shall commence on the Commencement Date.

6 DURATION OF LEASE

6.1 INITIAL PERIOD

 This Lease shall endure for an initial period of months from the

Commencement Date (the “Initial Period”).

6.2 OPTION PERIOD

 The Lessee shall, subject to the provisions of 5 of Annex “A” hereto, have the Option to

renew this Lease for a further period of months (“the Option Period”) as and

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from the first day following the termination of the Initial Period at a rental to be agreed

upon in writing signed by the Lessor and the Lessee at least 3 (three) months prior to the

termination of the Initial Period. Failing such agreement, this Option will lapse and be of

no further force or effect whatsoever.

7 RENTAL

The monthly rental payable in respect of the Leased Premises for the Initial Period shall be:-

R per month for the period to ;

R per month for the period to ;

R per month for the period to ;

R per month for the period to ;

R per month for the period to .

8 USE OF THE LEASED PREMISES

The Leased Premises are let for the sole purpose of conducting therefrom the business of a

 and for no other purpose whatsoever.

9 CONDITIONS

The conditions of this Lease are set out in Annex “A”. The said annex, which has been

initialled by the parties for the purposes of identification, shall be regarded as forming an

integral part of this Lease and as being incorporated herein.

10 DOMICILIUM CITANDI ET EXECUTANDI

10.1 The parties choose as their domicilia citandi et executandi for all purposes under this

Lease, whether in respect of court process, notices or other documents or

communications of whatsoever nature the following addresses:-

10.2 The Lessor:

10.3 The Lessee:

10.4 Any notice or communication required or permitted to be given in terms of this Lease

shall be valid and effective only if given in writing but it shall be competent to give notice

by telefax.

10.5 Either party may by notice to the other change the physical address chosen as its

domicilium citandi et executandi to another physical address in the Republic of South

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Africa, or its telefax number, provided that the change shall only become effective on the

seventh day after receipt of the notice by the addressee.

10.6 Any notice to a party which is:-

10.6.1 sent by prepaid registered post in a correctly addressed envelope to it at its

domicilium citandi et executandi shall be deemed to have been received on the fifth

day after posting (unless the contrary is proved); or

10.6.2 delivered by hand to a responsible person during ordinary business hours at its

domicilium citandi et executandi shall be deemed to have been received on the day

of delivery; or

10.6.3 transmitted by telefax to its chosen telefax number (if any) stipulated in 10.1 above,

shall be deemed to have been received on the date of transmission (unless the

contrary is proved).

10.7 Notwithstanding anything to the contrary herein contained, a written notice or

communication actually received by a party shall be an adequate written notice or

communication to it notwithstanding that it was not sent to or delivered at its chosen

domicilium citandi et executandi.

11 GENERAL

 The parties acknowledge and agree that:-

11.1 this Lease constitutes the entire contract between them and that no provisions, terms,

conditions, stipulations, warranties or representations of whatsoever nature, whether

express or implied have been made by any of the parties or on their behalf except as are

recorded herein;

11.2 no relaxation, extension of time, latitude or indulgence which any party (“the grantor”)

may show, grant or allow to another (“the grantee”) shall in any way constitute a waiver

by the grantor of any of the grantor’s rights in terms of this Lease and the grantor shall

not thereby be prejudiced or stopped from exercising any of its rights against the grantee

which may have then already arisen or which may arise thereafter;

11.3 no alteration, variation, amendment or purported consensual cancellation of this Lease

or any addition thereto or deletion therefrom shall be of any force or effect unless

reduced to writing and signed by or on behalf of the parties hereto;

11.4 they have undertaken to each other to do all such things, take all such steps and to

procure the doing of all such things and the taking of all such steps as may be

necessary, incidental or conducive to the implementation of the provisions, terms,

conditions and import of this Lease;

11.5 the Lessor shall be entitled in its sole and absolute discretion to appropriate any amounts

received from the Lessee towards the payment of any cause of debt or amount owing by

the Lessee to the Lessor whatsoever;

11.6 should the basis or accuracy of any measurement or the calculation or computation of

any dimension or area of the Leased Premises or Building be disputed by any of the

parties hereto, such dispute shall be referred to the Lessor’s Architect for his decision

thereon, which shall be given by him as an expert and shall be final and binding;

11.7 a certificate signed by the Lessor’s Auditors of the amount due by the Lessee and the

date on which it is payable in terms hereof shall be prima facie evidence of the

correctness of the contents thereof;

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11.8 if there is a dispute between the Lessor and the Lessee as to whether the Lessor has

unreasonably withheld its consent or approval in any case where this Lease precludes

the Lessor from withholding its consent or approval unreasonably, then the onus shall be

on the Lessee to prove that the Lessor has withheld its consent or approval

unreasonably;

11.9 in the event of the Lessor instructing its Attorneys to take measures for the enforcement

of any of the Lessor’s rights under this Lease, the Lessee shall pay to the Lessor such

collection charges and other legal costs, on an attorney and own client basis, as shall

lawfully be charged by such Attorneys to the Lessor, on demand therefor by the Lessor;

11.10 the liability under this Lease of each of the persons comprising the Lessor shall be joint

and several;

11.11 the liability under this Lease of each of the persons comprising the Lessee shall be joint

and several.

12 COSTS

The costs of preparing this Lease and the stamp duty thereon (together with the stamp duty

payable by reason of any renewal or extension thereof) shall be borne and paid for by the

Lessee.

THUS DONE AND SIGNED BY THE PARTIES ON THE DATES AND AT THE PLACES SET OUT

HEREUNDER:

For Lessor

duly authorised

Place:

Date:

For Lessee

duly authorised

Place:

Date:

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Annex “A”

SCHEDULE OF CONDITIONS

1 PAYMENTS

1.1 All payments to be made in terms of this Lease shall be payable without deduction,

monthly and in advance, on the first day of each month, free of exchange at the

Lessor’s domicilium citandi et executandi for the time being.

12. Should the date of commencement of the Lease not be the first day of the month,

then a pro rata share of the rental in respect of portion of the month in which the

Lease commences shall be payable within 7 (seven) days after commencement of

this Lease.

1.3 If so required by the Lessor, the Lessee shall pay to the Lessor on signature hereof

by the Lessee, and in addition to the amount then payable in terms of 1.1, a deposit

equal to the amount of the first month’s rental payable by the Lessee in terms of this

Lease, which deposit shall be retained by the Lessor who shall be entitled from time

to time to deduct therefrom any amounts owing by the Lessee to the Lessor arising

from any cause whatsoever, and the balance of such deposit, if any, shall be

refunded to the Lessee at the expiration of this Lease.

1.4 Notwithstanding anything to the contrary contained in this Lease:-

1.4.1 should:-

1.4.1.1 the municipal assessment rates and taxes and/or sewerage and/or water

charges payable in respect of the Property; and/or

1.4.1.2 the premiums payable by the Lessor in respect of any insurance on the

Building or the rental therefrom or any other insurance held by the Lessor

as lessor of the Property and/or the Building; and or

1.4.1.3 the statutory minimum wages payable to the Lessor’s servants employed in

or about or in connection with the Building; and/or

1.4.1.4 the rates of interest of any debentures secured or other loans or mortgage

bonds registered for the time being over the Building and/or the Property,

 be increased after the signing of this Lease by the Lessee or the Commencement

Date or the date upon which the Lessee takes occupation of the Leased

Premises (whichever date is earliest) or during the currency of this Lease from

time to time so as to exceed at any time the municipal assessment rates and

taxes and/or sewerage and/or water charges and/or statutory minimum wages

and/or insurance premiums and/or rates of interest payable at the date of

signature of this Lease by the Lessee; or

1.4.1.5 a levy not in force at the date hereof be imposed against the Property

during the currency of this Lease by any Government, Provincial or

Municipal authority,

 then the Lessor shall be entitled to recover from the Lessee from time to time with

effect from the date upon which any such increase or new levy becomes

effective, a pro rata proportion of such increase or new levy.

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1.4.2 In the event that the Lessee disputes any amount calculated by the Lessor in

terms of 1.4.1, then the Lessee shall notify the Lessor in writing of the item and

amount it disputes within 7 (seven) days after the posting by the Lessor of the

Lessee’s account therefor, failing which the Lessee shall be deemed to have

waived its right to dispute any such amount. The Lessor shall, on receipt of such

written notification, request its auditors to determine the amount payable by the

Lessee and a certificate signed by the Lessor’s auditors of the amount due by the

Lessee and the date on which it is payable, shall then be prima facie evidence of

the amount so due.

1.4.3 Any amount due by the Lessee to the Lessor in terms hereof shall be payable

within 7 (seven) days after delivery to the Lessee of a notice advising the Lessee

thereof or in the event of a dispute arising, within 7 (seven) days after the delivery

to the Lessee of the certificate referred to in 1.4.2 hereof.

1.4.4 Without prejudice and in addition to the other rights and remedies of the Lessor

as set forth in 20. hereunder, the Lessee will pay to the Lessor interest at the rate

of 15% (fifteen per centum) per annum on any moneys due but unpaid by the

Lessee to the Lessor in terms of this Lease, such interest to be computed from

the due date for the payment of the moneys in respect of which the interest is

chargeable, until payment of such moneys in full.

2 ELECTRICITY AND OTHER CHARGES

 The Lessee shall pay for:-

2.1 all electricity and gas, if any,(including service and/or meter reading charges) used

by the Lessee in or on the Leased Premises by means of separate meters supplied

and installed by the Lessor as well as the required deposit/s in respect of the supply

of electricity and/or gas, if any, to the Leased Premises;

2.2 a pro rata proportion of refuse removal fees levied on the Property;

2.3 a pro rata proportion of sewer effluent and sanitary fees levied on the Property;

2.4 a pro rata proportion of footway encroachment charges (if any) levied on the

Property;

2.5 a pro rata proportion of water consumption charges (including service and/or meter

reading charges) levied on the Property,

 subject to 1.4 hereof, either direct to the local authority concerned or to the Lessor,

whichever the case; provided that should the Lessor be required by law to make payment

of any such amount to the local authority, then the Lessee shall refund the same to the

Lessor on demand.

3 STRUCTURAL ALTERATIONS AND REPAIRS

The Lessor and its agents shall have the right to enter and to effect structural alterations

and/or repairs to the Leased Premises at all reasonable times. It is envisaged that the

Lessee will, of necessity, suffer some inconvenience as a result of the carrying out of

such structural alterations and/or repairs and the Lessor shall accordingly endeavour to

ensure that as little inconvenience as is reasonably possible is caused to the Lessee

thereby. The Lessee shall not, however, be entitled to claim remission of or reduction in

rental, damages or cancellation of this Lease by reason of the structural alterations

and/or repairs.

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4 COMMENCMENT OF LEASE

 Should the Leased Premises not be ready for occupation by the Lessee upon the date

referred to in 5 of the Lease or should the Lessor be unable to give the Lessee

beneficial occupation of the Leased Premises by the date referred to in 5 of the Lease

by reason of:-

4.1 their being in a state of disrepair; or

4.2 the failure of a previous tenant to vacate the premises; or

4.3 any other cause whatsoever

 the Lessee will be entitled to a remission of rent for the period from the Commencement

Date to the date upon which they are ready for occupation by the Lessee.

5 OPTION

5.1 The exercise by the Lessee of the Option (if any) contained in 6 of the Lease shall be

subject to the Lessee having punctually and faithfully complied with all the terms and

conditions of this Lease.

5.2 Should the Lessee validly exercise the said Option, all the terms and conditions of

this Lease shall, mutatis mutandis, remain of full force and effect during the Option

Period and there shall be no further right of renewal thereafter. Should the Lessee be

desirous of exercising the Option, it shall give notice in writing to the Lessor of its

intention to do so not later than 6 (six) months prior to the expiry of the Initial Period

of this Lease. Should such notice not be received by the Lessor by that date, the

Option will lapse and be incapable of exercise thereafter.

6 USE OF THE LEASED PREMISES

6.1 The Lessee shall use the Leased Premises for the purpose set out in 8 of the

Lease and for no other purpose whatsoever.

6.2 The Lessee shall conduct its business and keep the Leased Premises continuously

open for that purpose:-

6.2.1 on all permissible trading days; and

6.2.2 during all normal business hours on those trading days, provided that the

Lessee may temporarily close its business on special occasions of short

duration when to do so is reasonable and appropriate or necessitated by

special circumstances.

6.3 The Lessee shall keep the display windows and all its advertising signs (if any) of the

Leased Premises illuminated and well lit for the period from 08h00 to 24h00 unless

prevented by cause beyond the control of the Lessee.

6.4 The Lessee shall not adopt any method of business or advertising which may detract

from the value and/or character of the Leased Premises or Building or bring the

Leased Premises or Building into disrepute or as a result whereof the normal flow of

pedestrian traffic outside the Leased Premises or any other portion of the Building

may be disturbed, hindered or disorganised.

6.5 The Lessee shall not store, display or leave or permit the storage or leaving of motor

vehicles, bicycles, packing cases or goods of any nature whatever on the pavement

or parking areas outside the Building and shall not place anything in or allow

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anything to obstruct any entrance, passage or staircase in the Building, nor shall it

dump or store in the yard of the Building or anywhere else on the Property (outside

the Leased Premises) or in any lane or access-way adjacent to or used in connection

with the Property.

6.6 The Lessee shall be liable for any loss or damage which the Lessor may suffer

arising out of the transportation of any goods by or on behalf of the Lessee in the

Building or on the Property.

7 SUB-LETTING AND SALE OF SHARES

7.1 The Lessee shall not sub-let the Leased Premises or any portion thereof nor cede or

assign or pledge this Lease or any of its rights hereunder without the Lessor’s prior

written consent which, in the case of sub-letting only, shall not be unreasonably

withheld. The Lessee shall further not give up occupation or possession of the

Leased Premises or any portion thereof to any person, whether as licensee, agent,

occupier, custodian or otherwise, nor permit such person to enter into possession or

to occupy or take possession of the Leased Premises or any portion thereof for either

a definite period or at all, without the Lessor’s prior written consent. With regard to

sub-letting, the Lessor shall not be deemed to have withheld its consent

unreasonably if the sub-letting would result in the Leased Premises being used for a

business which would compete in whole or in part with the business of any other

tenant in the Building or would be similar thereto or would be different to that carried

on by the Lessee.

7.2 If the Lessee is a company whose shares are not listed on the Johannesburg

Stock Exchange, no shares therein shall be transferred from its present

shareholders, nor may any shares therein be allotted to any person other than

such shareholders, without the Lessor’s prior written consent, which, in the case of

an allotment or transfer of shares which will still leave control of the Lessee with the

existing shareholders as at the date of signature hereof or of a transfer of shares to

a deceased shareholder’s heirs, shall not be unreasonably withheld. Any transfer

or allotment of shares effected without such consent shall constitute a breach of

the terms of this Lease by the Lessee. The aforegoing provisions shall apply,

mutatis mutandis, if the Lessee is a close corporation.

8 PLATE GLASS INSURANCE

 The Lessee shall be responsible for any plate or other glass, both internal and external,

window panels and shopfronts contained in the Leased Premises and shall be obliged

at its expense to replace any such glass, panels or shopfronts as may be damaged,

however and by whomsoever (save for the Lessor, its servants or agents) such damage

shall be caused. The Lessee shall insure the plate glass, window panels and shopfronts

and maintain the insurance throughout the Lessee’s occupation of the Leased

Premises. The Lessee shall furnish the Lessor with a Photostat copy of the relevant

insurance policy and furnish proof that the premium is paid up-to-date from time to time.

9 CONDITION OF THE LEASED PREMISES

 Should the Lessee, upon taking possession of the Leased Premises, find that the

Leased Premises or any keys, locks, windows, fixtures, fittings, wash-basins, geysers,

toilets, or any other installation contained in or which should be contained in the Leased

Premises are defective or missing, the Lessee shall within 7 (seven) days after taking

possession of the Leased Premises or after the Commencement Date of this Lease,

whichever is the earlier, notify the Lessor in writing of such fact or facts, giving full

particulars, and should the Lessee fail to do so within that period (or if the Lessee does

give notice, then after the matters specified in the notice have been rectified) the Lessee

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shall be deemed to have acknowledged that neither the Leased Premises nor any of

such keys, locks, windows, fixtures, fittings, wash-basins, geysers, toilets and other

installations is defective or missing and that the Leased Premises have been delivered

to the Lessee complete in all respects and suitable in all respects for the purpose for

which the Lessee has hired them. Upon receipt of any such notification, the Lessor

shall remedy the defect or omission as soon as is reasonably possible, having regard to

the nature of the defect or omission, and should the Lessor fail to do so then the Lessee

shall be entitled to carry out the necessary work and recover the reasonable cost of

doing so from the Lessor.

10 MAINTENANCE AND CONDITION OF THE LEASED PREMISES

 The Lessee shall:-

10.1 prevent any blockage of any sewerage or water pipes or drains in or used in

connection with the Leased Premises;

10.2 remove at its cost any obstruction or blockage referred to in 10.1 above which

occurs in the Leased Premises;

10.3 during the operation of this Lease, care for and maintain the interior of the Leased

Premises and all the keys, locks, doors, windows, sewerage pans and pipes,

electrical installations, geysers, water taps and appurtenances therein in good

order and condition and at the termination thereof return and redeliver the same to

the Lessor in like good order and condition, fair wear and tear excepted, and it

shall make good and repair at its own cost any damage or breakages or in the

alternative, reimburse the Lessor for the cost of replacing, repairing or making good

any broken, damaged or missing items;

10.4 ensure that the Leased Premises are both adequately stocked with merchandise and

properly staffed with personnel;

10.5 clean the interior of the Leased Premises and both the interior and exterior glazing

and frames to its shopfronts and signs;

10.6 insure and keep insured, to full replacement value, all its fixtures, fittings and

installations and all goods in the Leased Premises;

10.7 maintain adequate public liability insurance;

10.8 not make any alterations or additions to the Leased Premises without the Lessor’s

prior written consent. All proposed alterations shall be submitted to the Lessor’s

Architect for his approval and he shall be entitled to require that such alterations be

effected by builders or sub-contractors nominated by him. The fees of the Architect

and the costs of such builders or sub-contractors shall be borne by the Lessee. If any

alterations or additions are made by the Lessee, it shall be obliged, at the expiry or

termination of this Lease, unless the Lessor otherwise agrees in writing (in which

case any such alterations or improvements shall become the Lessor’s property), to

remove and reinstate the Leased Premises to the condition in which they were prior

to the alterations or additions being effected. The Lessee shall in no circumstances

have any claim for compensation for any such alterations or additions whether or not

they are removed or the Leased Premises reinstated;

10.9 pay for replacements of all fluorescent bulbs, starters, ballasts and incandescent

bulbs used in the Leased Premises;

10.10 have no claim whatsoever, whether for damages or remission of rental or

cancellation of this Lease, against the Lessor, nor be entitled to withhold or defer

payment of rent by reason of any suspension or interruption in the supply of water,

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gas or electricity (howsoever such suspension or interruption may arise) or by reason

of amenities in or on the Leased Premises and/or Building being out of use or out of

order for any reason whatsoever and for any period whatsoever;

10.11 not permit the accumulation of refuse in or outside the Leased Premises, save in the

municipal refuse bins which shall be stored in such place as the Lessor may from

time to time designate;

10.12 not be entitled to the exclusive use of any yards or toilets in the Building;

10.13 not install in the Leased Premises any air conditioning apparatus or equipment or

any electrically operated computers without the prior written consent of the Lessor;

10.14 not drive or permit to be driven into the walls or ceiling of the Leased Premises

nails, screws or any other object save as may be reasonably required for the

Lessee’s shelving or fixtures and fittings which fixtures and fittings will be fixed to

the walls by a method prescribed by the Lessor’s Architect. On the termination of

this Lease, the Lessee shall restore any damage done to the Leased Premises and

the Lessee shall not permit anything whatsoever to be done therein or thereon

which may be calculated to damage the walls, ceiling or any other portion of the

Leased Premises;

10.15 not be entitled to hold or permit the holding of sales by public auction in or upon the

Leased Premises.

11 CONTRAVENTION OF LAWS

 The Lessee shall:-

11.1 comply with all laws, by-laws and regulations relating to tenants or occupiers of

business premises or affecting the conduct of any business carried on in the Leased

Premises;

11.2 not contravene or permit the contravention of any of the conditions of title under

which the Property is held by the Lessor or any of the provisions of the Town

Planning Scheme applicable to the Property;

11.3 not carry on its business in such a manner as to become a nuisance to any other

occupier of the Building.

12 USE OF JOINT FACILITIES AND COMMON AREAS

12.1 The Lessee shall, in conducting its business upon the Leased Premises in terms

hereof, give due consideration to the use and enjoyment of the Building by other

tenants, customers and employees.

12.2 The Lessee shall have the right of reasonable use, having regard to the rights of

other tenants, of the yard, lavatories and other conveniences and facilities provided

by the Lessor on the Property and/or Building outside the Leased Premises. The

Lessee undertakes that its employees will use such spaces, lavatories,

conveniences and facilities as may be allocated from time to time in respect of the

employees of the Lessee generally, or respective particular categories of those

employees.

12.3 The Lessor shall have the right from time to time to make and from time to time to

vary, amend or add to rules and regulations (provided that same are not

unreasonable) governing the relationship between the tenants of the Building in

regard to:-

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12.3.1 the joint facilities above referred to;

12.3.2 any other joint facilities which may exist in the Building;

12.3.3 generally the use of joint, common or open areas within the Building or on the

Property and the Lessee undertakes to observe the said rules and regulations

from time to time in force as if they were terms and conditions of this Lease.

13 SIGNS AND ADVERTISEMENTS

The Lessee shall not affix or mount posters, advertisements, or temporary notices of

whatsoever nature on the exterior of the Leased Premises or on any part of the Building

outside the Leased Premises without the Lessor’s prior written consent and its written

approval of the situation, size and design thereof, which shall conform to the overall size

and standard of all the signs appertaining to the other shops in the Building.

14 FIRE HAZARD

 The Lessee shall not at any time bring or allow to be brought or kept on the Leased

Premises or on the Property nor do, nor suffer to be carried on in the Leased Premises

or the Property, any matter or thing or activity whereby the fire or any other insurance

policy of the improvements thereon may be liable to become void or voidable or

whereby the premium for any such insurance may be increased. If the premium for such

insurance is increased as the result of any act or omission on the part of the Lessee,

whether with the Lessor’s written consent or not, the Lessor, without prejudice to any of

its other rights hereunder, may recover from the Lessee the amount due in respect of

any such additional premium and the Lessee shall pay such amount immediately on

notification from the Lessor or the insurance company to the effect that such additional

premium has been charged.

15 LESSOR’S RIGHTS AND OBLIGATIONS

15.1 The Lessor shall only be responsible for the following:-

15.1.1 external maintenance, excluding glass;

15.1.2 insurance of the Building against fire;

15.1.3 the payment of municipal assessment rates and taxes payable in respect of the

Property.

15.2 The Lessee acknowledges and agrees that, upon the sale of the Property to a third

party, all of the Lessor’s rights and obligations under this Lease shall be

automatically ceded and assigned to the purchaser of the Property immediately upon

registration of transfer. The Lessee hereby consents in advance to such cession and

delegation and agrees to continue remaining bound under this Lease to the said

purchaser.

16 TO-LET NOTICES AND ACCESS

16.1 The Lessor shall be entitled to enter the Leased Premises at all reasonable times,

either through its representatives or servants or through contractors, for the

purpose of inspecting the Leased Premises or for carrying out any structural

alterations and/or repairs or other work if it should desire to do so. The Lessor

shall, in exercising its rights as aforesaid, not unduly or unreasonably interfere with

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the conduct of any business lawfully carried on in the Leased Premises and shall

carry out any structural alterations and/or repairs or other work as expeditiously as

possible. The Lessee shall not have any claim for remission of rent, compensation

or damages in connection with the exercise by the Lessor of any of its aforesaid

rights.

16.2 The Lessee shall:-

16.2.1 at all reasonable times permit prospective purchasers of the Property or (if

applicable) of the share capital of the Lessor to view the interior of the Leased

Premises; and

16.2.2 during the period of 3 (three) months immediately preceding the termination or

expiry of this Lease, permit prospective tenants to view the interior of the

Leased Premises and the Lessor or any incoming tenant to exhibit on the

windows of the Leased Premises any notice that may be required in connection

with any application for any licence to carry on business in the Leased

Premises.

16.3 The Lessor may affix to and exhibit on the windows of the Leased Premises a “To

Let” notice or notices during the period of 3 (three) months immediately preceding

the termination or expiry of this Lease.

17 DAMAGE TO OR DESTRUCTION OF THE BUILDING OR THE LEASED PREMISES

17.1 For the purposes of this Clause:-

17.1.1 the Building shall be deemed to be rendered partially untenantable if less than

50% (fifty per centum) of the area thereof is destroyed or damaged by fire or

other cause; and

17.1.2 the Building shall be deemed to be rendered substantially untenantable if more

than 50% (fifty per centum) of the area thereof is destroyed or damaged by fire or

other cause.

 If the Building is rendered partially untenantable, the Lessor shall expeditiously

reinstate it substantially to its form before the damage or destruction and the Lessee

shall be entitled to a remission of rent according to the extent and the time during

which it is deprived of beneficial occupation of the Leased Premises. If the Building is

rendered substantially untenantable and the Lessor fails, within 60 (sixty) days of the

date of the destruction or damage, to give the Lessee written notice that it intends to

keep this Lease alive, this Lease shall be deemed to have been cancelled on the

date of destruction. If the Lessor gives notice as aforesaid, it shall restore the

Building to a tenantable condition as expeditiously as practicable and the Lessee

shall be entitled to a total or partial remission of rent according to the extent to which

and the period during which it has been deprived of beneficial occupation of the

Leased Premises. Any dispute as to whether the Building has at any time during the

operation of this Lease been rendered partially untenantable or as to whether it has

at any such time been rendered substantially untenantable or as to the remission of

rent to which the Lessee may be entitled hereunder, shall be submitted to the

Lessor’s Architect whose decision shall be final and binding on the parties.

17.2 Should a conflagration take place only in the Leased Premises, the Lessor shall in no

way be liable for any damage or loss sustained by the Lessee in consequence

thereof, nor shall the Lessee be entitled to any remission of rent whatsoever.

17.3 The Lessee shall, at its own expense, insure the stock, fixtures and fittings therein

contained, against destruction by fire and should a conflagration take place in the

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Leased Premises, the Lessee shall within a reasonable time restore the Leased

Premises and recommence trading.

18 INDEMNITY AND LIABILITY OF LESSOR

18.1 Neither the Lessor nor its agents or employees shall be liable for any damage or

injury (including loss of life) which may be caused to any of the assets of the

Lessee, including stock-in-trade, fixtures, fittings, books, papers or otherwise in the

Leased Premises, or to the Lessee or its employees, invitees, customers or

licensees in consequence of the overflow of water supply or any leakage or of any

fault in the plumbing works or any electrical fault or by reason of any of the

elements of the weather or failure on the part of the Lessor or its agents or

employees to carry out any work required of any of them in a proper manner or by

reason of any defect in the Leased Premises or any portion thereof or any of the

equipment of the Lessor, or as a result of any cause whatsoever, and the Lessee

hereby indemnifies the Lessor and holds it harmless against any claim by its

employees, invitees, customers or licensees in respect of any such damage, injury

or loss of life.

18.2 The Lessee shall have no claim of any nature whatsoever whether for damages,

remission of rent or otherwise, against the Lessor, for any failure of or interruption in:-

18.2.1 the supply of water, gas, electricity or other amenities;

18.2.2 the cleaning services (if any)

 provided to the Leased Premises and/or the Building and/or the Property, whether

such interruption arises from the negligence of the Lessor, the Lessor’s servants, viz.

major, casus fortuitus, or any other cause whatsoever.

19 VENDING AND OTHER MACHINES

 The Lessee undertakes that it will not operate or permit to be operated in or about the

Leased Premises and/or Building and/or Property, any coin or token operated vending

machine or similar device for the sale of goods, merchandise, beverages, sweets,

cigarettes, other commodities or services, nor any scales, pay lockers, amusement

devices and machines, without the prior written consent of the Lessor.

20 BREACH OF LEASE

20.1 Should the rental or any other amount payable by the Lessee in terms of this Lease

not be paid on due date or should the Lessee commit or suffer or permit the

commission of a breach of any of the other terms of this Lease, whether or not such

other breach goes to the root of this Lease, and fail to make such payment or remedy

such other breach within 7 (seven) days after receipt of a notice in writing calling

upon it to do so, or should the Lessee or any guarantor of the Lessee be placed in

liquidation, whether provisional or final and whether voluntary or compulsory, or

under judicial management, whether provisional or final, or should the Lessee or any

guarantor of the Lessee effect a general compromise with its creditors or any other

arrangement with its creditors necessitated by or attributable to the Lessee or any

guarantor of the Lessee suffer a default judgement to be entered against it and fail

within 7 (seven) days after such judgement comes to its knowledge to satisfy or take

steps to rescind or appeal the same, or should the Lessee die during the currency

hereof, the Lessor shall be entitled but not obliged, notwithstanding any previous

waiver or anything to the contrary herein contained, either:-

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20.1.1 forthwith and without notice to cancel this Lease and to resume possession of the

Leased Premises, without prejudice to its claim for arrears of rent and other

amounts owing hereunder or for damages which it may have suffered by reason

of the Lessee’s breach of contract or of the said cancellation; or

20.1.2 to vary this Lease by making it thereafter terminable on one month’s written

notice given by the Lessor; or

20.1.3 to re-enter the Leased Premises and remove all persons and/or property from the

Leased Premises. Any property so removed shall be stored at the cost and at the

risk of the Lessee. The Lessee hereby irrevocably constitutes the Lessor as its

agent for effecting the sale of any such goods and for effecting any of the

aforegoing purposes.

20.2 If the Lessor cancels this Lease and the Lessee disputes the Lessor’s right to cancel

and remains in occupation of the Leased Premises, the Lessee shall, pending

settlement of such dispute, either by negotiation or litigation, continue to pay (without

prejudice to its rights) an amount equivalent to the monthly rent together with all the

other charges provided for in this Lease, monthly and in advance on the first day of

each month and the Lessor shall be entitled to accept and recover such payments,

and such payments and the acceptance thereof shall be without prejudice to and

shall not in any way whatsoever affect the Lessor’s claim of cancellation then in

dispute. If the dispute is resolved in favour of the Lessor, the payments made and

received in terms hereof shall be deemed to be amounts paid by the Lessee on

account of damages suffered by the Lessor by reason of the cancellation of this

Lease and/or the unlawful holding over by the Lessee.

21 SURETYSHIP

21.1 If the Lessee is a partnership, then by their signatures hereto, the individual partners

of the Lessee bind themselves, both as a partnership and jointly and severally as

individuals for the Lessee’s obligations to the Lessor under or arising out of this

Lease. If any change shall occur in the composition of the partnership, then the

Lessor shall not be obliged to release any former partner from his obligations in

terms hereof and any other partner admitted to the partnership shall similarly bind

himself as stated above.

21.2 If the Lessee is a company other than a company whose shares are listed on the

Johannesburg Stock Exchange, its obligations hereunder shall be guaranteed in the

form of the Lessor’s standard Deed of Suretyship, Annex “B” hereto, by its

shareholders or members at the date of signature of this Lease. Failure by any of

such shareholders or members to sign the said Deed of Suretyship shall entitle the

Lessor forthwith to cancel this Lease without affecting any claims that the Lessor

may have acquired against such company prior to the cancellation.

21.3 If the Lessee is a trustee for a new company to be formed in accordance with the

Company Laws of the Republic of South Africa, alternatively as a nominee for an

existing company and the Company for which the Lessee contracts:-

21.3.1 as trustee or nominee, has not, within 60 (sixty) days from the date of the

Lessor’s signature of this Lease:-

21.3.1.1 been registered and incorporated or nominated, as the case may be; and

21.3.1.2 adopted and ratified this Lease without modification; and

21.3.1.3 notified the Lessor in writing of the completion of the matters referred to in

21.3.1.1 and 21.3.1.2 above and furnished copies of its Certificate of

Incorporation and the ratifying resolution,

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 then the Lessee shall be deemed to be the person who signs this Lease as such

trustee or nominee, in his personal capacity. In the event of the said company being

formed or nominated timeously and the remaining terms and conditions of this

sub-paragraph being duly and timeously complied with, then all reference to the

Lessee in this Lease shall be deemed to apply to the said company whose

obligations hereunder shall be guaranteed in the form of the Lessor’s standard Deed

of Suretyship by its shareholders at the date of its incorporation or nomination, as the

case may be. Failure by any of such shareholders to sign the said Deed of

Suretyship shall entitle the Lessor forthwith to cancel this Lease without affecting any

claims that the Lessor may have acquired against such company prior to the

cancellation.

21.4 The provisions of 21.2 and 21.3 above shall apply, mutatis mutandis, if the Lessee is

a close corporation.

22 EXCLUSION OF WARRANTIES

 The Lessor does not warrant, and this Lease is not made on the basis:-

22.1 that the Leased Premises are or will at any time be fit for the use set out in 8 of the

Lease or for any other purpose whatsoever;

22.2 that the Lessee will be granted licences or permits in respect of the Leased Premises

for the conduct of any business or for any other type of use, or that any such licences

or permits will be renewed from time to time.

23 VALUE ADDED TAX (“VAT”)

The Lessee shall be responsible for any VAT payable in respect of the rental and other

amounts for which it is liable in terms of this Lease and shall make payment of such tax

concurrently with payment of each amount in respect whereof such tax is due.

24 OFFER BY LESSEE

24.1 Notwithstanding anything to the contrary elsewhere contained herein, the signature

of this Lease by or on behalf of the Lessee shall constitute an offer to hire the Leased

Premises on the herein mentioned terms and conditions, which offer shall remain

irrevocable for a period of 30 (thirty) days from the date of such signature and

available for acceptance by the Lessor at any time during such period.

24.2 No agreement of lease shall be deemed to exist between the Lessor and the

Lessee either on the terms and conditions stated in this Agreement or at all, until

this Lease shall have been duly signed by or on behalf of the Lessor.

25 JURISDICTION

 At the option of the Lessor, any action or application arising out of this Lease or any

Suretyship furnished for the obligations of the Lessee hereunder may be brought in any

Magistrate’s Court having jurisdiction in respect of the Lessee or the sureties, as the

case may be, notwithstanding that the amount in issue may exceed the jurisdiction of

such Court.

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Annex “B”

DEED OF SURETYSHIP

I/WE, the undersigned,

…………………………………………………………………..

do hereby interpose and bind myself/ourselves, jointly and severally, as surety/ies for and

co-principal debtor/s in solidum, unto and in favour of

…………………………………………………………………..

(hereinafter referred to as “the CREDITOR”), for the payment on demand of all sums of money

which

……………………………………………………………………..

(hereinafter referred to as “the DEBTOR”), may now and from time to time hereafter owe or be

indebted to the CREDITOR under or arising out of an Agreement of Lease in respect whereof this

Deed of Suretyship constitutes Annex “B”, including (but without limitation) damages, legal costs,

interest, discount or other charges and in relation to any immovable property, any imposts of

whatever nature.

I/WE jointly and severally agree and acknowledge that:-

1 This Suretyship shall apply to cover and secure the CREDITOR and the latter’s respective

successors-in-title, orders or assigns and/or in the event of the CREDITOR being an

individual, his heirs, executors, administrators or assigns.

2 It shall always be in the discretion of the CREDITOR to determine the nature, extent and

duration of the facilities (if any) to be allowed to the DEBTOR.

3 The CREDITOR shall be at liberty to release securities or other sureties for the DEBTOR

and to extend any arrangements with the DEBTOR or me/us or any of us or any other

sureties for the DEBTOR, and no such action on the part of the CREDITOR shall affect or

in any way be construed or operate as a waiver or abandonment of any of the

CREDITOR’s rights or claims against me/us or any of us hereunder.

4 All acknowledgements of indebtedness and admissions by the DEBTOR shall be binding

on me/us.

5 In the event of the insolvency, liquidation, sequestration, assignment or placing under

judicial management of the estate of the DEBTOR, or in the event of a compromise

between the DEBTOR and any creditors of the DEBTOR:-

5.1 I/we undertake not to prove a claim against the DEBTOR’s estate for any amount

I/we may be called upon to pay under this Suretyship, until all amounts (including

interest and costs) due by the DEBTOR to the CREDITOR have been paid in full;

5.2 I/we hereby agree that notwithstanding any part-payment by or on behalf of me/us

to the CREDITOR,I/we shall have no right to any cession of action in respect of

such part-payment, and shall not be entitled to take any action against the

DEBTOR or against any other surety for the DEBTOR in respect thereof, unless

and until the indebtedness of the DEBTOR to the CREDITOR shall have been

discharged in full;

5.3 I/we agree that any dividend received from the DEBTOR by the CREDITOR in

respect of the CREDITOR’s claims against the DEBTOR, shall be appropriated in the

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first instance to the payment of that part (if any) of the DEBTOR’s indebtedness to

the CREDITOR which is not covered by this Suretyship;

5.4 No dividends or payments which the CREDITOR may receive from the DEBTOR or

any other surety or sureties or from me/us or any of us, shall prejudice the

CREDITOR’s right to recover from me/us or the other or others of us, to the full

extent of this Suretyship, any sum which, after the receipt of such dividends or

payments, will remain owing to the CREDITOR by the DEBTOR;

5.5 Notwithstanding any payments received by the CREDITOR from me/us or any of us

in terms hereof, the CREDITOR shall be entitled to prove a claim against the estate

of the DEBTOR for the full amount of the indebtedness of the DEBTOR at the date of

insolvency, liquidation, sequestration, assignment, judicial management or

compromise, as the case may be.

6 The CREDITOR shall have the right to appropriate any moneys received by the

CREDITOR from me/us or any of us in terms hereof, to such indebtedness of the

DEBTOR to the CREDITOR as the CREDITOR shall decide.

7 Without prejudice to anything herein before contained, this Suretyship shall apply to and

cover the CREDITOR in respect of claims which the CREDITOR may have acquired or in

the future may acquire against the DEBTOR from any party whatsoever or whomsoever.

8 This Suretyship shall be in addition and without prejudice to any other Suretyship/s or

security/ies now or at any time hereafter held by the CREDITOR in respect of the liabilities

or obligations of the DEBTOR to the CREDITOR.

9 Should the CREDITOR cede the CREDITOR’s claim/s against the DEBTOR to any third

party/ies, then this Suretyship shall be deemed to have been given by me/us to such

cessionary/ies, who shall be entitled to exercise all rights in terms of this Deed of

Suretyship as if such cessionary/ies were the CREDITOR.

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10.1 The amount of the DEBTOR’s indebtedness and of me/us hereunder to the

CREDITOR at any time, and the fact that the due date of payment of the whole or, as

the case may be, portion of such amount has arrived, shall be determined and

proved by a certificate signed by the CREDITOR’s auditors for the time being.

10.2 A certificate in terms of 10.1 shall be:-

10.2.1 binding on me/us; and

10.2.2 prima facie proof of the amount of my/our indebtedness hereunder; and

10.2.3 valid as a liquid document against me/us in any competent court for the

purpose of obtaining provisional sentence or judgement against me/us thereon.

10.3 At the option of the CREDITOR, any claim against me/us arising hereunder may be

brought in any Magistrate’s Court having jurisdiction, notwithstanding that the

amount of that claim may exceed the jurisdiction of the said Magistrate’s Court.

11 Should I/we at any time in defending any action based on this Suretyship allege that:-

11.1 no money was paid over by the CREDITOR to the DEBTOR; and/or

11.2 there is no reason or cause for the DEBTOR’s obligations to the CREDITOR; and/or

11.3 errors have been made in the calculation of the amount claimed, then the onus of

proving such a defence will rest on me/us.

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12 I/we renounce the benefits of:-

12.1 exclusion - by renouncing this benefit I/we understand that the CREDITOR becomes

entitled to sue me/us for the full amount owing under this Suretyship without first

proceeding against the DEBTOR;

12.2 division - by renouncing this benefit I/we understand that where there is more than

one surety for the DEBTOR’s obligations, the CREDITOR will be entitled to sue each

such surety for the full amount owing under this Suretyship and not only for a pro rata

share;

12.3 cession of action - by renouncing this benefit I/we understand that the CREDITOR

becomes entitled to sue me/us without first ceding the CREDITOR’s right of action

against the DEBTOR to me/us.

13 Inasmuch as any signatory/ies hereto is/are a company/ies, then each such company

does hereby warrant and represent to the CREDITOR that it is duly empowered by its

Memorandum of Association to enter into this Suretyship, and that it has a material

interest in securing the indebtedness covered by this Suretyship, which is entered into for

its direct or indirect benefit. The person/s signing this Suretyship on behalf of any

company shall be deemed by virtue of such signature/s to be party to the aforegoing

warranties and representations in his/her/their personal capacity/ies, jointly and severally

with the said company, and shall further be deemed to warrant and represent to the

CREDITOR that such person/s is/are duly authorised to execute this Suretyship on behalf

of such company. The aforegoing provisions shall apply, mutatis mutandis, where the

signatory/ies is/are a close corporation/s.

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14.1 I/we choose domicilium citandi et executandi for all purposes under this Suretyship at

the above address/es, set out against my/our name/s.

14.2 All notices addressed to me/us shall be sent by pre-paid registered post to my/our

respective address/es above, and shall be deemed to have been received by me/us

five (5) days after such posting thereof.

15 As security for the due payment by me/us of all my/our liabilities to the CREDITOR arising

under this Suretyship, and for the due performance of all my/our other obligations arising

hereunder, I/we hereby cede, assign, transfer and make over to the CREDITOR all

my/our right, title and interest in and to all claims of whatsoever nature and howsoever

arising which I/we may now or in the future have against the DEBTOR. I/we undertake to

do all such things as are necessary, whenever requested so to do by the CREDITOR, to

enable the CREDITOR to prove any claim against the DEBTOR for the amount/s so

ceded to the CREDITOR in terms hereof and/or to enable the CREDITOR to calculate the

exact amount of such claim/s, and without limiting the generality of the aforesaid, I/we

undertake to make available to the CREDITOR, upon being requested to do so, all such

books, documents and other vouchers as reflect or prove any portion of my/our said

claim/s hereby ceded.

THUS DONE AND SIGNED AT ON THIS THE , in the

presence of the undersigned witnesses:-

Witnesses:

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