

# **RESIDENTIAL LEASE AGREEMENT**

between

**KERSHIN GOUNDEN**

and

**MADUVHA NEMADANDILA**

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## 1 PARTIES

1.1 The Parties to this Lease are the Lessor and the Lessee.

1.2 The Parties agree as set out below.

## 2 INTERPRETATION

2.1 In this Lease, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

2.1.1 "**Buildings**" means the dwelling, the parking bays allocated to the Property and any outbuilding/s on the Property;

2.1.2 "**Commencement Date**" means 1 January 2022;

2.1.3 "**House Rules**" has the meaning ascribed thereto in clause 13;

2.1.4 "**Lease**" means the agreement contained in this document, including all annexures (if any) hereto;

2.1.5 "**Lessee**" means Maduvha Nemadandila, identity number 930919 5582 08 1;

2.1.6 "**Lessor**" means Kershin Gounden, identity number 920330 5215 08 0;

2.1.7 "**Lessor's Designated Account**" means the means the bank account nominated by the Lessor, the details of which are set out below –

<b>Bank:</b>	Investec
<b>Branch:</b>	Grayston
<b>Branch Code:</b>	580105
<b>Account Number:</b>	10012329135

2.1.8 "**Movable Assets**" means all movable assets of the Lessor which form part of the Property as at the Signature Date, which assets are listed in Annexure B;

2.1.9 "**Parties**" means the parties to this Lease;

2.1.10 "**Property**" means unit **317**, The Huntsman-Balwin, Macassar Road, Macassar, Cape Town, 7134, and includes all the Buildings, Movable Assets and the improvements thereon;

2.1.11 "**Rental Housing Act**" means the Rental Housing Act, No 50 of 1999;

- 2.1.12 **"Rental Housing Tribunal"** means the Rental Housing Tribunal for the Western Cape Province established in terms of section 7 of the Rental Housing Act; and
- 2.1.13 **"Signature Date"** means the date of signature of this Lease by the Party last signing.
- 2.2 In this Lease —
- 2.2.1 clause headings and the heading of the Lease are for convenience only and are not to be used in its interpretation;
- 2.2.2 an expression which denotes —
- 2.2.2.1 any gender includes the other genders;
- 2.2.2.2 a natural person includes a juristic person and *vice versa*;
- 2.2.2.3 the singular includes the plural and *vice versa*; and
- 2.2.2.4 a Party includes a reference to that Party's successors in title and assigns allowed at law.
- 2.3 Any reference in this Lease to —
- 2.3.1 **"business hours"** shall be construed as being the hours between 08h30 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time;
- 2.3.2 **"days"** shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 2.3.3 **"law"** means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law;
- 2.3.4 **"person"** means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality; and
- 2.3.5 **"writing"** means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act 25 of 2002.
- 2.4 The words **"include"** and **"including"** mean "include without limitation" and "including without limitation". The use of the words **"include"** and **"including"** followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

- 2.5 The words "**shall**" and "**will**" and "**must**" used in the context of any obligation or restriction imposed on a Party have the same meaning.
- 2.6 Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 2 or elsewhere in this Lease, shall be given effect to as if it were a substantive provision in the body of the Lease.
- 2.7 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Lease.
- 2.8 Unless otherwise provided, defined terms appearing in this Lease in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.9 A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.
- 2.10 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 2.11 If the due date for performance of any obligation in terms of this Lease is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.
- 2.12 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 2.13 The rule of construction that this Lease shall be interpreted against the Party responsible for the drafting of this Lease, shall not apply.
- 2.14 No provision of this Lease shall (unless otherwise stipulated) constitute a stipulation for the benefit of any person (*stipulatio alteri*) who is not a Party to this Lease.
- 2.15 The use of any expression in this Lease covering a process available under South African law, such as winding-up, shall, if either of the Parties to this Lease is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 2.16 Whenever any person is required to act "*as an expert and not as an arbitrator*" in terms of this Lease, then –
- 2.16.1 the determination of the expert shall (in the absence of manifest error) be final and binding;

- 2.16.2 subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid accordingly;
- 2.16.3 the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;
- 2.16.4 the expert shall consult with the relevant Parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and
- 2.16.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any person considered by him or it to have expert knowledge with reference to the matter in question.
- 2.17 Any reference in this Lease to "**this Lease**" or any other agreement or document shall be construed as a reference to this Lease or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.
- 2.18 In this Lease the words "**clause**" or "**clauses**" and "**Annexure**" or "**Annexures**" refer to clauses of and Annexures to this Lease.

### 3 **LEASE**

The Lessor lets to the Lessee and the Lessee hires the Property on the terms and conditions contained in this Lease.

### 4 **COMMENCEMENT AND DURATION OF LEASE**

- 4.1 Notwithstanding the Signature Date, this Lease will commence on the Commencement Date and will endure for a period of 5 months, terminating on 31 May 2022.
- 4.2 On the expiration of this Lease, should the Lessee with the express or tacit consent of the Lessor remain in occupation of the Property, the Parties shall be deemed (in the absence of them having concluding a new written lease) to have entered into a periodic lease *mutatis mutandis* on the same terms and conditions of this Lease, save that such periodic lease shall terminable by either Party giving to the other 1 month's written notice to that effect.

### 5 **USE OF PROPERTY**

- 5.1 The Property will be used for private residential purposes and not for any other purpose whatsoever.
- 5.2 The Property will be used and occupied personally by the Lessee and the Lessee's family and guests, and no other person will reside in the Property during the currency of this Lease.

- 5.3 The Movable Assets should further only be used by the Lessee to enable him to enjoy his occupation and use of the Property. The Lessee shall not be entitled to transfer the Movable Assets to any other property or building without the express prior written consent of the Lessor.

## 6 RENTAL

- 6.1 The monthly rental payable by the Lessee to the Lessor during the currency of this Lease shall be the sum of **R8, 800** per month.
- 6.2 The monthly rental shall escalate annually at a rate of 10% on each anniversary of the Commencement Date for the duration of this Lease and to the extent required, for the duration of the periodic lease entered into between the Parties in terms of clause 4.2.
- 6.3 All rentals shall be paid to the Lessor monthly in advance on or before the first day of each and every month, and in the event of such day not being a business day, then on the next succeeding business day, without deduction or set-off, into the Lessor's Designated Account.

## 7 OCCUPATION

- 7.1 The Lessor will deliver the Property to the Lessee on the Commencement Date, and furnish the Lessee with the keys and other means of access to the Property.
- 7.2 Should the Lessee fail to take occupation of the Property within a period of 3 days of the Commencement Date or from the date on which occupation of the Property is tendered to the Lessee in terms of clause 7.1, the Lessor will be entitled without prejudice to any other rights available to it in law, to give the Lessee written notice calling upon the Lessee to remedy such breach within 7 days. If the Lessee fails to remedy the breach within the 7 days, the Lessee will have no rights or claims of whatsoever nature against the Lessor by reason of such cancellation but will be liable for any loss of rental or other damages sustained by the Lessor as a result of such cancellation.

## 8 INSPECTION OF THE PROPERTY

- 8.1 The Lessee shall meet with the Lessor at a convenient time determined by the Lessor and notified to the Lessee, on or before the Commencement Date, as the case may be, for the purpose of jointly inspecting the Property to ascertain the existence of any defects or damage therein.
- 8.2 The said defects or damage, if any, in the Property, which the Lessor shall not be obliged to rectify, shall be recorded in a list compiled by the Parties and attached to this Lease as Annexure "A".

- 8.3 A failure on the part of the Lessee to attend the joint inspection of the Property, as contemplated in clause 8.1, shall constitute an acknowledgement on the part of the Lessee that the Property is in a good and proper state of repair, free of any defect and damage as at the Commencement Date.
- 8.4 Within a period of 3 days prior to the expiration of the Lease, the Lessor and the Lessee shall arrange a further joint inspection of the Property at a mutually convenient time to determine and assess the extent, if any, of the damage caused to the Property during the currency of this Lease. In the event that the Lessee fails to attend such further joint inspection –
- 8.4.1 the Lessor shall nevertheless inspect the Property within 7 days of expiration and assess any damage or loss which occurred to the Property during the currency of this Lease; and
- 8.4.2 the Lessee shall, in such event, be liable for the reasonable cost of effecting any repairs to the Property, and shall promptly pay on the due date (as indicated by the Lessor in writing) to the Lessor all applicable fees and other costs required by the Lessor to repair the Property.
- 8.5 It is recorded that should the Lessor –
- 8.5.1 fail to take reasonable steps to arrange a joint inspection of the Property on or before the Commencement Date, or the date upon which occupation is tendered to the Lessee as contemplated in clause 7.1; or
- 8.5.2 having arranged a joint inspection with the Lessee, fail to inspect the Property in the presence of the Lessee prior to the expiration of the Lease as contemplated in clause 8.4,
- the Lessor shall, in terms of the Rental Housing Act, be deemed to have acknowledged that the Property is in a good state of repair, free of any defect or damage.

## 9 RECEIPTS

- 9.1 It is recorded that the Rental Housing Act requires the Lessor to furnish the Lessee with a written receipt for all payments received by the Lessor from the Lessee from time to time during the currency of the Lease.
- 9.2 The Lessee shall have no claim against the Lessor for damages (including consequential damages) or otherwise, arising directly or indirectly from the total or partial failure or interruption in the supply of electric current, water, gas or other such services, nor shall the Lessee be entitled to any abatement of rental arising from such failure, unless such services are provided by the Lessor.



- 9.3 The receipts contemplated in clause 9.1 are required to be dated and to clearly indicate –
- 9.3.1 the full description of the Property;
- 9.3.2 the period for which the payment is made; and
- 9.3.3 whether such payment is made in respect of rental, arrears or otherwise.
- 9.4 Without limiting the generality of the foregoing, the Lessor shall retain all receipts in connection with the cost of repairs and other expenses incurred in terms of clause 8.4.2 as proof that such costs have been incurred and shall, on request, make such receipts available to the Lessee for inspection as contemplated in the Rental Housing Act.

## **10 MUNICIPAL CHARGES AND ASSESSMENT RATES**

- 10.1 The Lessee will with effect from the Commencement Date be liable for and pay promptly on due date to the authority concerned, all applicable charges and deposits for water, telephone, electricity, gas, sanitary fees and refuse removal fees, and any other services required by the Lessee in respect of the Property.
- 10.2 The Lessor will pay assessment rates levied on the Property.
- 10.3 Should the assessment rates be increased at any time so as to exceed the amount payable therefor on the Commencement Date, the Lessee will be obliged to pay to the Lessor the amount of such increase with effect from the date upon which such increase becomes effective.

## **11 CESSION, ASSIGNMENT AND SUB-LETTING**

- 11.1 The Lessee will not cede, assign, make over, charge or encumber his rights under this Lease either in whole or in part, nor will the Lessee sublet the Property nor any portion thereof, without having obtained the consent of the Lessor in writing, which consent the Lessor may in its absolute discretion grant or withhold.
- 11.2 The Lessee will not, without the prior written consent of the Lessor –
- 11.2.1 sub-let or part with control of any Movable Asset or any part thereof; or
- 11.2.2 allow the Movable Assets or any portion thereof to be used by any person other than the Lessee (even though no rental or other consideration may be receivable in connection with any such use).
- 11.3 The Lessee shall not allow the Movable Assets or any portion thereof to be used by any person other than the Lessee (even though no rental or other consideration may be receivable in connection with any such use).

- 11.4 In the event that the Lessor should conclude a contract of purchase and sale of the Property with a third party ("**Purchaser**"), the Lessor will be entitled, prior to the Purchaser taking transfer of the Property, to cede and assign to the Purchaser all its right, title and interest in or to this Lease, and the Lessee acknowledges and agrees to be bound by any such cession. Upon such cession taking place, the Lessor will promptly inform the Lessee of such cession by way of written notice, given as required in terms of this Lease.

## 12 MAINTENANCE BY THE LESSEE

The Lessee undertakes to –

- 12.1 care for and maintain (at its cost) the whole of the Property in like good order and condition during the currency of this Lease and at the termination of this Lease to return and redeliver the Property to the Lessor in like good order and condition, fair wear and tear excepted, and (without limiting clause 8) to make good and repair at the Lessee's cost any damage or breakages, or in the alternative to reimburse the Lessor for the cost of replacing, repairing or making good any of the same;
- 12.2 keep and maintain the improvements, all sewerage pipes, water pipes, guttering and drains free from obstruction and blockage;
- 12.3 not to remove the Movable Property without the prior written consent of the Lessor, it being understood that the Movable Property remains the sole property of the Lessor;
- 12.4 be responsible for any damage done to the Buildings by reason of any furniture or other objects being brought onto or removed from the Property; and
- 12.5 at its expense, replace where necessary all fluorescent bulbs, starters, globes, ballasts and incandescent bulbs used in the Buildings or elsewhere on the Property.

## 13 HOUSE RULES

- 13.1 The Lessee shall at all times during the currency of this Lease comply with such rules and regulations ("**House Rules**") as are laid down in writing by the Lessor, the Home Owners Association or the relevant body corporate in respect of the Property, including without limitation House Rules in connection with –
- 13.1.1 the security of the Property and the protection of persons and property thereon, including without limitation, any rules for the control and identification of persons and vehicles entering the Property or any parts thereof;
- 13.1.2 the driving and parking of vehicles on or about the Property; and
- 13.1.3 the utilisation of common amenities and facilities on the Property.

- 13.2 The Parties record that clause 13.1 shall not be construed as implying that the Lessor assumes any liability which it could not otherwise have had in connection with the subject matter of any House Rule therein contained.

#### 14 **ALTERATIONS OR ADDITIONS TO THE PROPERTY**

The Lessee will not make any alterations or additions to the Buildings, Movable Assets or improvements to or any installations or improvements therein, whether structural or otherwise, or drive or permit any nails or screws to be driven into the walls or ceilings of the Buildings or in any manner whatsoever do or permit anything to be done that may be calculated to damage the walls, ceilings or any other portion of the Buildings and/or the Movable Assets (as applicable).

#### 15 **OWNERSHIP**

Ownership of the Movable Assets remains with the Lessor at all times and accordingly the Movable Assets –

- 15.1 may not be attached or taken in execution under any process of law, or be the subject of any insolvency or liquidation proceedings instituted against the Lessee; and
- 15.2 may not be disposed of or encumbered by the Lessee.

#### 16 **ACCESS**

The Lessor's workmen or agents will be entitled at all reasonable times and on reasonable notice to the Lessee to enter upon the Property and to do and carry on any work that may be required to be done to the Buildings for the preservation, repair or alteration thereof for which the Lessor is responsible in terms of this Lease.

#### 17 **LESSOR'S OBLIGATIONS**

The Lessor will keep all outside walls and roofs of the Buildings in order but will not be responsible for any damage caused by leakage, rain, hail, snow or fire or any other cause whatsoever nor will the Lessor be responsible for any damage which the Lessee may sustain by reason of any act whatsoever or neglect on the part of the Lessor or any of the Lessor's servants nor will the Lessor be responsible for any loss or damage which the Lessee may sustain by reason of the Buildings at any time falling into a defective state of repair or by reason of any repairs to be effected by the Lessor not being effected timeously or at all and the Lessee will not be entitled for any of the foregoing reasons or any other reason whatsoever to withhold any monies payable by the Lessee to the Lessor in terms of this Lease.

## 18 **INSURANCE**

- 18.1 The Lessee will not store or harbour or permit the storage or harbouring of any article or substance, or do any act, matter or thing calculated to increase the rate of insurance (of whatsoever nature against which the Buildings are insured) of the Buildings whereupon the same may be rendered void or voidable.
- 18.2 The Lessee will, at its cost insure and keep insured all its fixtures, fittings and all goods in the Buildings.

## 19 **SIGNS**

The Lessor will be entitled to affix and exhibit on the Property "TO LET" and "FOR SALE" notices for a period of 3 months prior to the expiration of this Lease and the Lessee will permit prospective tenants or buyers of the Property to view the Property during reasonable hours at any time during the currency of this Lease.

## 20 **LOSS OR DAMAGE**

The Lessor shall not be responsible to the Lessee or to any servant, agent, customer, visitor or invitee of the Lessee or any other person claiming through the Lessee for any accident, injury (including death), damage or loss caused by or through or while using any part of the Property, whether or not arising from or accountable to negligence, or however else occasioned, or arising from any defect in the Property or any part thereof, or as a result of any act whatever or neglect on the part of the Lessor or its servants, officers or agents, or by reason of any repair to be effected by the Lessor not being effected timeously or at all. The Lessee indemnifies the Lessor and its servants, officers and agents against any claim in respect of any of the foregoing.

## 21 **DAMAGE TO OR DESTRUCTION OF BUILDINGS**

### 21.1 **Total or substantial destruction**

Should the Buildings be damaged or destroyed during the currency of this Lease in such manner as to render them totally or substantially destroyed –

- 21.1.1 then the Lessor shall have the right to terminate this Lease on the date of such occurrence;
- 21.1.2 in the event of such termination, neither Party will have any right or claim against the other, save that the Lessee will be bound and obliged to pay to the Lessor a proportionate share of rental and such other amounts as are payable by the Lessee in terms of this Lease, calculated up to the date of termination of the Lease; and

- 21.1.3 should the Lessor elect not to terminate this Lease, the Lessor will be obliged to proceed expeditiously with the repair and re-instatement of the Buildings so as to enable the Lessee to enjoy occupation and use thereof, and during the period that the Buildings are untenable the Lessee shall not be liable for the payment of any rental.

## 21.2 **Partial destruction**

Should the Buildings be damaged during the currency of this Lease in such manner as to render the Buildings partially untenable –

- 21.2.1 then the Lessor will not in consequence have the right to terminate this Lease;
- 21.2.2 the Lessor will be obliged to proceed expeditiously with the repair and re-instatement of the Buildings so as to enable the Lessee to enjoy occupation and use thereof;
- 21.2.3 the Lessee will remain in occupation of the undamaged portion of the Buildings and the rental will, subject to clause 21.3, abate to the extent to which the Lessee is deprived of beneficial occupation for the period of deprivation as agreed between the Parties;
- 21.2.4 upon completion of the repair or reinstatement (as the case may be) the full rental will immediately again be payable by the Lessee to the Lessor; and
- 21.2.5 save for the abatement of rental as contemplated in clause 21.2.3, the Lessee will not have any claim against the Lessor, either for damages or otherwise, in consequence of or by reason of any deprivation of beneficial occupation or use or in consequence of or arising out of any loss or destruction of or damage to furniture, fixtures, fittings, or any other property belonging to the Lessee.

## 21.3 **Disputes**

In the event of any dispute as to the extent to which the Buildings have been damaged or destroyed or the extent to which the rental will abate in the event of the Lessee being partially deprived of beneficial occupation of the Buildings as contemplated in this clause 21, the Lessee will continue to pay the full rental without deductions of any nature whatsoever until the dispute has been settled after referring it, if need be, to the Rental Housing Tribunal. Upon settlement of the dispute in this manner, any rental paid by the Lessee in excess of the amount payable as determined by the Rental Housing Tribunal will immediately be refunded by the Lessor to the Lessee without payment of interest thereon.

## 22 **BREACH BY LESSEE**

- 22.1 In the event that the Lessee —
- 22.1.1 fails to pay any amount payable in terms of this Lease on the due date; or

- 22.1.2 breaches any term or condition of this Lease (otherwise than by failure to pay any amount referred to in clause 22.1.1 above) and fails to remedy such breach within 7 days of receipt of written notice calling upon the Lessee to do so; or
- 22.1.3 becomes insolvent, whether under the Insolvency Act, No 24 of 1936 or otherwise,
- then and in such event the Lessor shall be entitled to terminate this Lease without prejudice to any rights of the Lessor to sue for and recover any payment or moneys due, together with interest thereon, or damages for breach of contract or otherwise howsoever.
- 22.2 In the event of an attorney being instructed to collect any amount owing by the Lessee or to take legal proceedings for the recovery of any amounts arising out of this Lease or the cancellation thereof, the Lessee will pay collection commission at the recognised tariff applicable from time to time in respect of such collection and all other legal costs on an attorney-and-client basis.
- 22.3 In the event of the Lessor cancelling this Lease and the Lessee disputing the right to cancel and remaining in occupation of the Property, the Lessee will, pending the determination of such dispute by litigation or otherwise, continue to pay to the Lessor an amount equivalent to the monthly rental and other sums payable in terms of this Lease on the date or dates when such rental or other sums would have been due but for the cancellation, and the Lessor will be entitled to accept and recover such payments. The acceptance thereof will be without prejudice to and will not in any way whatsoever affect the Lessor's rights then in dispute. Should the dispute be determined in favour of the Lessor, the payments made and received in terms of this clause 22.3 will be deemed to be amounts paid by the Lessee on account of damages suffered by the Lessor by reason of the cancellation of the Lease and/or the unlawful holding over by the Lessee.

## 23 NOTICES AND DOMICILIA

- 23.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under this Lease, the said physical addresses as well as the following email addresses —

<b><u>Name</u></b>	<b><u>Physical Address</u></b>	<b><u>Email Address</u></b>
Maduvha Nemasandila	22727 Mulberry Street Protea Glen Extension 22 1830	nemsandis@gmail.com

Marked for the attention of: Maduvha Nemasandila

<u>Name</u>	<u>Physical Address</u>	<u>Email Address</u>
Kershin Gounden	69 Dreyersdal Road Bergvliet Cape Town 7945	kershingounden@gmail.com

Marked for the attention of: Kershin Gounden

provided that a Party may change its *domicilium* to another physical address in the Republic of South Africa (provided that such physical address is not a post office box or *poste restante*), or may change its address for the purposes of notices to any other physical address or email address by written notice to the other Party to that effect. Such change of address will be effective 5 business days after receipt of the notice of the change.

- 23.2 All notices to be given in terms of this Lease will be given in writing and will —
- 23.2.1 be delivered by hand or sent by email;
- 23.2.2 if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day will be presumed to have been received on the following business day; and
- 23.2.3 if sent by email during business hours, be presumed to have been received on the date of successful transmission of the email. Any email sent after business hours or on a day which is not a business day will be presumed to have been received on the following business day.
- 23.3 Notwithstanding the above, any notice given in writing, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause 23.

## 24 **BENEFIT OF THE AGREEMENT**

This Lease will also be for the benefit of and be binding upon the successors in title and permitted assigns of the Parties or either of them.

## 25 **APPLICABLE LAW AND JURISDICTION**

- 25.1 This Lease will in all respects be governed by and construed under the laws of the Republic of South Africa.
- 25.2 For purposes of any legal action which may arise from this Lease, the Parties hereby consent to the jurisdiction of the Magistrate's Court notwithstanding the fact that such action may otherwise be beyond the jurisdiction of such Court, and this clause 25.2 will be

regarded as constituting the necessary written consent granting jurisdiction to the Magistrate's Court in terms of Section 45 of the Magistrates' Courts Act, No 32 of 1944.

## 26 **COMING INTO OPERATION OF LEASE**

This Lease will only have effect and become binding on the Lessor if and when it is signed by the Lessee, failing which the Lessee will not have the right to claim the existence of a tenancy from the Lessor, whether verbal or otherwise, by reason of negotiations having been conducted or concluded in regard thereto or by reason of this Lease having been drafted and thereafter executed by the Lessee only or by reason of the Lessee being in occupation of the Property, whether or not rental has been paid.

## 27 **GENERAL**

### 27.1 **Whole Agreement**

27.1.1 This Lease constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Lease not incorporated in this Lease shall be binding on either of the Parties.

27.1.2 This Lease supersedes and replaces any and all agreements between the Parties (and other persons, as may be applicable) and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

### 27.2 **Variations to be in Writing**

No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Lease will be of any force or effect unless in writing and signed by the Parties.

### 27.3 **No Indulgences**

No latitude, extension of time or other indulgence which may be given or allowed by either Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Lease and no single or partial exercise of any right by either Party under this Lease, shall in any circumstances be construed to be an implied consent or election by that Party or operate as a waiver or a novation of or otherwise affect any of its rights in terms of or arising from this Lease or estop or preclude it from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of either Party in exercising any right, power or privilege under this Lease will not constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any



right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**27.4 No Waiver or Suspension of Rights**

No waiver, suspension or postponement by either Party of any right arising out of or in connection with this Lease shall be of any force or effect unless in writing and signed by that Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

**27.5 Provisions Severable**

All provisions and the various clauses of this Lease are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Lease which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Lease shall remain of full force and effect. The Parties declare that it is their intention that this Lease would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

**27.6 Continuing Effectiveness of Certain Provisions**

The expiration or termination of this Lease shall not affect such of the provisions of this Lease as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

**27.7 No Assignment**

Neither this Lease nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by either Party without the prior signed written consent of the other, save as otherwise provided herein.

**27.8 Exclusion of Electronic Signature**

The reference in clauses 27.2, 27.4 and 27.7 to writing signed by a Party shall, notwithstanding anything to the contrary in this Lease, be read and construed as excluding any form of electronic signature.

**28 COSTS**

- 28.1 Except as otherwise specifically provided herein, each Party will bear and pay its own legal costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Lease.
- 28.2 Notwithstanding anything in this Lease, whether express or implied, it is expressly agreed between the Parties that the Lessee shall be responsible for all costs, charges, disbursements and outgoings of whatsoever nature and howsoever arising relating to the Movable Assets (other than the finance costs payable by the Lessor to any financing Party as contemplated in the applicable mortgage bond documents, which costs shall be for the Lessor's account), and whether or not such costs, charges, disbursements or outgoings are expressly referred to in this Lease.

**29 SIGNATURE**

- 29.1 This Lease is signed by the Parties on the dates and at the places indicated below.
- 29.2 This Lease may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Lease as at the date of signature of the Party last signing one of the counterparts.
- 29.3 The persons signing this Lease in a representative capacity warrant their authority to do so.
- 29.4 The Parties record that it is not required for this Lease to be valid and enforceable that a Party shall initial the pages of this Lease and/or have its signature of this Lease verified by a witness.

***[The remainder of this page has been intentionally left blank. Signature blocks follow on the next page]***

SIGNED at Somerset West on 14 December 2021



MADUVHA NEMADANDILA

SIGNED at Somerset West on 14 December 2021



KERSHIN GOUNDEN

**List of Defects – Clause 8.2**

**Movable Assets**

- 1 Stove
- 2 Refrigerator
- 3 Dish Washer
- 4 Washing Machine