

AGREEMENT OF LEASE

between

JEANETTE BOUVERIE
(ID NO: 711202 0274 08 6)

of

40 Homestead Road, Bramley, Johannesburg, 2190
Fax number: 011 440 4182, Email address: jeanette@bbtlaw.co.za

(hereafter collectively called "the Lessor")

and

TSITSI YUNICE MUGWINYI
(BORN ON: 17 MAY 1988/ PASSPORT NUMBER: CN223208

AND

CLIVE MUCHADA MAFIKA
(BORN ON: 22 FEBRUARY 1985 / PASSPORT NUMBER:

of

40 Homestead Road, Bramley, Johannesburg, 2190
Email address:

(hereafter called "the Lessee")

WHEREAS:

- 1 The LESSOR is the owner of the immovable property hereinafter described.
- 2 The LESSOR and the LESSEE have agreed to enter into this lease on the terms

and conditions hereinafter recorded, and subject to the signature hereof by both parties.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:-

DEFINITIONS:

- 1 In this agreement, unless inconsistent with or otherwise indicated by the context, the following words shall bear the meanings assigned to them hereunder:-
 - 1.1 the "property" shall mean – the immovable property situated at 40 HOMESTEAD ROAD, BRAMLEY, JOHANNESBURG;
 - 1.2 the "buildings" shall mean - the buildings and improvements which are constructed on the property;
 - 1.3 the "commencement date" shall mean – 1 September 2017TS;
 - 1.4 the "leased premises" shall mean - that portion of the buildings and areas of which the lessee shall have the exclusive use (the cottage and its garden).
 - 1.5 the "lease period" shall mean - a period of 12 (twelve) months calculated from the commencement date;
 - 1.6 the "attorney" shall mean – Bouverie Attorneys, 86 Forest Road, Bramley, Johannesburg, Telephone number: 011 021 4728, Fax number: 011 440 4182, Email address: jeanette@bbtlaw.co.za.

2 **INTERPRETATION**

- 2.1 In this agreement unless the context clearly indicates a contrary intention, words importing the singular shall include the plural, and vice versa; a reference to any one gender shall include the other genders; a reference to a natural person shall include a body corporate, close corporation, firm or association and vice versa, and cognate expressions shall bear corresponding meanings.
- 2.2 In this agreement the word "Agreement" shall refer to this agreement and the words "Article" or "Articles" and "Annexure" or "Annexures" shall refer to articles and annexures of and to this Agreement.
- 2.3 The headnotes to the articles of this Agreement are included for reference purposes only and shall not affect the interpretation of the provisions to which they relate.
- 2.4 There shall always be a presumption in favour of the validity of each of the provisions hereof, and of this agreement, and in the event of any provision, or part thereof, of this agreement being invalid for any reason, such provision or part thereof shall, as the case may be, be severable from the balance of that provision or the balance of this agreement.

3 **LEASE**

The LESSOR hereby lets to the LESSEE who hereby hires the leased premises from the LESSOR on the terms and conditions of this lease.

4 **COMMENCEMENT AND DURATION**

This lease shall commence on the commencement date and shall continue thereafter for a period of 12 (twelve) months, terminating on 30 AUGUST 2018, unless the LESSEE shall have extended the duration of this lease in terms of Article 4.1 infra, the LESSEE shall be obliged to vacate the leased premises and

return same to the LESSOR.

- 4.1 Subject to the LESSEE not being in breach of any of the terms and conditions hereof, the LESSEE shall have the right to extend the period of this lease by agreement between the Parties on the same terms and conditions as those contained in this agreement, save and except that the LESSEE shall have no right to further extend the period of this lease, by giving written notice to that effect to be received by the LESSOR not later than 2 (two) months prior to the expiry of the first period;
- 4.2 In the event of the LESSEE exercising its option to renew this lease, the LESSEE shall be obliged to have commenced negotiations with regard to rental with the LESSOR not later than 2 (two) months prior to termination of this agreement and to record same recorded on an addendum to the lease agreement;

5 **RENTAL**

- 5.1 The LESSEE shall pay rental to the LESSOR as follows:-
 - 5.1.1 for the 1st year of this lease a monthly **rental of R7,000.00 (seven thousand Rand) exclusive of water and electricity, which separate charge is dealt with below;**
 - 5.1.2 Should the Parties agree to extend the lease period, then the Rental shall increase annually by 10 (ten) percent or by a percentage as agreed to by the Parties.
- 5.2 The rental to be paid by the LESSEE to the LESSOR shall be payable monthly in advance on or before the 7 SEVENTH day of each month, without deduction, to the LESSOR at the property or such address as the LESSOR may from time to time specify in writing to the LESSEE or to

such person or at such other place as the LESSOR may from time to time specify in writing to the LESSEE. Proof of payment to be emailed in advance on or before the first day of each month to the attorneys at jeanette@bbtlaw.co.za.

ACCOUNT NAME:	STANDARD BANK LIMITED
ACCOUNT NUMBER:	202 151 050
BRANCH CODE:	004255
REFERENCE:	366407635 Bouverie

6 **OPERATING COSTS**

The LESSEE shall during the subsistence of this lease pay:-

6.1 All water and electricity consumed at the leased premises, as appears from the statement in respect thereof, which statement shall be *prima facie* proof of the amount of water and/or electricity so consumed.

7 **DEPOSIT**

7.1 A deposit in the amount of R7,000.00 (seven thousand Rand) is to be paid into the trust account of the attorneys on or before 20TH AUGUST 2017:

ACCOUNT NAME:	BOUVERIE ATTORNEYS TRUST ACCOUNT
ACCOUNT NUMBER:	271 999 977
BANK:	STANDARD BANK OF SOUTH AFRICA
BRANCH:	009160 / BALFOUR PARK
SWIFT CODE:	SBZA ZA JJ
REFERENCE:	40 HOMESTEAD DEPOSIT

8 **CESSION AND SUB-LETTING**

The LESSEE shall not be entitled to cede any of its obligations hereunder. The LESSEE shall not be entitled to sublet the whole or any portion of the leased premises without the LESSOR'S prior written consent first being obtained, which consent shall not be unreasonably withheld.

9 **MAINTENANCE**

9.1 The LESSEE shall at its own expense maintain the leased premises including the permanent fixtures, fittings and installations forming part thereof and any renovations, replacements of or additions to the leased premises or to any such fixtures, fittings and installations in good order and in proper state of repair and shall at its own expense carry out all the repairs, replacements and renovations that may reasonably be required from time to time;

9.2 the LESSOR shall be liable to make good at its own cost and expense any structural defects occurring during the currency of this lease to the leased premises, it being recorded that in this instance the structure shall mean the foundations, brick walls, steel structure (including roof) and concrete slabs, provided such defect or damage occurring to the structure is not caused by the LESSEE whether by way of negligence or otherwise and from whatsoever cause arising, fair wear and tear excepted.

9.3 the LESSEE shall not do or omit to do anything, to keep in or on the leased premises anything or allow anything to be done or kept in or on the leased premises which in terms of any fire insurance policy held from time to time by the LESSOR, and/or the LESSEE in terms hereof, in respect of the property, buildings and/or the leased premises may not be done or kept therein, or which may render any policy/policies void or voidable and the LESSEE shall comply in all respects with the terms of

such policy/policies provided that if any premium payable in respect of any such policy/policies is increased:-

10 **LIABILITY TO THIRD PARTY**

10.1 The LESSOR shall not be responsible for any injury, loss or damage whatsoever which the LESSEE and/or cohabitants on the leased premises or any other person whomsoever may sustain on or upon the leased premises from any cause whatsoever, and whether such injury, loss or damage be due to theft, the action of rain, wind, hail, lightning, explosion, spontaneous combustion, gas, building and/or construction activities, fire, water, failure or interruption in the supply of water, electric power, current or gas or of any other service or source of power, or failure of any lift or other installations, or due to riot (including political riot), strikes, Act of God, war, civil commotion, negligence or any willful act or omission of any person (including the LESSOR, its agents, servants, independent contractors and employees and visitors) or any other cause whatsoever. The LESSEE hereby indemnifies the LESSOR against all claims for such injury, loss or damage aforesaid for which the LESSOR shall not have been responsible and all costs and expense which may be made against or incurred by the LESSEE in connection therewith provided that the LESSEE shall immediately notify the LESSOR of any such claims and take no other action in relation thereto without the LESSOR'S prior written consent;

10.2 the LESSEE shall be obliged to take out public liability insurance to cover the LESSEE'S potential liability to third parties which policy of insurance shall be extended to include such additional liabilities as may develop upon it in terms of clause 10.1.

11 **STRUCTURAL ALTERATIONS**

- 11.1 The LESSEE shall not make any structural alterations or additions to the leased premises without the LESSOR'S prior written consent, which shall not be unreasonably withheld provided that any alterations or additions made with the LESSOR'S consent shall be carried out by the LESSEE:-
- 11.1.1 at its own cost;
 - 11.1.2 should the LESSOR so require, under the supervision of an architect and/or quantity surveyor approved by the LESSOR and whose fees shall be paid by the LESSEE;
 - 11.1.3 otherwise in accordance with any reasonable conditions and requirements stipulated by the LESSOR;
- 11.2 any alterations or additions carried out by the LESSEE may only be removed by it at its own cost at any time during, or on the expiration or earlier termination of, this lease with the prior written consent of the LESSOR which shall not be unreasonably withheld, who may stipulate what reasonable control measures shall apply to such removal; provided always that the LESSOR shall be entitled to require the LESSEE to remove any such alterations or additions upon termination of this lease;
- 11.3 if the LESSEE removes any alterations or additions it shall at its own cost reinstate the leased premises to their former condition to the reasonable satisfaction of the LESSOR;
- 11.4 if the LESSEE does not remove any of those alterations or additions, then the alterations and additions shall remain the LESSOR'S property without compensation.

12 **REMOVAL OF ALTERATIONS**

12.1 **The LESSEE shall not be entitled to remove any alterations, additions, improvements, extensions, installations, fixtures, or fittings effected or installed at the cost of the LESSOR and replaced during the course of this lease by the LESSEE;**

12.2 notwithstanding the foregoing, on demand by the LESSOR, the LESSEE, shall, at its own expense on expiration or earlier termination of this lease, remove any installations, fixtures, or fittings effected or installed at the cost of the LESSEE. The LESSEE undertakes to restore to the reasonable satisfaction of the LESSOR any damage to the leased premises caused by the removal of such installations, fixtures and fittings.

13 **DESTRUCTION**

13.1 Should the leased premises or the building be destroyed or damaged to an extent which prevents the LESSEE from having beneficial occupation of the leased premises then:-

13.1.1 the LESSEE shall have no claim of any nature whatsoever against the LESSOR as a result thereof;

13.1.2 both the LESSOR and the LESSEE shall be entitled within 60 (sixty) days after such destruction or damage to advise each other in writing whether it intends to cancel the lease and in the case of the LESSOR, whether it intends to reinstate the leased premises;

13.1.3 should the LESSOR not, within the aforesaid period notify the LESSEE of its intention to reinstate the leased premises, then the LESSOR shall be deemed to have elected to cancel this lease;

- 13.1.4 should the LESSOR elect (or be deemed to have elected) to cancel this lease, then the LESSEE shall have no claim whatsoever against the LESSOR as a result of the cancellation;
 - 13.1.5 this sub-clause shall apply mutatis mutandis in the event of the LESSEE electing to cancel this lease;
- 13.2 should the LESSOR elect to reconstruct the leased premises and should the LESSEE not have cancelled the lease in terms of this clause then:-
 - 13.2.1 this lease shall not be cancelled and the LESSOR shall at its cost reinstate the leased premises substantially to its previous state as quickly as is possible in the circumstances;
 - 13.2.2 the LESSEE shall not be liable for any further rent for as long as it is deprived of beneficial occupation of the leased premises;
 - 13.2.3 the period of this lease shall be extended by the period during which the LESSEE is deprived of beneficial occupation of the whole of the leased premises;
- 13.3 should the leased premises be damaged to a lesser extent than that which prevents the LESSEE from having beneficial occupation of the premises then:-
 - 13.3.1 this lease shall not be cancelled;
 - 13.3.2 the rental payable by the LESSEE shall be reduced pro rata to the extent (if any) by which the LESSEE is deprived of

beneficial occupation of the leased premises;

13.3.3 the LESSOR shall at its own cost repair the leased premises as quickly as possible in the circumstances;

13.3.4 the LESSEE shall have no claim of any nature whatsoever against the LESSOR as a result of the said destruction or damage howsoever arising;

13.4 should a dispute arise between the LESSOR and the LESSEE in respect of the amount of rental payable by the LESSEE in terms of the foregoing then that dispute shall be submitted to and decided by arbitration as provided for in terms of clause 21 infra.

14 **REMISSION OF RENT**

14.1 The LESSEE shall not be entitled to any remission of rent notwithstanding that it may not be able to make full beneficial use of the leased premises on account of repairs, alterations, additions or improvements being effected thereto or any service to the leased premises being interrupted or permanently stopped or for any other reason whatever;

14.2 should the buildings be destroyed by fire through no negligence or fault of the LESSEE then the LESSEE shall be entitled to a remission of rental which remission shall be for the period during which the LESSEE shall not have had the benefit of the premises.

15 **DEFAULT**

15.1 Notwithstanding anything to the contrary hereinbefore contained, should the LESSEE:-

15.1.1 fail to pay the rental on due date and remain in default in the payment thereof for 7 (seven) days after receipt by it of notice in writing requiring such payment; and/or

15.1.2 should the LESSEE commit a breach of any other terms or condition of this lease and fail to remedy the same within 14 (fourteen) days (or if such remedy cannot reasonably be affected within the period of 14 (fourteen) days then within a reasonable period of receipt of notice in writing from the LESSOR calling upon it to do so),

then the LESSOR shall in either event at its sole discretion be entitled either to claim specific performance or to terminate this lease and to retake possession of the leased premises by due process of the law, without prejudice to any claim which it may have against the LESSEE for arrear rent, damages or otherwise. Upon termination of this lease, rent pro rata to the period which has elapsed since the last date of payment of rent (or the date of commencement of this lease, as the case may be) shall apart from any other arrear rent, become immediately payable by the LESSEE;

15.2 the LESSOR'S rights in terms of this clause shall not be exhaustive and shall be in addition to any other rights it may have under this lease or otherwise including the recovery of interest on any amounts owing to the LESSOR. This interest will be calculated at 2% (two percent) above the best interest rate chargeable by Standard Bank of South Africa Limited on overdraft and shall be reckoned from the due date for payment of the debt to the date of payment.

16 **CANCELLATION AND RENEWAL**

16.1 Should either party wish to cancel or renew this agreement, the notice

period shall be 2 (two) calendar months before expiration of this agreement.

16.2 In the event of the LESSOR cancelling this agreement and the LESSEE disputing the LESSOR's right to cancel and remaining in occupation of the leased premises the LESSEE shall, pending settlement of such dispute either by negotiation, arbitration or litigation, continue to pay all amounts payable by it in terms hereof, whether actual or estimated as provided in this agreement, on the due date and the LESSOR shall be entitled to accept and recover such payments without prejudice to its claim for cancellation then in dispute or any other right of action, whether for damages or otherwise, against the LESSEE. Should the dispute as to the LESSOR'S right of cancellation be determined in favour of the LESSOR then payments received by the LESSOR in terms of this paragraph shall 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 unlawful holding over by the LESSEE.

17 **DEFECTS**

The LESSEE shall be obliged to notify the LESSOR in writing within 7 (seven) days after the occupation date of any defects in the leased premises, failing which the LESSEE shall be deemed to have acknowledged that there are no defects of any nature and that the LESSEE has received the leased premises including but without limiting the generality of the foregoing, all light fittings, electrical, plumbing, alarm system, remotes and keys in good order and repair.

18 **DOMICILIA CITANDI ET EXECUTANDI**

18.1 The parties choose as their respective *domicilia citandi et executandi* for the effective service of all notices and legal processes flowing from this agreement the addresses reflected in the heading hereof.

18.2 any notice addressed to a party at its physical or postal address shall be sent by prepaid registered post or delivered by hand.

18.3 any notice shall be deemed to have been given:-

18.3.1 if posted by prepaid registered post, 5 (five) days after the date of posting thereof;

18.3.2 if delivered by hand, on the date of delivery;

18.3.3 if sent by telefax, on the date of sending such telefax provided that notice shall be confirmed by prepaid registered post on the date of dispatch of such telefax or, should no postal facilities be available on that date, on the next business day.

18.3.4 The Parties hereby agree that SERVICE OF ANY NOTICES BY EMAIL SHALL BE DEEMED TO BE EFFECTIVE SERVICE.

19 **RELAXATION OF RIGHTS**

Any relaxation or indulgences which the LESSOR may allow the LESSEE shall not in any way whatsoever prejudice the LESSOR'S rights under this lease. No variation of this lease shall be of any force or effect unless it is reduced to writing, signed by the LESSOR and the LESSEE.

20 **TO LET NOTICES**

20.1 The LESSEE shall permit prospective purchasers of the property to view the leased premises at all reasonable times, as well as prospective

tenants during the last 2 (two) months of this lease or in the event that the LESSOR decides to place the property on the market;

20.2 the LESSOR or its agents shall have the right to affix an exhibit on the leased premises "premises to let" notices for a period of 6 (six) months prior to the termination of this lease.

21 **ARBITRATION**

21.1 Should any dispute arise between the parties to this lease agreement in regard to:-

21.1.1 the interpretation of; or

21.1.2 the carrying into effect of; or

21.1.3 any of the parties' rights and obligation in terms of this lease agreement; or

21.1.4 the termination of or arising from the termination of; or

21.1.5 the rectification of this agreement

then the dispute shall be submitted to and decided by mediation;

21.2 the mediation shall be held:-

21.2.1 in Johannesburg;

21.2.2 with only the parties and their representatives present thereat;

- 21.2.3 It being the intention that the mediation shall, where possible, be held and concluded within 21 (twenty-one) working days after it has been demanded;
- 21.3 the arbitrator shall be agreed to by the Parties and if there is principally a dispute in the nature of:-
 - 21.3.1 a legal matter, a practicing attorney of not less than 5 (five) years standing or a practicing advocate of not less than 5 (five) years standing and being a mediator enlisted in the panel of Court Annexed Mediators (Department of Justice);
 - 21.3.2 an accounting matter, and any independent person agreed to between the parties;
- 21.4 should the parties fail to agree on a mediator within 14 (fourteen) days after the mediation has been demanded then the arbitrator shall be nominated by the Court having jurisdiction over the matter;
- 21.5 should the parties fail to agree whether the dispute is of a legal, accounting or other nature within 7 (seven) days after the mediation has been demanded then the Court shall decide into which the dispute falls under.
- 21.6 the mediator shall have the fullest and freest discretion with regard to the proceedings and his award shall be final and binding on the parties to dispute. Furthermore, the arbitrator:-
 - 21.6.1 may dispense wholly, or in part, with formal submissions or pleadings;

- 21.6.2 shall determine the applicable procedure;
- 21.6.3 shall not be bound by strict rules of evidence;
- 21.6.4 shall take into account the practicality or otherwise of ordering the continuance of the legal relationship between the parties; and
- 21.6.5 shall include such order as to costs as s/he deems just and the parties shall be entitled to have the award made an order of any court of competent jurisdiction.

22 **SPECIFIC TERMS**

- 22.1 The leased premises shall not be occupied by more than 2 (two) adults and 2 (two) children at any time.
- 22.2 The LESSEE shall not have more than 2 (two) motor vehicles parked at the leased premises.
- 22.3 No pets of any kind are allowed on the leased premises.

23 **ENTIRE AGREEMENT**

This is the entire agreement between the parties, and no:-

- 23.1 alteration, variation, addition or amendment hereto and/or to this clause;
- 23.2 representations by either party;

shall be valid or binding unless reduced to writing and signed by the parties

hereto.

THUS DONE and SIGNED AT JOHANNESBURG, on this the day of AUGUST 2017, in the presence of the undersigned witnesses.

AS WITNESSES:-

1. _____

LESSEE

2. _____

THUS DONE and SIGNED AT BRAMLEY, on this the ____ day of AUGUST 2017, in the presence of the undersigned witnesses.

AS WITNESSES:-

3. _____

4. _____

LESSOR