

AGREEMENT OF LEASE

Of a residential dwelling

Made and entered into by and between

Mark Gunning

IDENTITY NUMBER: G588XT2

("Lessor");

and

Peter Ray

IDENTITY NUMBER: T557EQ0

("Lessee").

INTERPRETATION

- 2.1 In this lease, except in a context indicating that some other meaning is intended,
- 2.1.1 "Buildings" means the house and outbuildings on the Property;
- 2.1.2 "Day" means any Day of the week, excluding Sundays and public holidays;
- 2.1.3 "Lease Period" means the period for which this lease continues, including any period for which it is renewed;
- 2.1.4 "Lessor's Equipment" means all fixtures and fittings in the Buildings and forming part thereof as well as the stove which is included in this lease, and (where consistent with the context) includes all possible replacements;
- 2.1.5 "Month" means a calendar Month, and more specifically:
- in reference to a number of Months from a specific date, a calendar Month starting on that date or the same date of any subsequent Month; and
 - in any other context, a Month of the calendar, that is, one of the 12 Months of the calendar; and
 - "Monthly" has the corresponding meaning;
- 2.1.6 "Property" means **4790, Oasis Blvd, 5th Floor, Apt 801, Lynchburg VA-24501** together with the Buildings and all other improvements to or upon the Property;

- 2.1.7 "Rates" means the assessment Rates payable on the Property which excludes, but not limited to, refuse removal charges, sanitary fees, charges for water, electricity and gas;
- 2.1.8 "Rent" means the Rental the Lessee must pay to the Lessor for the lease of the Property;
- 2.1.9 "Year" means a period of 12 consecutive Months starting on the date on which this lease comes into operation or any anniversary of that date;
- 2.1.10 references to notices, statements and other communications by or from the Lessor include notices by or from the Lessor's agent;
- 2.1.11 expressions in the singular also indicate the plural, and the other way round;
- 2.1.12 words and phrases indicating natural persons refer also to juristic persons, and the other way round; and
- 2.1.13 pronouns of any gender include the corresponding pronouns of the other gender.
- 2.2 Any provision of this lease placing a restraint, prohibition, or restriction on the Lessee must be interpreted to include the implied term that the Lessee must ensure that everybody occupying or entering the Premises or any other part of the Property or the Building also complies with them, including the family, guests and domestic worker or other employees of the Lessee.
- 2.3 Clause headings appear in this lease for purposes of reference only and must not influence the proper interpretation of the subject matter.
- 2.4 This lease must be interpreted and applied in accordance with South African law.

3 LEASE AGREEMENT

- 3.1 The Lessor leases the Property on the terms of this lease to the Lessee.
- 3.2 The Lessee for the Lease Period has the use of the Lessor's Equipment at no extra cost subject to the terms of this lease relating to it.

4 DURATION

This lease will commence on the **01 Jan 2017** and will, subject to the provisions of paragraph 17 below, continue for **3 years** from that date.

5 RENT

- 5.1 The Rent will be:
 - 5.1.1 **\$ 7450 /- (Seven Thousand Four Hundred and Fifty Dollars)**
for each Month of the first Year of the Lease Period;
 - 5.1.2 an amount for each Month of every following year of the Lease Period which is **4.7%** greater than the amount of the Rent for the last Month of the preceding year.
- 5.2 Whenever the Rates are increased during the Lease Period, the Lessor may increase the Rent proportionately, by giving the Lessee written notice and the new Rent will be calculated on a Monthly basis. Every such increase in the Rent will take effect on the first day of the Month after the Lessee received notice or the date on which the relevant increase in the Rates takes effect, whichever is the latest.

- 5.3 The Lessee will pay the Rent Monthly in advance on or before the seventh Day of every Month.

6 PAYMENTS

- 6.1 All payments due by the Lessee to the Lessor under this lease must be made to the Lessor via electronic wire transfer to :
- Account # 59120065, Bank Of America, ACH Routing # 557426970** or to such other person, at such other place, as the Lessor has indicated to the Lessee in writing.
- 6.2 The Lessee must not withhold, defer, or make any deduction from any payment it owes the Lessor, whether or not the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee.
- 6.3 The Rent and all other amounts payable by the Lessee under this lease is inclusive of value-added tax (VAT) in so far as it is applicable.
- 6.4 The Lessee will be liable for interest on all overdue amounts payable under this lease at a rate per annum 3% above the prime rate per annum of US Bank Corp , reckoned from the due dates of such amounts until they are respectively paid.

7 DEPOSIT

- 7.1 On the same date that the Lessee enters into the lease they must pay the Lessor a deposit of **\$ 1,00, 000 (One Hundred Thousand Dollars)**. The Lessor can set off this amount against any amount owed to it in terms of this agreement.
- 7.2 If the Lessor sets off the deposit amount against amounts due to it, the Lessee must pay in the amount to make up the difference outstanding in terms of the deposit.
- 7.3 As soon as the Lessee has fulfilled all its obligations in terms of the lease or after the lease has come to an end, the Lessor must refund an amount of the deposit as that has not been applied in terms of the provisions of this Lease, less interest.

8 INSURANCE

- 8.1 The Lessee must not keep or do anything around the Property that may enhance any of the risks against which the Buildings or the Lessor's Equipment may be insured to the extent that the insurance of the Buildings or the Lessor's Equipment is rendered void or voidable or the premiums of such insurance are, or may be, increased.
- 8.2 Without prejudice to any other right of action or remedy the Lessor might have in law or this Agreement, the Lessor may claim full payment of the increase in insurance premiums from the Lessee for the Building because of this breach.
- 8.3 For the purposes of the above provisions, the Lessee may assume that the Building is at all material times insured against:
- risks;
 - on terms;
 - for amounts; and at
 - such premiums,

as are usual in respect of similar Buildings and the contents of similar dwellings.

9 ASSIGNMENT AND SUBLETTING

- 9.1 The Lessee may not, except with the prior written consent of the Lessor:
- 9.1.1 cede or assign (transfer) all or any of the rights and obligations of the Lessee under this lease;
 - 9.1.2 sublet the Property in whole or partly;
 - 9.1.3 give up possession of the Property to any third party;
 - 9.1.4 sublet or give up possession of all or any of the Lessor's Equipment; or
 - 9.1.5 remove or allow to be removed from the Property all or any of the Lessor's Equipment except for repair.
- 9.2 The Lessor must not unreasonably withhold its consent to a subletting of the whole of the Property together with all the Lessor's Equipment.

10 SUNDRY DUTIES OF THE LESSEE

The Lessee will:

- 10.1 keep the Property and all parts thereof clean, tidy, and liveable;
- 10.2 not use the Property or allow it to be used, in whole or part, for any purpose other than that of a private dwelling;
- 10.3 take good and proper care of the Lessor's Equipment and every item thereof, not causing or allowing it to be used for any purpose for which it was not intended;
- 10.4 take all reasonable measures to protect the Property, all parts of it, and the Lessor's Equipment from:
 - abuse,
 - damage,
 - destruction, and
 - theft;
- 10.5 not bring anything onto the Property that might cause damage to the Buildings or the Property because of its weight or other characteristics;
- 10.6 not disobey any of the conditions of title of the Property or any of the laws, rules or regulations affecting owners, tenants or occupiers of the Property;
- 10.7 not cause or commit any nuisance on the Property or cause any annoyance or discomfort to neighbors or the public;
- 10.8 not leave refuse or allow it to accumulate in or about the Property except in adequate refuse bins suitably placed;
- 10.9 not interfere with the electrical, plumbing, or gas installations or systems serving the Property, except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this lease;

- 10.10 not allow more than six persons to reside on the Property at the same time;
- 10.11 keep not more than two live animals on the Property as pets and maintain proper control of them at all times;
- 10.12 not do or display anything which causes the Property to appear unsightly;
- 10.13 take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes and water pipes serving the Property; and
- 10.14 provide at the Lessee's own expense all electric, fluorescent, and incandescent light bulbs required on the Property.

11 MAINTENANCE AND REPAIRS

- 11.1 The Lessee will at his or her own expense and without recourse to the Lessor:
 - 11.1.1 throughout the Lease Period maintain in good order and condition the interiors of the Buildings, including all windows and doors, and the Lessor's Equipment;
 - 11.1.2 promptly repair or make good all damage occurring in or to the interior of any of the Buildings or any of the Lessor's Equipment during the Lease Period, whatever the cause of such damage, and including damage to:
 - any part or item of the Lessor's Equipment, or
 - to any window or door,and replace all the same (as well as any keys) which have been broken, lost or destroyed;
 - 11.1.3 if any item of the Lessor's Equipment is destroyed or damaged beyond repair (whatever the cause of the destruction or damage, but subject to clause 16.4), promptly replace it with a brand new, identical item in good and (where appropriate) working condition or, if an identical cannot be found, one which substantially similar to the original;
 - 11.1.4 take good and proper care of the garden on the Property, including all:
 - lawns;
 - plants;
 - shrubs;
 - trees; and
 - hedges,replacing all such as may die or be damaged (taking seasonal factors into account), carrying out such:
 - watering;
 - cutting;
 - trimming;
 - mowing;
 - pruning;

- fertilising; and
 - other gardening activities;
- as may reasonably be required,
- and supplying all the fertiliser and other substances necessary for these purposes;
- 11.1.5 when the lease terminates return the Property to the Lessor in good order, condition and repair, fair wear and tear excepted;
- 11.1.5.1 the Property and all parts thereof, together with the landlord's fittings and all keys; and
- 11.1.5.2 the Lessor's Equipment and all items thereof (similarly with keys where applicable).
- 11.2 If the Lessee notifies the Lessor in writing within 7 (seven) days after having taken possession of the Property that the Property or any of the Lessor's Equipment needs repairs or of the fact that any part of the Property or the Buildings, including any:
- lock;
 - key;
 - door; or
 - window;
 - any of the Lessor's Equipment;
 - any other improvement on or to the Property,
- is damaged, missing, or out of order, the Lessor must repair or replace the defective item at its own expense.
- If or in so far as the Lessee does not give such notice, the Lessee will be regarded as having acknowledged that the Property, the Buildings, all parts of it, the Lessor's Equipment, and all its items, were intact, in place, and in good order, condition and repair when the Lessee took possession of the Property under this lease.
- 11.3 The Lessor is responsible for the maintenance of, and for all repairs and replacements becoming necessary to, the roofs and outside walls of the Building, and the Lessor's obligations in this respect will include the maintenance and repair of the structure of the Buildings, and all systems, works and installations contained in it, but excluding the monthly charges levied for the burglar alarm or security system.
- 11.4 The Lessor may not, however, be in breach of clause 11.3 if those obligations are not or cannot be fulfilled because of any *vis maior* (act of God or nature) or the acts or omissions of others over whom the Lessor has no direct authority or control. Where the Lessor is indeed in breach of clause 12.3, the Lessee's only remedy against the Lessor is a right of action for specific performance.
- 11.5 If the Lessee fails to carry out any of its obligations under this lease with regard to any maintenance, repair, or replacement, the Lessor may, without prejudice to any of its other rights or remedies, to do a maintenance, repair, or replacement and to recover the cost of it from the Lessee on demand.

12 ALTERATIONS, ADDITIONS AND IMPROVEMENTS

- 12.1 The Lessee may not make any alterations or additions to any of the Buildings, the Property, any part of it, or any item of the Lessor's Equipment without the Lessor's prior written consent. The Lessor must not withhold its consent unreasonably to any such alteration or addition which is of a minor nature and not structural.
- 12.2 If the Lessee does alter, add to, or improve the Premises in any way, the Lessee must, if the Lessor requires it in writing, restore the Premises to its original condition after the lease terminates. The Lessor's request for restoration must be given no later than the thirty days after the Lessee has given the Premises back to the Lessor after termination of this lease. This clause must not be interpreted to exclude any other remedy which the Lessor may have for a breach by the Lessee of clause 13.1.
- 12.3 Except for any improvement which is removed from the Property as required by the Lessor in terms of clause 12.2, all improvements made on or to the Property will belong to the Lessor and may not be removed from the Property. The Lessee will never have any claim against the Lessor for compensation for any improvement or repair to the Property or the Lessor's Equipment, or a right of retention in respect of any improvements.

13 EXCLUSION OF LESSOR FROM CERTAIN LIABILITY AND INDEMNITY

- 13.1 The Lessee will have no claim for damages against the Lessor and may not withhold or delay any payment due to the Lessor by reason directly or indirectly of:
- a breach by the Lessor of any of its obligations under this lease;
 - any act or omission of the Lessor or any agent or servant of or contractor to the Lessor, whether or not negligent, or otherwise actionable at law, and including (without limiting the generality of the above) any act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman, guard, or commissionaire (uniformed worker);
 - the condition or state of repair at any time of the Property, the Buildings, or any part of the Property or the Buildings;
 - any failure or suspension of, or any interruption in, the supply of water, electricity, gas, air-conditioning, heating, or any other amenity or service to the Property or any of the Buildings, whatever the cause;
 - any breakdown of, or interruption in the operation of, any:
 - machinery;
 - plant;
 - equipment, installation;
 - system,in or on, or serving, the Property or any part of it or any of the Buildings, including any plant or any:
 - geyser;
 - boiler;
 - burglar alarm, or security installation or system.
- 13.2 The Lessor is, however, not excused from specific performance of any of its obligations under this lease, whether express or implied. This particularly refers to its obligations to give the

Lessee occupation and enjoyment of the Premises and to do maintenance and repairs as set out in this Agreement and:

- if the Lessor fails to carry out any such obligation of maintenance or repair with reasonable speed or efficiency, and
- persists in such default after receiving reasonable notice in writing to do so,
- the Lessee may do or cause the necessary maintenance or repair (including any incidental or necessary replacement) and
- may then recover the reasonable cost of this from the Lessor on demand.

14 LESSOR'S RIGHTS OF ENTRY AND CARRYING OUT OF WORKS

14.1 The Lessor's representatives, agents, employees and contractors may at all reasonable times, without it giving rise to any claim or right of action on the part of the Lessee or any other occupier of the Premises:

- enter the leased Premises in order to:
 - inspect them,
 - carry out any necessary repairs, replacements, or other works, or
 - to perform any other lawful function in the *bona fide*(good faith) interests of the Lessor or any of the occupiers of the Property; or
- carry out any necessary repairs, replacements or other works elsewhere in the Building or on the Property,

but the Lessor must ensure that this right is exercised with regard for and a minimum of interference with the beneficial enjoyment of the Premises by those who occupy it.

14.2 The Lessor may not, however, cause or allow any major building works to be carried out anywhere on the Property for longer than 6 months from the date on which the building starts unless:

- such works are necessary and do not merely involve additions to the Building, the construction of additional buildings, or redecorations which are merely aesthetic (visual); or
- the Lessee has consented otherwise in writing.

15 DAMAGE TO OR DESTRUCTION OF PREMISES

15.1 If the Premises are destroyed or so damaged that they can no longer be beneficially occupied, this lease will terminate when that happens, unless the parties agree in writing otherwise.

15.2 If the Premises are significantly damaged but can still be beneficially occupied, this lease will continue and the Lessor must repair the damage without delay. The rent must then be abated (lessened) to compensate the Lessee fairly for the effects on the enjoyment of the Premises of the damage and repair work.

- If there is no agreement about the abatement or application of the above clause to any particular circumstances, the parties must refer the matter to an expert appointed jointly by the parties jointly. If however they cannot agree on the appointment of a person, the President of the Institute of Estate Agents of South Africa will appoint one and the decision of such expert will be final and binding.

- The expert's fees and disbursements, including any inspection costs, must be paid by the parties in equal shares.
 - Pending determination of the abatement the Lessee must continue to pay the full rent for the Premises as if they had not been damaged (or be excused from the payment of rent for the Premises), and as soon as the matter has been resolved the Lessor must make the appropriate repayment to the Lessee (or the Lessee shall make up the arrears in the rent as abated).
- 15.3 If either of the Parties caused any damage or destruction to the Premises, the other may still pursue another alternative or additional action or remedy, despite clauses 15.1 and 15.2.

16 SPECIAL REMEDY FOR BREACH

- 16.1 In the event that the Lessee defaults in any payment due under this lease or breaches any other terms which can be construed as a material failure by the lessee to comply with the provisions of the lease, and fails to remedy such default or breach within 20 business days after receiving a written demand that it be remedied, the lease will be deemed to have been cancelled without further notice and the Lessor may will be entitled to take back possession of the Premises and recover damages from the Lessee, which will include rental payments until such time as a replacement lessee is found, as well as the Lessee's attorneys fees on an attorney and client scale, together with interest and collection commission, without affecting any other rights or remedies the Lessor may have.
- 16.2 If the Lessor cancelled this lease justifiably but the Lessee remains in occupation of the Premises, with or without disputing the cancellation, and continues pay rent and any other amounts which would have been payable to the Lessor if it was not for the cancellation, the Lessor may accept these payments without prejudice to and without affecting the cancellation, as if they had been payments on account of the damages suffered by the Lessor by reason of the Lessee's unlawful occupation.

17 CANCELLATION OF LEASE

- 17.1 The lease shall expire on the last date mentioned in paragraph 4 above and the Lessor shall send a notice to the Lessee advising him of the expiry of the Lease. This notice will be sent not more than 80 and not less than 40 business days before the lease terminates.
- 17.2 If the lease is not terminated by the Lessor in terms of paragraphs 16.1 or 17.1 above, or by the Lessee in terms of 17.4 below, then the lease will continue automatically on a month-to-month basis upon the same terms and conditions, except for the rental which will be increased as set out in paragraphs 5.1.2 and 5.2 above. In the event of the lease continuing as aforesaid, either the Lessor or the Lessee may give the other party 1 (one) month's notice to terminate the lease.
- 17.3 The lease will however, not continue automatically as aforesaid while the Lessee is in breach or default of any of the terms of this lease.
- 17.4 The Lessee may cancel the lease at any time during the Lease Period by giving the Lessor 20 business days' notice in writing, provided that the Lessee shall, in such event, be liable to pay to the Lessor on or before the date upon which the lease shall end in terms of the early termination, a reasonable cancellation penalty equal to the following, which the Lessee agrees to be reasonable in the circumstances:

| % Lease Period Remaining | Notice given | Cancellation Fee to be paid by TENANT |
|--------------------------|---------------------------------|---|
| > 50% | Between 20 and 40 business days | 3 x monthly rent + all rent and services up to termination + any damages to the premises. |
| > 50% | More than 40 business days | 2,5 x monthly rent + all rent and services up to termination + any damages to the premises. |
| < 50% | Between 20 and 40 business days | 2 x monthly rent + all rent and services up to termination + any damages to the premises. |
| < 50% | More than 40 business days | 1,5 x monthly rent + all rent and services up to termination + any damages to the premises. |

17.5 The Lessor, acting diligently, will try his best to find another tenant for the remaining period of the Lease. The Lessee will be allowed to assist the Lessor to find a new tenant for the premises in order to minimize the cancellation fee. Any such replacement tenant must, however, comply with the screening- and creditworthiness criteria of the Lessor.

17.6 In the event of the Lessee vacating the premises before an acceptable replacement tenant could be found, the cancellation fee will become due on the date of exit and the Lessee expressly authorizes the Lessor to deduct such amount from the deposit and undertakes to immediately pay any shortfall due. If an acceptable replacement tenant is found before the Lessee vacates, no cancellation fee will be charged and the Lessee will only be liable to pay for all rent and services up to the date of termination of the Lease.

18 NEW TENANTS AND PURCHASERS

The Lessee must at all reasonable times

18.1 during the Lease Period, allow prospective purchasers of the Property or of any shares or other interests in the Lessor; and

18.2 during the last Two Months of the Lease Period, allow prospective tenants or purchasers of the Premises, to enter and view the interior of the Premises.

19 COSTS

The legal costs for preparing this lease will be the responsibility of the Lessee.

20 DOMICILIA AND NOTICES

20.1 The parties choose as their domicilia citandi et executandi (address for legal notices) the addresses mentioned in clause 20.2 below. A party can change its such domicilium of either party may be changed by giving the other party written notice from such party to the other party with effect from the date of receipt or deemed receipt by the party to whom it was sent.

20.2 Addresses:

20.2.1 The Lessor: **Prime Property Management Services**

20.2.2 The Lessee: The Property

- 20.3 Any notice, demand or other communication properly addressed by either party to the other at their chosen domicile and sent by prepaid registered post will be deemed to be received by the other party on the seventh business day following the posting date. This does not exclude other ways and methods (including fax) for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption of delivery will arise if any such other means or method is used.

21 WHOLE AGREEMENT

- 21.1 This is the entire agreement between the parties on the subject.
- 21.2 Neither party relies in entering into this lease upon any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this agreement as warranties or undertakings.
- 21.3 No variation or consensual cancellation of this lease will be of any force unless reduced to writing and signed by both parties.

22 NON-WAIVER

- 22.1 No extension of time or indulgence must be interpreted as a waiver (giving away) of any right in terms of this lease that one party may have against the other.
- 22.2 The failure of either party to comply with any non-material provision of this lease will not excuse the other party from performing its obligations fully and on time.

23 WARRANTY OF AUTHORITY

The person signing this lease on behalf of the Lessor expressly warrants his authority to do so.

24 SALE OF PREMISES

- 24.1 The validity of this lease will not in any way be affected if the Lessor sells the Premises.
- 24.2 The Premises will remain in full force, upon registration of transfer of the Premises into the name of the purchaser, except that the purchaser will be substituted as lessor and acquire all rights and responsibilities under the lease in the same way as the current Lessor.

25 TERMINATION BY DEATH OR INSOLVENCY

- 25.1 This lease will not terminate with the death of either the Lessor or the Lessee. The executor of the deceased Lessee's estate will have the option, depending upon the circumstances of the estate, either to:
- abide by the contract for the remainder period of the lease (the successor or successors of the Lessee assuming his rights and obligations) or
 - to cancel this lease by giving the Lessor One Months written notice of termination, such notice to be given not more than One Months after the death of the Lessee.
- 25.2 The insolvency of either the Lessor or the Lessee will not terminate this lease. However, the trustee of the Lessee's insolvent estate will have the option to terminate this lease by giving the

Lessor written notice. If the trustee does not within three Months of his appointment as trustee notify the Lessor that he wants to continue with the lease on behalf of the estate, he will be deemed to have terminated the lease at the end of the three Months.

SIGNED at **Mc Lean, VA** on this **01Jan 2017** in the presence of the undersigned witnesses
Witnesses:

1 Mark Mobius

2 Lisa Fernandes
(*Signatures of witnesses*)

Peter Ray
(*Signature of Lessor*)