

AGREEMENT OF LEASE

for commercial property

between

.....

and

.....

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;

- 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

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

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;

- 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:

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.

- 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.

4 COMMENCEMENT 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

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 foregoing 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

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,

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:-

- 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

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 untenable 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 untenable 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 untenable, 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 untenable 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 tenable 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 untenable or as to whether it has at any such time been rendered substantially untenable 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

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:-

- 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 foregoing 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,

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.

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

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.
- 10
- 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.

- 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 foregoing 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 foregoing provisions shall apply, *mutatis mutandis*, where the signatory/ies is/are a close corporation/s.
- 14
- 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:

1 _____

1 _____
