



Erf1083 Rooihuiskraal (Pty) Ltd C/O

Clubview Storage

Reg No 1999/01823/07

54 Lyttleton Rd, Clubview, Centurion

## TERMS AND CONDITIONS OF LEASE

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## 1. DEFINITIONS

- 1.1 "Agreement" means the terms and conditions read together with the Storage Lease Agreement as well as any. By signing the Storage Lease Agreement the Tenant unconditionally signifies his/her assent to the terms of the Agreement.
- 1.2 "Lessor" refers to Erf 1083 Rooihuiskraal (Pty) Ltd which carries on business as storage provider of the Goods warehoused at its premises and includes its employees, servants or assigns and agents.
- 1.3 "Lien" means the lien that the Lessor has over the property of the Tenant.
- 1.4 "Storage Facility" means the property of the Lessor on which the storage units are located.
- 1.5 "Storage Unit" means the storage unit or covered parking area allocated in the Storage Lease Agreement.
- 1.6 "The Tenant" refers to the Tenant as per the Storage Lease Agreement.
- 1.7 Any reference in this agreement to the singular also includes the plural or the reference to male also includes the female.
- 1.8 "Goods" mean the goods which the Tenant stores at the storage unit.

## 2. AGREEMENT TO RENT

- 2.1 The Lessor hereby lets to the Tenant the Storage Unit as described in the agreement and the Tenant hereby accepts the lease upon the terms and conditions of the agreement and set out herein.
- 2.2 The Lessor has not warranted or represented to the Tenant that the Storage Unit is fit for the purpose for which it will be utilized by the Tenant. All Storage Unit sizes are approximate, and the Lessor accepts no responsibility for its accuracy. In agreeing to the Terms of this Agreement, the Tenant accepts that it applies to the Storage Unit used by the Tenant and not any Storage Unit represented or shown to the Tenant before this Agreement was entered into.
- 2.3 Subject to compliance with this Agreement, the Tenant shall be afforded access to the Storage Unit during the hours as set out in the agreement, for the purposes of depositing, removing, substituting or inspecting his/her goods. No access to the Storage Unit will be permitted for any other purposes or outside Access Hours.
- 2.4 The Lessor reserves the right to change Access Hours to other reasonable access times at any time without prior notice. Notice of the change in Access Hours will be published at the Storage Facility



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### 3. DURATION

3.1 This Agreement will start on the Commencement Date as set out in the Storage Lease agreement and continue for the Initial Term and will end on the last day of the calendar month at the end of the Initial Term. The Agreement shall automatically renew for further periods of 1 (one) calendar month thereafter, subject to the provisions of clause 2.

3.2 The Tenant shall provide **a calendar month's** written notice to the landlord of his /her intention to vacate the Storage Unit and terminate the Agreement.

### 4 DEPOSIT

4.1 The Tenant shall pay a Deposit equal to one month's rental to the Lessor upon signature hereof, which Deposit shall accrue interest.

4.2 The Lessor shall be entitled to use the deposit or any part of the deposit to cover the cost of any repairs to the Storage Unit for which The Tenant is liable in terms of this Agreement or in law, and for any other costs or damages occasioned by the Tenant's breach of any provision of this Agreement or which may arise in law.

4.3 The Deposit or balance thereof, as the case may be, shall be returned to the Tenant by no later than 30 (thirty) days after the date of termination of the Agreement.

4.4 Should the Deposit not cover the cost of repairs or other costs incurred by the Lessor due to a breach by the Tenant, the Tenant will be liable for such costs as incurred by the Lessor.

4.5 It is specifically recorded that the Deposit may not be used by the Tenant as payment for the last month's Rental or for any other Rental or charge or other amount due to The Lessor in terms of this Agreement without the prior written consent of the Lessor.



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## 5 RENTAL

- 5.1 In consideration for the lease of the Storage Unit as set forth herein, the Tenant shall pay the Lessor the Rental amount agreed upon in the Storage Lease Agreement (and any increased amount).
- 5.2 The Lessor is not obliged to send monthly invoices to the Tenant however upon request by the Tenant of VAT invoice same will be supplied with in a reasonable time. The parties agree that the delivery of a VAT invoice is not a precondition for payment of any monthly rental and the Tenant shall make payment irrespective whether he has received an invoice or not.
- 5.3 The Rental is payable monthly in advance.
- 5.4 In the event that this Agreement commences on a day which is not the 1<sup>st</sup> day of a month, the Tenant will pay pro rata for the first month as well as for the second month in advance.
- 5.5 Rental payments made after the 7<sup>th</sup> day of the month are subject to payment of a late fee of R250.00 per payment. The Lessor is not required to provide notice to the Tenant that the Rental payment has not been received by the Lessor on the due date, the late fee will be levied automatically.
- 5.6 All payments made to the Lessor pursuant to this Agreement shall be applied first to administrative charges and costs (such as Late Fees) before the balance shall be applied to accrued and unpaid Rental.
- 5.7 Should the Tenant fail to vacate the Storage Unit and remove its lock on the last day of the relevant month, then the agreement shall automatically renew on a month to month basis and the Tenant will be liable for rental for every further one month period thereafter until he has vacated the premises and has removed his lock.
- 5.8 The Tenant hereby agrees that:
- 5.8.1 there are no pro-rated Rental refunds in the event that he/she it vacates the Storage Unit before the last day of the month;
  - 5.8.2 if the Storage Unit is vacated at any time without the required notice in terms of clause 3.2 having been provided, the Lessor shall be entitled to retain the Tenant's Deposit; and
  - 5.8.3 if the Storage Unit is vacated on or after the 1<sup>st</sup> of the month, a full month's rent shall be due in respect of such month (and not on or before the last day of the preceding month).
- 5.9 The Lessor reserves the right to increase the Rental annually. If the Tenant does not accept the increase, the Tenant shall be entitled to cancel the Agreement in accordance with clause 3.2 above.
- 5.10 The Tenant shall not be entitled to withhold, delay or abate payment of any amounts due to the Lessor in terms of this Agreement by reason of any breach or alleged breach of the obligations of the Lessor.



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## 6 INSURANCE

- 6.1 The Tenant hereby acknowledges that the Lessor does not carry any independent insurance which in any way covers any loss whatsoever that the Tenant may have or suffer by renting the Storage Unit and hereby expressly releases and indemnifies the Lessor, as well as the Lessor's employees, directors, and agents from any liability for any losses and/or damages to any of the Tenant's Goods in or about the Storage Unit caused by, inter alia, fire, theft, water, rainstorms, tornado, explosion, riot, rodents, civil disturbances, insects, sonic boom, land vehicles, unlawful entry, or any other cause whatsoever, not shall the Lessor be liable to the Tenant and/or the Tenant's guests or invitees or agents while in or about the Storage Unit and the Tenant's indemnity extends to any claims by such persons.
- 6.2 All Goods stored in the Storage Unit shall be so stored at the Tenant's sole risk and the Tenant hereby assumes sole responsibility for the safety of the Goods and any loss or damage to the Goods stored by the Tenant in the Storage Unit.
- 6.3 It is placed on record that the Lessor does not offer any insurance option and that in the event of the Tenant requiring any insurance on his property he/she shall obtain such insurance on his/her own accord.

## 7 WARRANTIES

The Tenant hereby warrants to and in favour of the Lessor that:

- 7.1 The Tenant is the lawful owner of all Goods stored at the Storage Unit and, where applicable, the natural person signing on behalf of the Tenant is duly authorized by the Tenant to store the Goods and control access to the Storage Unit.
- 7.2 The Tenant shall not place or keep in the Storage Unit (unless approved by the Lessor) any food, perishable goods, plants, birds, fish, animals or any other creatures; explosives, flammable liquids, chemicals, radioactive materials, biological agents, toxic waste, asbestos or other materials of a potentially dangerous nature any item which emits any fumes, smell or odour, any illegal substances, illegal items or goods illegally obtained or anything that may damage the Storage Unit or Storage Facility in any way or other goods prohibited by law.  
The Lessor reserves the right to dispose of any and all dangerous goods, hazardous substances, or perishable goods, stored without its knowledge and prior consent, without notice to the Tenant and which are not removed by the Tenant and/or are not sufficiently marked or identifiable by the lessor. Any costs incurred by the Lessor in this process shall be for the Tenant's account.
- 7.3 The Tenant agrees to abide by any rules promulgated by the Lessor governing the use of the Storage Unit from time to time and comply with any reasonable instructions of the Lessor 's employees, agents or contractors at the Storage Facility.
- 7.4 The Tenant shall not permit or cause any damage to the Storage Unit or Storage Facility, and



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7.5 At the expiration or termination of the Agreement (as the case may be), the Tenant shall:

- 7.5.1 remove its lock, vacate the Storage Unit and provide possession of the Storage Unit to the Lessor;
- 7.5.2 vacate the Storage Unit not later than 12 (twelve) midday on the applicable date and during office hours unless prior arrangements have been made with The Lessor; and
- 7.5.3 leave the Storage Unit in a clean, empty and good condition and free of any waste material, ready to be re-rented.

7.6 The Tenant hereby indemnifies and holds the Lessor harmless from any liability or costs which may be incurred by the Lessor as a result of the Tenant's breach of the above warranties and furthermore indemnifies the Lessor against any claim or cause of action arising out of the Tenant's use of the Storage Unit or access to the Storage Facility.

## **8 FURTHER OBLIGATIONS OF THE TENANT AND TERMS OF USE**

8.1 The Tenant agrees that it shall be liable for any damage to the Storage Unit, and to any storage unit leased to other the Tenants, as a result of the Tenant's or the Tenant's agents', guests', invitees' or representatives' actions, and the costs of repair in respect thereof shall be billed to the Tenant accordingly.

8.2 The Tenant agrees that it shall be liable for any damage to the Storage Unit or Storage Facility as a result of the Tenant's or the Tenant's agents', guests', invitees' or representatives' actions, and the costs of repair in respect thereof shall be billed to the Tenant accordingly.

8.3 The Tenant must immediately notify the Lessor in writing of any change in the Tenant's contact details (including the Tenant's email address).

8.4 The Tenant agrees that he will not be entitled to sublet the Storage Unit or any part thereof under any circumstances.

8.5 The Tenant further agrees:

- 8.5.1 to leave the aisles, stairway, service area and lift area of the Storage Facility clear, not to block other the Tenants' storage units and exercise courtesy to others and reasonable care for The Tenant's own safety and that of others using these areas;
- 8.5.2 to meet delivery drivers promptly and to ensure that the front driveway or gate is not blocked under any circumstances;
- 8.5.3 not to use the Storage Unit as offices, shelter, workshop or living accommodation or as a home or business address and not use the address of the Storage Facility or the Storage Unit for receiving or sending mail;



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- 8.5.4 not to leave any waste or refuse that is created by storing the Goods. The Tenant agrees to be charged the reasonable costs of disposing of such waste or refuse if the Tenant fails to comply with this undertaking;
  - 8.5.5 not to affix shelving or other articles to the walls, ceiling, roof trusses or doors of the Storage Unit;
  - 8.5.6 not to use the Storage Unit to manufacture, sell or conduct other business activities or use the Storage Unit or Storage Facility for any purpose other than for the purpose of storing the Goods.
  - 8.5.7 to inform the Lessor immediately in writing of any damage or defect to the Storage Unit; and
  - 8.5.8 that the Lessor may, in its discretion, deny access to the Storage Unit and/or the Storage Facility in case of emergencies.
- 8.6 The Tenant must ensure that the storage unit is suitable for the storage of the Goods that the Tenant stores or intends to store in it. The Lessor does not warrant or represent that any storage unit allocated to the Tenant is a suitable place or means of storage for any particular goods. The Lessor strongly advises the Tenant to inspect the storage unit before storing goods in the storage unit and from time to time throughout the period of this agreement;
- 8.6.1 The Tenant must ensure that when the Goods are presented for storage, it will be securely and properly packed or bottled ( as the case may be) and in such condition as not to cause damage or injury to the storage unit or Storage Facility or to any other property, whether by spreading damp, gestation, leakage or the escape of fumes or substances or otherwise howsoever; in addition, the Goods will not be perishable or include any animal or other living creature;
  - 8.6.2 The Tenant must complete an inventory of their Goods. The Lessor is not obliged (but entitled to) to inspect the Goods when they arrive at the Storage Facility and does not keep any records concerning, or any inventory of the goods, nor does the Lessor have any knowledge of their nature, condition or state or repair.
- 8.7 In the event that the Tenant does not pay the Rental or other charges, the Goods are left in the Storage Unit at the Tenant's sole risk. The Lessor excludes any liability in respect of the Goods when payment of Rental or charges is overdue and excludes any duty of care howsoever arising. This clause will not be interpreted in such a manner to have the effect that the Lessor ever bares any risk regarding the Goods stored.
- 8.8 The Tenant must provide its own lock and keep the Storage Unit locked at all times, by using only one lock per unit door latch. The Tenant must ensure the Storage Unit is locked so as to prevent unauthorized entry when the Tenant is not using the Storage Unit. The Lessor reserves the right to remove any additional locks.
- 8.9 The Tenant permits the Lessor and its agents and contractors to enter the Storage Unit and if necessary, break the lock to gain entry if the Lessor:-



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8.9.1 provides The Tenant not less than 7 (seven) days' notice to inspect the Storage Unit or carry out repairs, maintenance and alterations to it or any other storage unit or part of the Storage Facility;

8.9.2 At any time without notifying the Tenant if the Lessor:

8.9.2.1 reasonably believes that the Storage Unit contains any items described in clause 8.2 or is being used in breach of this agreement;

8.9.2.2 has to ascertain whether the Storage Unit contains any items described in clause 8.2.

8.9.2.3 is required to do so by the Police, Fire Services, Local Municipality or by a Court Order;

8.9.2.4 believes it is necessary in an emergency for any purpose;

8.9.2.5 is to prevent injury or damage to persons or property.

8.10 This Agreement shall not confer to the Tenant any right to exclusive possession of the Storage Unit.

8.11 The Lessor may at any time by giving the Tenant 7 (seven) days' written notice require the Tenant to remove the Goods from the Storage Unit to another storage unit specified by the Lessor which shall not be smaller than the current storage unit.

8.12 The Lessor agrees to pay the Tenant's reasonable costs of removal which have been approved in writing by the Lessor in advance of the removal.

8.13 If the Tenant does not arrange the removal of the goods to the alternative storage unit by the date specified in the Lessor's notice, the Lessor and its agents and contractors may enter the Storage Unit and do so. In doing so, the Lessor and its agents and contractors will act as the Tenant's agent and the removal will be at the Tenant's risk (except for loss or damage caused wilfully or negligently by The Lessor and its agents and contractors).

8.14 If the Goods are moved to an alternative storage unit, this Agreement will be varied by the substitution of the alternative storage unit but shall otherwise continue in full force and effect and the Lessor's Rental and amended from time to time in accordance with this Agreement will continue to apply to the use of the alternative storage unit.

## 9 LIMITATION OF LIABILITY

9.1 The Lessor shall not be liable to the Tenant or any third party, whether in contract, delict or otherwise, for any direct, indirect or consequential damages including (without limitation) loss of data, profits or custom, and/or business foregone, any acts of God, and/or personal injury or whatever nature, earth moving, whether foreseeable or not and whether or not in the contemplation of the parties at the time of the conclusion of the Agreement.

## 10 BREACH

If the Tenant:

10.1 commits a material breach of this Agreement and fails to remedy such breach within 5 (five) calendar days of written notice; or





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10.2 goes into provisional or final liquidation or has a petition presented for its winding up or liquidation;

Then the Lessor may, without prejudice to any other rights or remedies in law, including the right to claim damages and the right to require specific performance, and without being liable to the Tenant for any loss or damage which may be occasioned, terminate this Agreement.

10.3 is in arrears with Rental and/or any other amounts due and payable to the Lessor on or after the 1<sup>st</sup> day of the month in respect of which such Rentals or other amounts fall due, then The Lessor shall be entitled to deny the Tenant access to the Storage Unit by locking the Storage Unit until the amount in arrears has been paid in full.

## 11 PAYMENT

11.1 The Prompt Payment of each and every sum whether invoiced or not, owing by the Tenant to the Lessor from time to time under this Agreement or any other Agreement between the Tenant and the Lessor ("The Tenant's Debt") is of the essence of the agreement. Prompt Payment is defined as payment of each and every sum due under this agreement on the first day of each month and, in respect of any sum being due under any other agreement between the Lessor and the Tenant, payment within five days of that sum being demanded in writing.

11.2 The terms of this clause are additional to and without prejudice to all or any rights or remedies in law.

11.3 In the event of a default of the Prompt Payment of The Tenant's Debt:

11.3.1 The Lessor is relieved of any duty howsoever arising in respect of the Goods; and

11.3.2 The Goods are held solely at the Tenant's risk and the Lessor shall be able to immediately exercise the lien described below.

11.4 The Tenant hereby acknowledges and agrees that in addition to the pledge provided below, the Lessor shall have a lien on all Goods stored within the Storage Unit to secure payment of all amounts due to the Lessor under this Agreement and that in terms thereof the Tenant shall not be entitled to remove any Goods from the Storage Unit until payment of the Tenant's Debt in full has been received by the Lessor in cash, or electronic funds transfer (which reflects in the Lessors bank account).

11.5 In default of the Prompt Payment of the Tenant's Debt, the Tenant authorizes The Lessor :-

11.5.1 to refuse the Tenant and The Tenant's agents access to the Goods, the Storage Unit and the Storage Facility;

11.5.2 to access the Storage Unit and inspect and remove the Goods to another Storage Unit or Storage Facility and the Tenant agrees to be liable for any damage, loss or expenses incurred as a result thereof; and

11.5.3 to hold onto and/or ultimately dispose of some or all of the Goods or



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11.5.4 to require that the Tenant immediately removes the Goods from the Storage Unit.

- 11.6 In the event that the Tenant's Debt is not paid within 20 business days after the first day of the month or the Tenant fails to collect the Goods after the Lessor has required the Tenant to collect them or upon expiry or termination of this Agreement, the Lessor may sell the Goods and pass all ownership to them and use the proceeds of sale to pay first the costs incurred by the Lessor and secondly in paying the Tenant's Debt and to hold any balance for the Tenant. Interest will not accrue to the Tenant on the balance. The Lessor is not obliged to sell the Goods, and failure to collect the goods will then entitle the Lessor to dispose of the property as it deems fit including donation or abandonment thereof.
- 11.7 If the Lessor elects to sell the Goods, and the proceeds of sale are insufficient to discharge all or any part of the costs of sale incurred by the Lessor and the Tenant's Debt the Tenant must pay any balance outstanding to the Lessor within 7 (seven) calendar days of a written demand from The Lessor, which will set out the balance remaining due to The Lessor after the net proceeds of sale have been credited to the Tenant. Interest will continue to accrue on the Tenant's Debt until payment has been made.
- 11.8 Before The Lessor sells the Goods, the Lessor will give the Tenant notice in writing of the amount of the Tenant's Debt at the date of the notice and that in default of payment within 20 (Twenty) business days of the date of the notice, the Lessor will sell the Goods in the manner set out in the said notice. The Lessor does not agree to give the Tenant any further notice of any intended sale.
- 11.9 The Lessor will sell the Goods by any method(s) reasonably available to achieve a selling price reasonably obtainable in the open market, taking into account the costs of sale.
- 11.10 If the Goods cannot reasonably and economically be sold (for any reason whatsoever) or they remain unsold despite the Lessor's efforts, the Tenant authorises The Lessor to treat them as abandoned by the Tenant and to destroy or otherwise dispose of them at The Tenant's cost.
- 11.11 The Tenant will pay the Lessor's reasonable costs incurred in administering the debt collection and sale process described in this clause. These costs will include (without limitation) auction costs, removal costs, cleaning costs and charges for the Lessor's own time.
- 11.12 If the Tenant's Debt is paid to the satisfaction of the Lessor prior to the Goods being sold, the Lessor shall restore the Tenant's access to the stored Goods. In such an event it is the Tenant's responsibility to replace their lock at the time of payment to ensure the security of its Storage Unit.

In addition to the above remedies:

- 11.13 The Tenant agrees that in the event of any legal action being instituted against the Tenant as a result of a breach of this Agreement, the Tenant shall pay all the costs incurred in respect thereof on an attorney and own client scale, including all collection fees and any tracing charges that may be incurred from time to time.



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11.14 Should payment in respect of any amounts in arrears not have been received by the Lessor by the 15<sup>th</sup> of the month in question, the Lessor shall be entitled, but not obliged, to take action in terms of Section 32 of the Magistrate's Court Act, whereby an ordinary summons will be issued and the Goods stored in the Storage Unit attached to cover the Lessor's expenses and any amounts due to the Lessor under the terms of this Agreement.

11.15 A partial payment of amounts in arrears will not stop fees or charges being incurred or official procedures being implemented. Any agreement between the Tenant and the Lessor to extend the payment dates or defer sale of Goods must be in writing and signed by both parties to be binding.

## 12 PLEDGE

12.1 As security for its obligations in terms of this Agreement, the Tenant hereby pledges and cedes to the Lessor all right title and interest to all goods stored by the Tenant in the Storage Unit.

12.2 The Tenant agrees that the act of storing goods in the Storage Unit will constitute delivery of the said goods to the Lessor thereby constituting the pledge.

12.3 The Lessor shall have the right of *parate executie*. This means that the Lessor will be exempted to apply for a court order in order to sell the goods or otherwise as provided for in the terms and conditions.

## 13 NOTICES AND DOMICILIA

### 13.1 NOTICE TO THE TENANT:

13.1.1 The Lessor will be entitled to give any notice pursuant to this Agreement in any of the following manners:

13.1.1.1 by hand delivery to the Tenant's chosen *domicilium citandi et executandi* in terms of this Agreement; or

13.1.1.2 By sending by e-mail to the Tenant's e-mail address as set out in the Storage Lease Agreement.

The Tenant hereby chooses as his *domicilium citandi et executandi* any one of the aforesaid

### 13.2 NOTICE TO LESSOR:

The Tenant will be entitled to give any notice pursuant to this Agreement by sending by e-mail to the Lessor's e-mail address as mentioned in the Storage Lease Agreement.

The Lessor hereby chooses as his *domicilium citandi et executandi* the e-mail address aforesaid.



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## 14 GENERAL

- 14.1 Any right granted herein to the Lessor may be exercised by the Lessor's rental agent or other representative or agent.
- 14.2 If this Agreement is signed for the Tenant by a person ("the Signatory") acting as an agent on behalf of the Tenant, then that Signatory in their personal capacity shall be liable for all the obligations imposed on the Tenant in terms of this Agreement in the event the Tenant fails to comply with its obligations in terms hereof. The signatory may be required to sign a suretyship simultaneously herewith (in the discretion of the Lessor).
- 14.3 All of the schedules and/or annexes hereto are incorporated herein and shall have the same force and effect as if they were set out in the body of this Agreement.
- 14.4 This Agreement shall extend to and be binding upon the parties hereto, their heirs, executors, administrators and assigns.
- 14.5 No extension of time or indulgence granted by the Lessor to the Tenant shall be deemed in any way to affect, prejudice or derogate from the rights of the Lessor in any respect under this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.
- 14.6 The terms of this Agreement form the sole contractual relationship between the parties in relation to the subject matter of the Agreement and no variation of this Agreement shall affect the terms hereof unless such a variation shall be reduced to writing under the hands of the parties hereto.
- 14.7 If any provision of this Agreement is unenforceable then that unenforceable provision is deemed severed from the remaining provisions of this Agreement, which shall not be affected and shall remain in full force and effect.
- 14.8 If the Storage Facility should be destroyed or so damaged that it can no longer be beneficially occupied by the Tenant, this Agreement shall automatically terminate when that happens unless the parties agree otherwise in writing.
- 14.9 This Agreement shall be construed and governed in accordance with the laws of the Republic of South Africa and the parties agree that any magistrate court which has jurisdiction over the person of the Tenant shall have jurisdiction to entertain any action or proceeding that may arise out of this Agreement.
- 14.10 The Tenant consents that the Lessor may process his/her/its personal information as set out in the Protection of Personal Information Act 4 of 2013 to carry out actions for the conclusion or performance of this agreement.
- 14.11 The Tenant consents to the Lessor and/its agents requesting any information available on any Credit



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Bureau and/or financial institution regarding the Tenant.

- 14.12 In the event that the Lessor has to take steps for collection of outstanding debt, the Lessor may file a negative report against the Tenant's profile at one or more of the major Credit Bureaus in South Africa.