

ELSMA REZ TERMS OF LEASE

1. CONSUMER PROTECTION ACT NOTICE

- a. In complying with the Consumer Protection Act 68 of 2008, together with the Regulations thereto, certain portions of the agreement have been printed in bold italics. The reason for this is to specifically draw the TENANT's attention to these clauses as they either:
 - b. Limit in some ways the risk of the TENANT or any other person;
 - c. Constitute an assumption of risk or liability by the tenant;
 - d. Impose an obligation on the TENANT to indemnify the LANDLORD or any other person, or
 - e. Are an acknowledgement of a fact by the TENANT.

The TENANT is required to ensure that before signing this agreement that he or she has had adequate opportunity to understand these terms.

The Lease Agreement is subject to the Consumer Protection Act because:

- It is a fixed term and
- The LANDLORD is leasing the premises in the ordinary course of the LANDLORD's business; and
- The TENANT is not a juristic person(a company, close corporation, trust or partnership with an annual turnover or asset more than R 2000 000.00)

In the event that this lease is found not to fall within the ambit of the Consumer Protection Act, or if the commercial Lease agreement is exempted from the operation of the Act at anytime, the TENANT's right to cool off and clause 1 do not apply.

2. DIRECT MARKETING AND COOLING OFF:

- a. In terms of section 16 of the Consumer Protection Act, if the lease agreement was concluded as a result of the direct marketing, the TENANT has the right to cancel the agreement without reason or penalty, by written notice, within 5 (FIVE) business days after the agreement has been concluded or after occupation of the premises has been taken.
- b. And in the event of this agreement been entered into as a result of no direct marketing the TENANT acknowledge that he will not have the right to cool off from this agreement and that the agreement will become effective immediately upon signature hereof.
- c. The TENANT warrants that this lease agreement has not resulted from direct marketing and the LANDLORD enters into this transaction relying on such a warranty.

3. DEFINITIONS

3.1 The TENANT is

(a) A Natural Person

Name and Surname : _____

ID /Passport No: _____

Address: _____

3.2 The LANDLORD is

(b) Juristic Person

Legal Name: _____

Registration Number: _____

Represented By: _____

Address: _____

3.3 THE PROPERTY:

Street Name
And Number:

IT IS HEREBY AGREED THAT THE ABOVE NAMED PARTIES SHALL LET THE ABOVE NAMED PROPERTY ON THE TERMS AND CONDITIONS CONTAINED HEREIN AND THAT THE FOLLOWING ANNEXURES SHALL FORM AN INTEGRAL PART OF THE AGREEMENT:

- Preoccupation inspection form (Annexure B)
- House Rules (Annexure A)

4. Amount Payable By the TENANT on signature of hereof:

Admin Fee:

Deposit :

First Month's Rent:

Total Due

5. LEASE AND PREMISES:

The LANDLORD lets and the TENANT hereby hires from the LANDLORD the property, more fully described as:

LENGTH OF FIXED TERM LEASE:

(i) The lease shall be for a fixed period of **xxx** months only, Commencing _____
_____ and terminating on _____ at **12 noon.**

LEASES DONOT END IN DECEMBER

6. TERMINATION OF AGREEMENT ON EXPIRY OF FIXED PERIOD:

7. RENTAL

7.1 The basic monthly rental payable by the TENANT to the LANDLORD from the Commencement Date shall be the sum of **R** _____ per month. The TENANT hereby acknowledges such rental to be reasonable.

7.2 The said rental shall be paid monthly in advance by means of a debit order or internet banking and **cleared** in the bank account of the LANDLORD as set forth below by no later than the first day of each month without any deduction or set off whatsoever, except as agreed herein, during the currency of this lease.

Bank Account Details:

Account Holder:

Bank:

Branch Name:

Branch Code:

Account Number:

Reference:

premises / *Tenant's Name*

Any payment of rentals after the fourth working day of the month for which the rental is due shall be subject to a surcharge of **R 250.00 (Two Hundred and fifty Rand)** without consultation with the TENANT. The TENANT hereby acknowledges this surcharge to be fair and reasonable and undertakes to pay such surcharge to Elsma CC on demand. The penalty can alternatively be deducted from the deposit held in trust which amount shall immediately be reinstated by the TENANT.

7.3. The TENANT shall, when effecting payment to the LANDLORD, clearly identify each payment as being a payment made by the TENANT and shall confirm with the LANDLORD that payment has been received.

7.4. **The TENANT must repay the LANDLORD for any Bank charges resulting from payment made by the TENANT to the LANDLORD.**

8. ELECTRICITY

The tenant shall bear all electric current costs with effect from the Commencement Date

9. THE GENERAL OBLIGATION OF THE TENANT

The TENANT shall:

Use the Premises only for residential accommodation;

- Keep and maintain in good order and condition (and repair and replace if necessary), at the TENANT's cost, the interior and the exterior of the Premises including all the Landlord's fixtures, fittings and cisterns, hand basins, hot water cylinders, interior plumbing, electrical fuses, wall tiles, locks, keys, remote gate controls, door handles, windows (including glass, catches and fittings), doors, light bulbs, tubes, starters and ballasts in respect thereof, fair wear and tear excepted. "Fair wear and tear means any decline which results from ordinary use and exposure over time, including breakage or malfunction due to age or deteriorated condition, **but not where such decline results from negligence, carelessness, accidents, or abuse by the Tenant or tenant's visitor.**
- Where applicable maintain and keep the garden, yard and grounds in good order and condition and without limiting the generality of the foregoing, the TENANT shall care for and maintain the yard clean and keep all lawns properly cut hedges trimmed, bushes, shrubs etc. pruned and sprayed at the appropriate season
- Not insert or drive any nails or screws or any other material in or upon the floors, walls, ceilings or any other part of the premises, without the written consent of the LANDLORD nor shall the TENANT make any writing or scratches in or upon or otherwise deface any portion of the Premises
- Make good any damage caused to the premises as a result of the transport of any furniture or other articles in or out of the premises;
- Keep the Premises in a clean, tidy and sanitary condition;
- Maintain in good condition all furniture and household items provided by the LANDLORD in the units;
- Not remove any movable property found in the premises.
- Repair any damage to the walls, doors and floors of the Premises caused by the removal of the TENANT's fitted carpets (if any) at the termination of the lease;
- Where applicable steam clean carpets professionally every 5 (FIVE) months and treat and remove mildew formation in the bathroom
- Not make any alterations or additions of any nature whatsoever to the premises;
- Notify the LANDLORD in writing within 48 hours after the Commencement Date of any defects in the Premises and shall, if the TENANT has not notified the Landlord as aforesaid, be deemed to have acknowledged that the Premises were received in good order and condition;
- Not install any air-conditioned or like device on or adjacent to any window of the premises;

- Not cede any of its rights; delegate any of its obligations, or mortgage, pledge or encumber any of the TENANT's rights under this lease;
- Not sub-let, permit anyone else to occupy, or take possession of the Premises or part thereof without permission in writing being granted by the Landlord;
- Ensure that TENANT's refuse does not remain on or outside the premises, save in the place provided thereof;
- Use its best efforts to prevent any blockage of sewerage or water pipes or drains in or connected with the premises;
- Remove at TENANT's cost any obstruction or blockage in any sewerage, water pipes or drains serving the Premises exclusively, and where necessary repair the sewer, pipe or drain concerned;
- Not do anything or permit to be done in or on the Premises, which may be or may become a nuisance or annoyance to or in any way interfere with the comfort of the neighbours;
- Comply with all laws, ordinances, by-laws, regulations, proclamations and conditions of title application to the premises, tenants or occupiers of the Premises;
- Not have any contractual or delictual claim for damages (direct or consequential) against the LANDLORD for any loss, damage or injury the TENANT may directly or indirectly suffer by reason of any latent or patent defects in the premises, or fire in the Premises, or theft from the Premises or by reason of the Premises or any part thereof being in a defective condition or state of disrepair over any particular repair not being effected by the Landlord timeously or at all, or arising out of any defect in the water, gas or electricity supply to the premises, or arising out of vis or causus fortuitus or any other cause either wholly or partially beyond the Landlord's control, or arising from any other cause whatsoever;
- Not do or omit to do anything or keep in or on the Premises anything or allow anything to be done or kept in or on the Premises which in terms of any insurance policy held from time to time by the LANDLORD in respect of the Building and/or the Premises may be done or kept therein, or which may render any policy(cies) void or voidable and the TENANT shall comply in all respects with the terms of any such policy(cies), provided that if any premium payable in respect of any such policy(cies) is increased as a result of the Tenant's not complying with the aforesaid provisions, then without prejudice to any other rights which the Landlord may have as a result of that breach, the TENANT shall on demand refund the LANDLORD the amount of that additional premium;
- Not keep any animals or pets of whatsoever kind on the Premises.
- On termination of the lease, forthwith deliver all keys to the LANDLORD or its agent(s);
- On termination of this lease return and deliver to the LANDLORD the premises in good order and condition and sign all the documents.

9 BREACH

10 CANCELLATION OF FIXED TERM AGREEMENT

- This lease is a fixed term agreement, and the TENANT is entitled to cancel the lease agreement before the expiry date by supplying the LANDLORD with 20 business days notice, in writing.
- In the event of the TENANT exercising this right, the TENANT will become liable do the LANDLORD for a reasonable cancellation penalty.
- ***The parties hereby agree that the reasonable cancellation penalty shall include, but under no circumstances be limited, to the following :***
 - ***an amount of three months rental;***
 - ***An amount of R 1500, 00 being the agreed pre-estimate of cost to be incurred by the LANDLORD in procuring a replacement TENANT through advertising or agent's commission and credit checks.***
- ***The LANDLORD shall be obliged to take all reasonable steps to find a replacement TENANT to take over the premises. In the event that the LANDLORD does find another***

TENANT to take over the premises within 3(THREE) months after cancellation in terms of this paragraph, the LANDLORD shall refund to the TENANT a proportionate amount of the penalty of three months

11 PRE-OCCUPATION AND MOVING OUT INSPECTIONS:

The parties acknowledge that in terms of the section of the 5(3) of the Rental Housing Act of 1999, a joint incoming inspection has to be done by both parties or their appointed agents before the TENANT takes occupation of the property. This inspection shall be done on **xxxxxxxxxxx**

A list of defects found during said inspection is to be attached to this contract as Annexure A and initialed by all parties. Should the TENANT fail to be present at such time the property will be regarded to in a perfect state of repair at the inception of the lease.

The joint moving out inspection will be done at the predetermined time and date _____ 20 ____ the TENANT will ensure that the premises are vacant at the time. Failure by LANDLORD to inspect the dwelling in the presence of the TENANT it is deemed to be an acknowledgement by the LANDLORD that the dwelling is in a good state of repair and LANDLORD will have no further claim against the TENANT and deposit together with interest in such situations will automatically be repaid as provided for in clause 13.2 hereof

In the event that TENANT fails to respond to the LANDLORD's request for an inspection prior to the termination of the lease, the LANDLORD, must on the termination of the lease, inspect the dwelling within 7(seven) days from such termination in order to assess any damage or loss that occurred during the tenancy. The LANDLORD is entitled to recover such damage and/or loss from the TENANT

12 DEPOSIT

The TENANT agrees to pay a damage deposit of **R xxxxxxxxxxxx** on signature hereof, for any claim for damages. The TENANT shall not be entitled to take occupation of the property prior to the payment of the deposits. The said deposit paid shall be retained by the LANDLORD for the duration of the lease, and the LANDLORD warrants that these deposits shall be placed with a registered Bank in an interest-bearing account which interest shall accrue in favour of the TENANT. The damages deposit plus interest thereon shall be refunded within the allowable time periods as contained in section 5 (3) of the Rental Housing Act of 1999, after the TENANT has vacated the property on expiration of the lease, or after the damages caused have been repaired or rectified and all lost or broken keys have been replaced. The deposit may not be utilized by the TENANT as payment for the last month's or any other rental

The LANDLORD shall be entitled in his sole discretion to apply a portion of the deposit towards the remediation of damage to the premises caused by the tenant.

13 GENERAL RIGHTS AND OBLIGATIONS OF THE LANDLORD

The LANDLORD shall notwithstanding anything to the contrary herein contained or implied bear the cost of any major structural repairs which may from time to time be required to the Premises; and any repairs which may from time to time be required to the roofs of the Dwelling and out-building (s)

may, at any mutually agreed time have reasonable access to the Premises for the purpose of inspecting the Premises or for showing the prospective TENANTS or purchasers the Premises or for any other reasonable purpose, repair or add to the Premises when required to do so by any lawful authority, provided that the LANDLORD shall exercise its right in terms hereof with the least possible inconvenience to the TENANT;

14 RIGHT TO CEDE LEASE

The LANDLORD shall at anytime and without the consent or prior notice to the TENANT be entitled to cede and/or delegate and/or assign all or any of its rights and/or obligations under the Lease to any other person whomsoever.

The TENANT agrees that it shall recognize and be bound (both as towards the LANDLORD and such other person) by any such cession and/or delegation and/or assignment, and that it shall not in consequence of any such cession and/or delegation and/or assignment, be entitled to terminate this Lease or to claim damages from or any other relief against the LANDLORD

15 FURNITURE AND EQUIPMENT

Should the property be furnished and equipped, the LANDLORD hereby agrees to provide the TENANT with an inventory of such furniture and equipment which the TENANT acknowledge on possession and the LANDLORD will inspect on termination of the lease. The TENANT hereby agrees that should any items then be found to be missing or damaged the TENANT shall be liable for the replacement or repair thereof at the TENANT's cost and/or deductible from the damage deposit. The above will take effect if this list only was compiled and signed by both parties at the time of doing the pre-occupation inspection.

16 NOTICES AND DOMICILIA

17 ARBITRATION

Any dispute, question or difference arising at any time between the parties to this agreement out of or in regard to any matters arising out of; or the rights and duties of any of the parties hereto; or the interpretation of or the termination of; or any matter arising out of; or the rectification of this agreement, shall be submitted to and decided by arbitration on written notice given by either party to the other.

There will be one arbitrator who will be a practicing junior member of the Cape Bar of not less than 5 years standing; The party who has declared the dispute will request within 14 days of the written dispute declaration that the Chairman for the time being of the Cape Bar Council appoint an arbitrator.

The appointment of the arbitrator by the Chairman for the time being of the Cape Bar Council and who in making his appointment will have regard to the nature of the dispute.

The arbitrator, who shall act as an expert shall have the powers conferred upon an arbitrator under the Arbitration Act No. 42 of 1965, as amended or re-enacted in some other form from time to time but will not be obliged to follow the procedure described in that Act and will be entitled to decide on such procedures as he may consider desirable for the speedy determination of the dispute.

The arbitration shall be held in Cape Town in accordance with the provisions of the Arbitration Act referred to above, save that the arbitration shall be informal and the parties shall not be entitled to legal representation nor shall they be allowed to have a legal representative present as an observer but shall be represented solely by themselves or in the case of a company or a business, by a member or members of their full-time management or of their boards of directors, it being the agreed intention that, if possible, the arbitration shall be held and concluded within twenty-one days after it has been demanded.

The decision of the arbitrator, including any order as to the costs of the arbitration, shall be final and binding on the parties and may be made an order of any court of competent jurisdiction.

Each of the parties hereby submits itself to the jurisdiction of the Cape of Good Hope Provincial Division of the Supreme Court of South Africa should any party wish to make the arbitrator's decision an order of Court.

This Clause shall constitute each party's irrevocable consent to the arbitration proceedings and no party shall be entitled to withdraw here from or to claim at such arbitration proceedings that it is not bound by this clause

This clause is severable from the rest of the agreement and shall therefore remain in effect.

18. GENERAL

19. ADDITIONAL COSTS

The TENANT shall on demand pay to the LANDLORD or its duly authorized agent a parking fee of Rxxxxxxx per month where applicable.