

# STANDARD RESIDENTIAL PROPERTY LEASE

## (FOR FREEHOLD PROPERTY)

**PLEASE NOTE:** This lease agreement is intended to give individuals a very general outline of some of the provisions which may be included in a residential property lease. It is not intended to be comprehensive or a substitute for detailed or specific legal advice. Certain provisions of this lease may not be suitable for use in relation to leases which are subject to the provisions of the Consumer Protection Act, 2008 or similar legislation. **Your use of this lease or any part thereof is at your own risk. Private Property is not liable for any loss or damage which you may suffer arising from, or as a consequence of, your use of this agreement.**

### THE SCHEDULE

**Please complete the following:**

[delete the provisions which are not applicable and initial the deletion]

1.	<b>The Landlord's details</b>
	Full names
	Physical address
	Postal Address
	Email address
	Fax no.
	Landline no.
	Cell no.
2.	<b>The Tenant's details</b>
	Full names
	Physical address
	Postal Address
	Email address
	Fax no.
	Landline no.
	Cell no.
3.	<b>The Premises</b>
	Physical address
4.	<b>The Commencement Date and Expiry Date</b>
	This lease commences on ..... and shall continue in force until .....
5.	<b>The Deposit</b>
	On the Commencement Date/Signature Date/.....(specify other date), the Tenant must pay the Landlord a Deposit of R.....
6.	<b>The Monthly Rental</b>
	From ..... to ..... the monthly rental is R.....
	From ..... to ..... the monthly rental is R.....
	From ..... to ..... the monthly rental is R.....
	From ..... to ..... the monthly rental is R.....
7.	<b>Monthly Rental Payment Date</b>
	The Tenant must pay the Monthly Rental to the Landlord in advance and in full, on or before .....
8.	<b>Maximum number of persons to reside in Premises</b>
	Per bedroom:
	Staff rooms:
9.	<b>The Landlord's banking details</b>
	Bank
	Branch code
	Account name
	Account type
	Account number

**\*The Tenant must attach a copy of the Tenant's identity document and marriage certificate to this lease, if Tenant is an individual.**

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**1. PREMISES LEASED**

The landlord whose details appear in clause 1 of The Schedule ("the Landlord") lets to the tenant whose details appear in clause 2 of The Schedule ("the Tenant") who hires the premises specified in clause 3 of The Schedule ("the Premises") from the Landlord, together with all fixed improvements thereon.

**2. DURATION**

This lease shall commence on the commencement date set out in clause 4 of The Schedule ("the Commencement Date") and expires on the expiry date set out in clause 4 of The Schedule.

**3. OCCUPATION TO BE TAKEN ON THE COMMENCEMENT DATE**

Unless the parties agree otherwise in writing, the Tenant shall take physical occupation of the Premises on the Commencement Date.

**4. INSPECTION OF PREMISES BEFORE OCCUPATION**

4.1 Before the Tenant takes occupation of the Premises, the Landlord and Tenant must meet at the Premises and must together inspect the Premises to determine whether the Premises are damaged or defective in any way and to record the details of any damage and/or defects in the Premises in the schedule attached to this lease marked "**A**".

4.2 The purpose of schedule "**A**" is to have a record of the condition of the Premises at the Commencement Date. The Landlord shall not be obliged to fix or remedy any damages or defects in the Premises, which are let in the condition in which they now stand, unless otherwise agreed by the parties.

**5. INSPECTION OF PREMISES ON TERMINATION OF THE LEASE**

5.1 If the lease expires or is terminated for any reason, at least 3 days before the date of expiry or termination, the Landlord and Tenant must arrange a joint inspection of the Premises at a mutually convenient time to determine whether there was any damage caused to the Premises during the Tenant's occupation. The Tenant shall be liable for the cost of repairing any such damage.

5.2 If the Tenant fails to meet with the Landlord as contemplated in clause 5.1, the Landlord must within seven days after the date of expiry or termination, inspect the Premises to assess any damages which occurred during the Tenant's occupation.

**6. DEPOSIT**

6.1 On the date set out in clause 5 of The Schedule, the Tenant must pay the Landlord the deposit set out in the schedule, by electronic funds transfer into the Landlord's banking account.

6.2 The deposit shall be invested in the Landlord's name, in an interest bearing banking account at a financial institution and at an interest rate not less than the rate applicable to a savings account with a financial institution.

6.3 All interest earned on the deposit shall be for the benefit of the Tenant.

6.4 On expiry or termination of the lease for any reason, the Landlord may use the deposit and interest to cover any costs for which the Tenant is liable under the lease, including the reasonable cost of repairing damage to the Premises and the cost of replacing lost keys.

6.5 The Landlord must refund the balance of the deposit and interest, if any, to the Tenant not later than 14 days after the date on which the Tenant returns the Premises to the Landlord.

6.6 The Tenant may not withhold payment of any amount due to the Landlord because the Landlord is holding the deposit.

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**7. MONTHLY RENTAL**

- 7.1 For the duration of this lease, the Tenant must pay the Landlord the rental ("Monthly Rental") set out in clause 6 of The Schedule.
- 7.2 The full amount of the Monthly Rental must be paid:
- 7.2.1 monthly in advance on the payment date set out in The Schedule;
- 7.2.2 by electronic funds transfer into the Landlord's bank account, the details of which are set out in clause 9 of The Schedule.
- 7.3 The Tenant may not deduct from the Monthly Rental any amount which the Tenant alleges that the Landlord owes to the Tenant.

**8. WATER, ELECTRICITY AND TELEPHONE**

- 8.1 The Tenant shall arrange for the supply of water, electricity and telephonic services to the Premises and shall pay the charges for these services within the time allowed for payment by the service provider.
- 8.2 If the Tenant fails to pay any amount owing to any service provider by the due date for payment, the Landlord may pay such amount to the service provider concerned and may recover the amount so paid from the Tenant on demand.

**9. RATES**

The Landlord shall pay the applicable rates in respect of the Premises.

**10. MANNER IN WHICH PREMISES MAY BE USED**

- 10.1 The Tenant may only use the Premises for residential purposes.
- 10.2 The number of persons residing at the Premises may not exceed the maximum number of persons specified in clause 8 of The Schedule.

**11. NO FIRE HAZARDS OR OTHER DANGERS**

The Tenant must not do anything or have anything on the Premises which:

- 11.1 may be a fire hazard or may endanger or damage any part of the Premises;
- 11.2 may prejudice any insurance policy relating to the Premises; or
- 11.3 which may cause an increase in the premium payable or reduction in the amount or scope of the cover under any insurance policy relating to the Premises.

**12. PREMISES TO BE KEPT CLEAN**

The Tenant must ensure that refuse and rubbish is promptly removed from the Premises and must keep the Premises in a clean, tidy and sanitary condition.

**13. TENANT NOT TO MAKE ALTERATIONS OR ADDITIONS**

The Tenant may not without the Landlord's prior written consent, alter, add to, remove anything from or interfere with the Premises, including any electrical and plumbing installations.

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**14. TENANT NOT TO CAUSE DISTURBANCE OR BREAK LAWS**

The Tenant must not:

- 14.1 do anything which may unreasonably disturb or cause a nuisance to persons occupying any neighbouring premises;
- 14.2 commit a breach of any laws (whether common law or legislation) relating to the occupation and use of the Premises; or
- 14.3 commit a breach of the conditions of title under which the Premises are held.

**15. PETS**

The Tenant may not without the Landlord's prior written consent, keep any pets on the Premises.

**16. MAINTENANCE OF AND DAMAGE TO THE PREMISES**

For the duration of this lease, the Tenant must maintain the Premises in substantially the same overall condition as they were in at the Commencement Date, subject to the following provisions:

**Repainting**

- 16.1 the Tenant shall carry out such repainting, and other redecoration (without change of the colour-scheme) as may from time to time reasonably be required by the Landlord during the lease, but shall not be obliged to carry out any repainting or redecoration on termination of the lease, unless the repainting or redecoration is required because of damage caused by the Tenant;

**Blockages**

- 16.2 the Tenant shall clear any blockages occurring in the drains on the Premises;

**Damage caused by the Tenant**

- 16.3 the Tenant shall repair any damage to the Premises caused during the Tenant's occupation of the Premises, provided that the Tenant shall not be required to repair any damage which the Tenant can prove was not caused during the Tenant's occupation of the Premises;

**Damage caused otherwise than by the Tenant's wear and tear**

- 16.4 the Tenant must:
  - 16.4.1 repair any damage to the Premises caused otherwise than by the Tenant, except to the extent the Landlord is insured against such damage; and
  - 16.4.2 reinstate any portion of the Premises which wears out;

**Garden**

- 16.5 the Tenant must water and fertilise the garden when needed, keep the garden free of weeds, mow the lawns, regularly remove all garden and other refuse and plant such plants as may be necessary from time to time, but must not alter the garden;

**Swimming pool**

- 16.6 if there is a swimming pool on the Premises, the Tenant must regularly sweep and filter the pool and apply the appropriate chemicals and must at all times keep the pool free of algae, dirt and anything else which is undesirable to have in a pool;

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**Failure of Tenant to carry out obligations**

- 16.7 if the Tenant fails to carry out any of the Tenant's obligations within a reasonable period, the Landlord may do so and recover a reasonable charge for doing so from the Tenant on demand.

**17. LANDLORD'S LIABILITY**

To the extent that the Tenant is not liable to do so, and subject to clause 18, the Landlord shall:

- 17.1 be responsible for maintenance and repair of the external structure of the Premises, including the roof;
- 17.2 repair any damage to the Premises; and
- 17.3 reinstate any portion of the Premises which wears out.

**18. TERMINATION OF LEASE IF PREMISES ARE DESTROYED**

If the Premises are at any time damaged otherwise than by the Tenant to the extent that they are entirely untenable, this lease shall terminate immediately and the Tenant shall be entitled to a proportionate refund of any Monthly Rental paid in respect of any period after such termination.

**19. REDUCTION OF MONTHLY RENTAL IF PREMISES ARE PARTIALLY DESTROYED**

If other than due to the fault of the Tenant or the Tenant's agents or invitees, the Premises are at any time damaged to the extent that they are partially untenable, the Tenant shall be entitled to a proportionate reduction of Monthly Rental determined by the Landlord according to the period during which, and extent to which, the Tenant is deprived of beneficial occupation.

**20. VALUE ADDED TAX**

If the Landlord is a VAT vendor, the Tenant shall pay any value added tax charged at the rate or rates applicable from time to time in respect of rentals, and all other charges contemplated in this lease for which Tenants are responsible and/or supplies of taxable goods and/or services, referred to herein, as determined in terms of the Value Added Tax Act, Act 89 of 1991 as amended from time to time.

**21. LIMITATION OF TENANT'S RIGHTS**

The Tenant may not cancel this lease, or claim any reduction in the Monthly Rental from the Landlord because the Tenant has suffered damages, whether in contract, delict or otherwise, arising from:

- 21.1 the Premises not being available for occupation by the Tenant on the Commencement Date for any reason which is beyond the Landlord's control, provided that the Landlord:
- 21.1.1 takes reasonable steps to give the Tenant occupation as soon as possible; and
- 21.1.2 no Monthly Rental shall be payable by the Tenant for the period during which the Premises are not available for occupation by the Tenant.
- 21.2 the Premises being in need of repair, provided that if the Landlord has to effect such repair, the Landlord does so within a reasonable time after receiving written notice from the Tenant requiring the Landlord to do so.

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**22. NO CLAIMS**

The Tenant:

- 22.1 shall not have any claim against the Landlord for any loss or damage which the Tenant may suffer:
- 22.1.1 by reason of the Premises or any part thereof being in a defective condition or state of disrepair or any particular repair not being effected by the Landlord; or
- 22.1.2 arising out of vis major or casus fortuitus, or any other cause either wholly or partly outside the Landlord's control; or
- 22.1.3 arising out of any act or omission by any other tenant on the Premises ; or
- 22.1.4 as a result of the Premises or the buildings being damaged or destroyed; or
- 22.1.5 by theft; or
- 22.1.6 arising out of the negligence of the Landlord's agents or servants; or
- 22.1.7 from whatever other cause arising;
- 22.2 shall be bound by the provisions of this sub-clause even if the loss or damage suffered is in consequence of anything done or omitted by the Landlord or any of his directors, servants or agents, and notwithstanding that the Landlord may have been in breach of any of his obligations in terms of this lease, provided always, however, that such indemnity shall not apply to the extent that they are caused by any wilful or negligent or unlawful acts or omissions on the part of the Landlord or its servants or agents.

**23. INDEMNITY**

- 23.1 If at any time the Tenant becomes aware of a dangerous condition on the Premises which could give rise to a claim for damages against the Landlord by a third party, or which could give rise to damage to the Premises, the Tenant must immediately:
- 23.1.1 remedy the dangerous condition, if the Tenant is liable to do so in terms of this lease; or
- 23.1.2 if the Landlord is liable to remedy the dangerous condition in terms of this lease, notify the Landlord of the dangerous condition in writing and take interim measures to prevent a claim or damage arising.
- 23.2 If the Tenant fails to take the steps set out in clause 23.1, the Tenant shall indemnify the Landlord against any claims of any nature made against the Landlord by any third party, including the Tenant's agents and invitees, and any damage to the Premises, arising out of the existence of the dangerous condition.

**24. PERSONS FOR WHOM TENANT IS RESPONSIBLE**

Any act or omission of any employee, agent, friend, acquaintance or relative (by blood or marriage) of the Tenant, or any person invited to the Premises by the Tenant, or of any person calling at the Premises because the Tenant or any of these persons is or may be there, shall have the same effect for all purposes under this lease as if such act or omission were the act or omission of the Tenant.

**25. CESSION, SUB-LETTING AND PARTING WITH OCCUPATION OF THE PREMISES**

The Tenant may not without the prior written consent of the Landlord:

- 25.1 cede any of the Tenant's rights or obligations under this lease to any third party; or
- 25.2 sub-let, or to permit any third party to occupy, the Premises.

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**26. NO COMPENSATION FOR IMPROVEMENTS**

The Tenant shall not be entitled to any compensation for any improvements which the Tenant makes to the Premises.

**27. LANDLORD'S ACCESS TO PREMISES****Inspection**

- 27.1 The Tenant must on reasonable notice from the Landlord, allow the Landlord to inspect the Premises in a reasonable manner at all reasonable times.

**Repairs and renovations**

- 27.2 The Landlord may on reasonable notice to the Tenant, access the Premises at all reasonable times for the purposes of carrying out repairs and renovations.

**"to-let"**

- 27.3 For 2 months before the date on which this lease terminates, the Tenant must permit the Landlord to show the Premises to prospective tenants at all reasonable times, and to display "to-let" notices on any portion of the Premises.

**"for sale"**

- 27.4 The Tenant must permit the Landlord to show the Premises to prospective buyers at all reasonable times, and to display "to-let" notices on any portion of the Premises.

**28. CANCELLATION**

Without prejudice to any other rights which the Landlord may have in this lease or in law, the Landlord may immediately terminate this lease and take all necessary steps to evict the Tenant from the Premises, if the Tenant:

- 28.1 fails to pay the deposit on the date set out in clause 5 of The Schedule;
- 28.2 fails to take physical occupation of the Premises on the Commencement Date or by such later date as the Landlord may agree in writing;
- 28.3 fails to pay the Monthly Rental within 7 days after the due date for payment as recorded in clause 7 of The Schedule; or
- 28.4 breaches any other provision of this lease and fails to remedy that breach within 7 days after receiving written notice from the Landlord to do so;
- 28.5 commits a third breach of this lease after having remedied any two previous breaches after oral or written notice to do so.

**29. LIEN OVER TENANT'S GOODS**

- 29.1 The Landlord has a right of retention over all furniture, goods or any other property of the Tenant which is stored in the Premises.
- 29.2 The Landlord may exercise its right of retention if the Tenant fails to make payment of any amounts due in terms of this agreement on the due date for payment.

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**30. HOLDING OVER**

If the Landlord cancels this lease and the Tenant, disputing the right to cancel, remains in occupation of the Premises:

- 30.1 the Tenant shall continue to pay an amount equal to the Monthly Rental, monthly in advance, and any other amounts payable under this lease, pending determination of the dispute;
- 30.2 the Landlord shall be entitled to keep such payments without prejudice to the cancellation, to compensate the Landlord for any damage which the Landlord may suffer arising from the Tenant's failure to vacate the Premises;
- 30.3 the Tenant shall comply with all other obligations of the Tenant set out in this lease as if the cancellation had not taken place, and the Landlord may enforce the Landlord's rights under this lease in all respects, without prejudice to the cancellation.

**31. COSTS**

- 31.1 Any costs, including attorney and own client costs, incurred by either party arising out of the breach by the other party of any of the provisions of this lease shall be borne by the party in breach.
- 31.2 Any amount not paid on the due date for payment shall bear interest from the due date until it is paid, at a rate which is 2 percentage points above the published prime overdraft rate, expressed as a percentage per year, from time to time of ASBA Bank Limited, compounded on the last day of each calendar month.
- 31.3 A certificate purporting to be signed by a general, branch or other manager of ABSA Bank Limited, setting out the prime overdraft rate from time to time shall be proof of such rate until the contrary is proved.

**32. NOTICES AND ADDRESSES FOR SERVICE**

- 32.1 Unless otherwise specified any notice or communication in terms of this lease:
  - 32.1.1 must be in writing to be effective;
  - 32.1.2 must be sent by hand, telefax, registered post or e-mail to the addresses/telefax numbers set out in clauses 1 or 2 of The Schedule, which physical addresses the parties select as their respective domicilium citandi et executandi.
- 32.2 A party may change its address/telefax number to any other address/telefax number within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other party.
- 32.3 Any notice or communication shall:
  - 32.3.1 if delivered by hand during business hours to the person apparently in charge of the premises selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;
  - 32.3.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting;
  - 32.3.3 if telefaxed to the selected telefax number, be deemed to have been received on the first business day following the date of transmission; and
  - 32.3.4 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.



- 32.4 Any written notice or communication which has actually been received by a party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address/telefax number provided for above.

### 33. MISCELLANEOUS LEGAL PROVISIONS

- 33.1 This is the whole agreement between the parties containing all of the express provisions agreed on by the parties with regard to the subject matter hereof.
- 33.2 No party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded herein.
- 33.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the parties.
- 33.4 No relaxation by a party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.
- 33.5 This agreement shall be governed by and construed according to the law of South Africa.
- 33.6 This agreement may be signed by parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.
- 33.7 Since the provisions of this agreement have been settled by negotiation and each party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the party principally responsible for drafting does not apply.
- 33.8 The *eiusdem generis* rule does not apply so that whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.
- 33.9 The expiration or termination of this agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.
- 33.10 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this agreement.
- 33.11 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.
- 33.12 For the purposes of this agreement:
- 33.12.1 "day" means a calendar day;
- 33.12.2 "business day" means any day other than a Saturday, Sunday or South African Public Holiday;
- 33.12.3 "month" means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;
- 33.12.4 "calendar month" means one of the 12 months of the year from the 1st to the last day of such month;
- 33.12.5 whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African public holiday in which case the last day will be the next succeeding business day.

- 33.13 Any reference to an amount in this agreement means that amount is exclusive of VAT unless specified otherwise.
- 33.14 The various documents forming part of this agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the agreement will prevail.
- 33.15 Each party must bear its own legal costs incidental to the negotiation, preparation and implementation of this agreement.
- 33.16 Any costs incurred by a party arising out of the breach by any other party of the any of the provisions of this agreement must be borne by the party in breach on an attorney and own client scale.

34. **SPECIAL CONDITIONS (if any)**

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SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
**THE LANDLORD**

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
**THE TENANT**

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
**THE TENANT'S SPOUSE (if  
married in community of  
property)**

LIST OF DEFECTS

Date: .....

