

AGREEMENT OF RESIDENTIAL LEASE FOR A ROOM

entered into between

Mrs Mariana Samson

**Identity Number:
5408010063089**

(hereinafter referred to as the "Lessor")

and

Ms Khiva Xabiso

Identity number:
0203070762083

(hereinafter referred to as the "Lessee")

(Collectively referred to as the "parties")

In complying with the Consumer Protection Act, No. 68 of 2008, certain clauses in this Agreement of Lease have been printed in bold to specifically draw the Lessee's attention to these clauses.

1 INTERPRETATION

1.1 In this lease, except in a context indicating that some other meaning is intended:

1.1.1 **"business day"** means every day excluding Saturdays, Sundays and Public Holidays

1.1.2 **"the Lease Period"** means the period for which this lease subsists, including any period for which it is renewed (if applicable);

1.1.3 **"Lessee"** means:

FULL NAMES:

Physical address 14 Lindley Street

Idas Valley

Stellenbosch

7600

Telephone number: _____

E-mail address: _____

Telephone number and name of next of kin:

Name: _____

Relation to you: _____

Telephone number: _____

1.1.4 **“Lessor” means: Mariana Samson**

Physical address: 14 Lindley Street
Idas Valley
Stellenbosch
7600

Telephone number: 0843996119

For all lease related enquiries: Cheryl Cornelissen – 062 371 5928

1.1.5 **“month”** means a calendar month, and more specifically; -

1.1.5.1 in reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and

1.1.5.2 in any other context, a month of the calendar, that is, one of the 12 (twelve) months of the calendar, and “monthly” has the corresponding meaning;

1.1.6 **“the Property”** means the following:

**14 Lindley Street
Idas Valley
Stellenbosch
7600**

1.1.7 **“the Rental Housing Act”** means the Rental Housing Act 50 of 1999, as amended;

- 1.1.8 **“Consumer Protection Act”** means the Consumer Protection Act 68 of 2008, and any amendments thereof;
- 1.1.9 **“this lease”** means this agreement concluded between the Lessor and the Lessee for purposes of leasing **a room within the Property** for the duration of the Lease Period;
- 1.1.10 **“signature date”** means the date on which this agreement is signed by the last party in time;
- 1.1.11 words and expressions defined in the Rental Housing Act shall have the same meaning therein defined unless the context specifically states otherwise;
- 1.1.12 references to notices, statements and other communications by or from the Lessor include notices by or from **Cheryl Cornelissen**, identity number **6507290030087**;
- 1.1.13 expressions in the singular also denote the plural, and vice versa;
- 1.1.14 words and phrases denoting natural persons refer also to juristic persons, and vice versa; and
- 1.1.15 pronouns of any gender include the corresponding pronouns of the other gender.
- 1.2 **Any provision of this lease imposing a restraint, prohibition, or restriction on the Lessee shall be so construed that the Lessee is not only bound to comply therewith but is also obliged to procure that the same restraint, prohibition, or restriction is observed by everybody occupying or entering the Property through, under, by arrangement with, or at the invitation of, the Lessee, including (without limiting the generality of this provision) the family, guests and servants of the Lessee.**
- 1.3 Clause headings appear in this lease for purposes of reference only and shall not influence the proper interpretation of the subject matter.
- 1.4 This lease shall be interpreted and applied in accordance with South African law.

2 LETTING AND HIRING

The Lessor lets and the Lessee hires a room within the Property for the purposes of using it as a residence, and for no other purposes whatsoever. The Lessor shall indicate the exact room within the Property to the Lessee before signature of this lease.

3 THE LEASE PERIOD

- 3.1 This lease shall come into operation on 1 February 2023 and shall terminate on 30 November 2023.
- 3.2 This lease shall automatically expire on the last day of the period mentioned in clause 3.1.
- 3.3 An option to renew this lease shall be within the sole discretion of the Lessor. In the event that the Lessor grants the Lessee an option to renew after the termination date as contained in clause 3.1, the Lessor shall inform the Lessee of any material changes (such as an escalation in rental), if any, that would apply if the agreement is to be renewed.

4 RENTAL

- 4.1 The rental shall be an amount of R 3700.00 (Three Thousand Seven Hundred Rand) inclusive of VAT, payable for each month of the Lease Period, which rental shall be paid monthly in advance on or before the first day of every month by the Lessee to the Lessor. First payment no later than 1 February 2023.
- 4.2 All payments due by the Lessee to the Lessor under this lease shall be made into the following bank account:

Account Holder: Mariana Samson

Bank: Capitec

Account number: 2074496504

Branch Code: 470010

Reference: FULL NAME OF LESSEE

E-mail POP to: cherylc@sun.ac.za

Bulk rental payments is acceptable to the Lessor.

- 4.3 The Lessor shall furnish the Lessee with a proof of receipt of all payments received by the Lessor from the Lessee, upon prior written request by the Lessee for such proof. The Lessor shall provide the proof of payment to the Lessee within 3 (three) business days after written request from the Lessee.

- 4.4 The Lessee shall not withhold, defer, or make any deduction from any payment due to the Lessor, whether or not the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee.

5 ADDITIONAL CHARGES

- 5.1 The Lessor undertakes to pay for the consumption of water and electricity on the Property to a maximum amount of R800 (eight Hundred Rand) per month for water and R1200 (One Thousand Two Hundred Rand) for electricity per month only.
- 5.2 The Lessee, in addition to paying the rental, shall be liable for an equal share of water and electricity consumption costs in the event that the monthly water and electricity account exceeds the amounts contained in clause 5.1 above. An equal share means the amount exceeding the water (R800) and electricity (R1200) thresholds, divided by the number of occupants on the Property who leases from the Lessor.
- 5.3 In the event that the Lessee becomes liable for such payment of the water and electricity, the accounts/receipts/invoices shall be sent to the Lessee, indicating her share for which she is liable to pay. There shall be no time limit in which the accounts/receipts/invoices should be submitted to the Lessee.
- 5.4 Payment of the excess water and electricity shall be paid by the Lessee within 5 (five) business days of receipt of the abovementioned accounts/receipts/invoices. Should the Lessee fail to make timeous payment or fails to pay, the Lessor shall be entitled (but not obliged) to attend to the same for and on behalf of the Lessee and to recover the cost of so doing from the Landlord on demand.

6 DEPOSIT

- 6.1 The Lessee shall, on the signature date or on date of occupation of the room within the Property, pay to the Lessor a deposit in the amount of R3700,00 (Three Thousand Seven Hundred Rand).
- 6.2 The deposit shall be invested by the Lessor in an interest-bearing account with a financial institution as defined in the Rental Housing Act and the Lessor must, subject to clause 6.3 hereof, pay the Lessee interest at the rate applicable to such account which may not be less than the rate applicable to a savings account with a financial institution, and the Lessee may during the period of this lease request the

Lessor to provide the Lessee with written proof in respect of interest accrued on such deposit, and Lessor must provide such proof on request.

- 6.3 **On the termination of this lease, the Lessor may apply such deposit and interest towards the payment of all amounts for which the Lessee is liable under this lease, including the reasonable cost of repairing any damage to the Property and the room, caused during the lease period and the cost of replacing lost keys and remotes.**
- 6.4 **The relevant receipts, which indicate the costs which the Lessor incurred, as contemplated in clause 6.3 above, must be available to the Lessee for inspection as proof of such costs incurred by the Lessor.**
- 6.5 **The balance of the deposit and interest, if any, must be refunded to the Lessee by the Lessor not later than 14 (fourteen) days after restoration of the Property and the room, by the Lessor.**
- 6.6 **Should no amounts be due and owing by the Lessee to the Lessor in terms of this lease, the deposit, together with the accrued interest in respect thereof, must be refunded by the Lessor to the Lessee, without any deduction or set-off, within 7 (seven) days of termination of this lease.**
- 6.7 **The Lessee shall not be entitled to utilise said deposit for the payment of any rental payable by it in terms of this agreement.**

7 ASSIGNMENT AND SUBLETTING

- 7.1 **The Lessee shall not be entitled, except with the prior written consent of the Lessor to:**
- 7.1.1 **cede or assign all or any of the rights and obligations of the Lessee under this lease;**
- 7.1.2 **sublet the Property or her room in whole or part; or**
- 7.1.3 **give up possession of the Property or her room or any other room to any third party.**
- 7.2 The Lessor shall not, however, unreasonably withhold its consent to the subletting of the Lessee's room.

8 SUNDRY DUTIES OF THE LESSEE

The Lessee shall:

- 8.1 **keep the Property clean, tidy, and habitable;**
- 8.2 **ensure that only the Lessee occupies her room, only one Lessee is allowed to reside on a permanent basis in the room;**
- 8.3 **ensure that third parties no do occupy the Property or the room of the Lessee (including sleepovers) without the prior written consent of the Lessor (this is a safety provision due to the fact that female students occupy the Property);**
- 8.4 **take all reasonable measures to protect the Property and all parts thereof (including all fixtures, fittings, appurtenances, appliances, keys and remotes) from abuse, damage, destruction, and theft;**
- 8.5 **not cause or commit any nuisance (which includes but is not limited to noise pollution) on the Property or cause any annoyance or discomfort to other Lessees or occupiers of properties in the vicinity of the Property;**
- 8.6 **not leave refuse or allow it to accumulate in or about the Property and the room except in refuse bins;**
- 8.7 **refrain from interfering with the electrical, plumbing, or gas installations or systems serving the Property except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this lease;**
- 8.8 **take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes and water pipes serving the Property;**
- 8.9 **not keep any live animals or birds on the Property;**
- 8.10 **respect the privacy of other lessee's and respect the right of occupation of the Property of other lessee's (especially in exam periods or periods in which lessee's are writing tests and exams);**
- 8.11 **not smoke tobacco products in the Property or as according to the Tobacco Products Control Act not smoke in any public place within the common area or around the Property (this includes but is not limited to e-cigarettes, hookah pipes and cigarettes);**

- 8.12 keep room doors unlocked on a weekly basis as indicated by the Lessor so that cleaning services may attend to its duties as contained in clause 9.4 below;
- 8.13 not hang washing in any visible place in or about the Property, or do or display anything else which causes the Property to appear unsightly; and
- 8.14 use water wisely, keeping water restrictions in mind.

9 MAINTENANCE AND REPAIRS

- 9.1 The Lessee shall at its own expense and without recourse to the Lessor:
- 9.1.1 throughout the Lease Period maintain in good order and condition the interior of the Property and her room and all parts thereof, including (without limitation of the generality of this obligation) the Lessor's existing furniture, equipment and household appliances on the Property, all windows, doors, appurtenances, fixtures and fittings contained in the Property;
- 9.1.2 promptly repair or make good all damage occurring in the Property and to the Lessor's furniture, equipment and household appliances from time to time during the Lease Period, whatever the cause of such damage, and including damage to any part of the interior of the Property or to any window, door, appurtenance, fixture or fitting, and replace all such items (as well as any keys and remotes) which have been broken, lost or destroyed (again regardless of cause); and
- 9.1.3 on the termination of this lease, howsoever and whenever it terminates, return the Property and the room and all such parts thereof (including all keys and remotes) and the Lessor's furniture to the Lessor in good order, condition and repair, fair wear and tear excepted.
- 9.2 The Lessor and Lessee must jointly, before the Lessee moves into the Property, inspect the Property to ascertain the existence or not of any defects or damage to or in the Property, including any lock, key, door, window, appurtenance, fixture or fitting, with a view to determining the Lessor's responsibility for rectifying any defects or damage or with a view to registering such defects or damage, a list of which shall be attached as an annexure to this agreement of lease. The Lessor shall promptly cause the necessary repair or replacement to be effected at the Lessor's own expense.

- 9.3 The Lessor shall be responsible for the maintenance and repair of the structure of the Property, the roofs and the exterior walls.
- 9.4 The Lessor shall provide a weekly cleaning service, during which inspection will be conducted for general maintenance by the Lessor or his authorised person. Cleaning of the Property and the room is compulsory and serves as a manner in which the Lessor is able to ensure the cleanliness of the Property.
- 9.5 The Lessor shall not, however, be in breach of clause 9.3 in so far as any of its obligations thereunder are not or cannot be fulfilled by reason of any *vis maior* or the acts or omissions of others over whom the Lessor has no direct authority or control, and where the Lessor is indeed in breach of clause 9.3, **the Lessee's only remedy against the Lessor shall be a right of action for specific performance.**
- 9.6 **Should the Lessee fail to carry out any of its obligations under this lease with regard to any maintenance, repair, or replacement, the Lessor shall be entitled, without prejudice to any of its other rights or remedies, to effect the required item of maintenance, repair, or replacement and to recover the cost thereof from the Lessee.**
- 9.7 At the termination of this lease the Lessor and Lessee must arrange a joint inspection of the Property at a mutually convenient time to take place within a period of 3 (three) days prior to such termination with a view to ascertaining if there was any damage caused to the Property during the Lessee's occupation thereof.
- 9.8 Should the Lessee fail to respond to the Lessor's request for an inspection as contemplated in clause 9.7, the Lessor must, on termination of the lease, inspect the Property within 7 (seven) days from such termination in order to assess any loss or damage which occurred during the lease period.
- 9.9 The Lessor may in the circumstances contemplated in clause 9.8 above, without detracting from any other right or remedy of the Lessor, deduct from the Lessee's deposit and interest the reasonable cost of repairing damage to the Property and the cost of replacing lost keys and remotes.
- 9.10 The relevant receipts, which indicate the costs which the Lessor incurred, as contemplated in clause 9.9 above, must be made available to the Lessee for inspection as proof of such costs incurred by the Lessor.

10 ALTERATIONS, ADDITIONS AND IMPROVEMENTS

The Lessee shall not make any alterations or additions to the Property without the Lessor's prior written consent.

11 EXCLUSION OF LESSOR FROM CERTAIN LIABILITY AND INDEMNITY

11.1 With the exception of gross negligence on the part of the Lessor, the Lessee shall have no claim for damages against the Lessor and may not withhold or delay any payment due to the Lessor by reason, directly or indirectly, of: -

11.1.1 any act or omission of the Lessor or any agent or servant of or contractor to the Lessor, whether or not negligent, or otherwise actionable at law, and including (without limiting the generality of the foregoing) any act or omission of any cleaner, maintenance person, handyman, artisan, labourer, workman, watchman, guard, or commissionaire;

11.1.2 the condition or state of repair at any time of the Property, or any part of the Property;

11.1.3 any failure or suspension of, or any interruption in, the supply of water, electricity, or any other amenity or service to the Property (including, without generality being limited, any cleaning service), whatever the cause;

11.1.4 any breakdown of, or interruption in the operation of, any machinery, equipment, installation or system situated in or on, or serving the Property and room, and including (but without limiting the generality of the foregoing) any geyser, burglar alarm, or security installation or system, whatever the cause;

11.1.5 any interruption of or interference with the enjoyment or beneficial occupation of the Property or any of the common parts of the Property caused by any building operations or other works to or in the Property, whether carried out by the Lessor or by anybody else; or

11.1.6 any other event or circumstance whatever occurring, or failing to occur, upon, in, or about the Property, whether or not the Lessor could otherwise have been held liable for such occurrence or failure;

and the Lessee indemnifies the Lessor against all liability the Lessee's servants, guests and other invitees, in consequence of any such matter as is referred to in clauses 11.1.1 to 11.1.6 above.

- 11.2 **The Lessor shall not, however, be excused from specific performance of any of its obligations under this lease, whether express or implied, and particularly (but not limited to) its obligation to afford the Lessee occupation and enjoyment of the Property and her room as contemplated by this lease.**

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

The Lessor's representative may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Lessee or any other occupier of the Property:

- 12.1 enter the leased Property in order to inspect them, to carry out any necessary repairs, replacements, or other works, or to perform any other lawful function in the bona fide interests of the Lessor or any of the occupiers of the Property; or
- 12.2 carry out elsewhere any necessary repairs, replacements or other works.

13 SPECIAL REMEDY FOR BREACH

- 13.1 Should the Lessee –

- 13.1.1 fail to pay the rent on the due date for payment, or fail to make payment of any other amount payable under this Lease on due date for payment; or

- 13.1.2 fails to carry out or comply with any material term or condition of this Lease; and,

fails to remedy such breach(es) within a period of 10 (ten) business days after receipt of a written notice from the Lessor demanding that the specific breach(es) be remedied, then and in any such event, the Lessor shall have the right, but shall not be obliged, to either cancel the Lease and to retake possession of the Property, without prejudice to any other rights the Lessor may have in terms of this Lease or in law, or to institute a claim for specific performance of this Lease without prejudice to any other rights the Lessor may have in terms of this Lease or in law.

- 13.2 **Notwithstanding clause 13.1, the Lessor shall be entitled (but not obliged) to immediately terminate this lease in the event that the Lessee breaches clause 8.5.**

- 13.3 In the event of an attorney being instructed to collect any amount owing by the Lessee, or to take legal proceedings for the recovery of any amounts arising out of this Lease, or the cancellation thereof, **the Lessee shall pay collection commission at the recognised tariff of attorneys applicable from time to time in respect of such collection and all other legal costs on an attorney-and-client basis.**

- 13.4 In the event of the Lessor cancelling/terminating this Lease, and the Lessee disputing the right to cancel and remaining in occupation of the Property, **the Lessee shall, pending the determination of such dispute by litigation or otherwise, continue to pay to the Lessor an amount equivalent to the monthly rent and other amounts payable in terms of this Lease on the date or dates when such rental or other amounts would have been due, but for the cancellation, and the Lessor shall be entitled to accept and recover such payments.**
- 13.5 The acceptance of payments in terms of clause 13.4 will be without prejudice to and shall not in any way whatsoever affect the Lessor's rights then in dispute. Should the dispute be determined in favour of the Lessor, **the payments made and received in terms of this clause shall be deemed to be amounts paid by the Lessee on account of damages suffered by the Lessor by reason of the cancellation of the Lease and/or the unlawful holding over by the Lessee.**
- 13.6 The Lessee consents to the jurisdiction of the Small Claims Court and/or the Magistrate's Court for all or any claims and/or other actions which the Lessor may have to bring against the Lessee in terms of or pursuant to this Lease.

14 LESSEE'S RIGHT TO CANCEL

- 14.1 This Lease is a fixed term agreement governed by the Consumer Protection Act and thus should the Lessee wish to cancel, cancellation shall be in compliance with the Consumer Protection Act.
- 14.2 **The Lessee shall, upon cancelling the Lease as contemplated in clause 14.1, and prior to vacating the Property, pay the Lessor an early termination penalty in an amount equal to the lesser of 2 (two) months rental, or the rental payable for the period remaining under the Lease.**
- 14.3 **The Lessee shall remain liable for any amounts owed to the Lessor under this Lease up until the date of cancellation.**

15 DOMICILIA AND NOTICES

- 15.1 The parties choose as their *domicilia citandi et executandi* the addresses mentioned in this clause 1.1.3 and 1.1.4, but such *domicilium* of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice;

15.2 Any notice, demand or other communication properly addressed by either party to the other party at the latter's *domicilium* in terms hereof for the time being and sent by prepaid registered post shall be deemed to be received by the latter on the 5th business day following the date of posting thereof. This provision shall not be construed as precluding the utilisation of other means and methods (including telefacsimile) for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption of delivery shall arise if any such other means or method is used.

16 WHOLE AGREEMENT

16.1 This is the entire agreement between the parties.

16.2 No variation or consensual cancellation of this lease shall be of any force or effect unless reduced to writing and signed by both parties.

17 NON-WAIVER

17.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this lease by reason of such party having at any time granted any extension of time for, or having shown any indulgence to the other party with reference to, any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.

17.2 The failure of either party to comply with any non-material provision of this lease shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.

SIGNED at on this day of 2023
in the presence of the undersigned witnesses

Witnesses:

1

2

(Signatures of witnesses)

(Signature of LESSOR)

SIGNED at on this day of 2023
in the presence of the undersigned witnesses

1

2

(Signatures of witnesses)

(Signature of LESSEE)