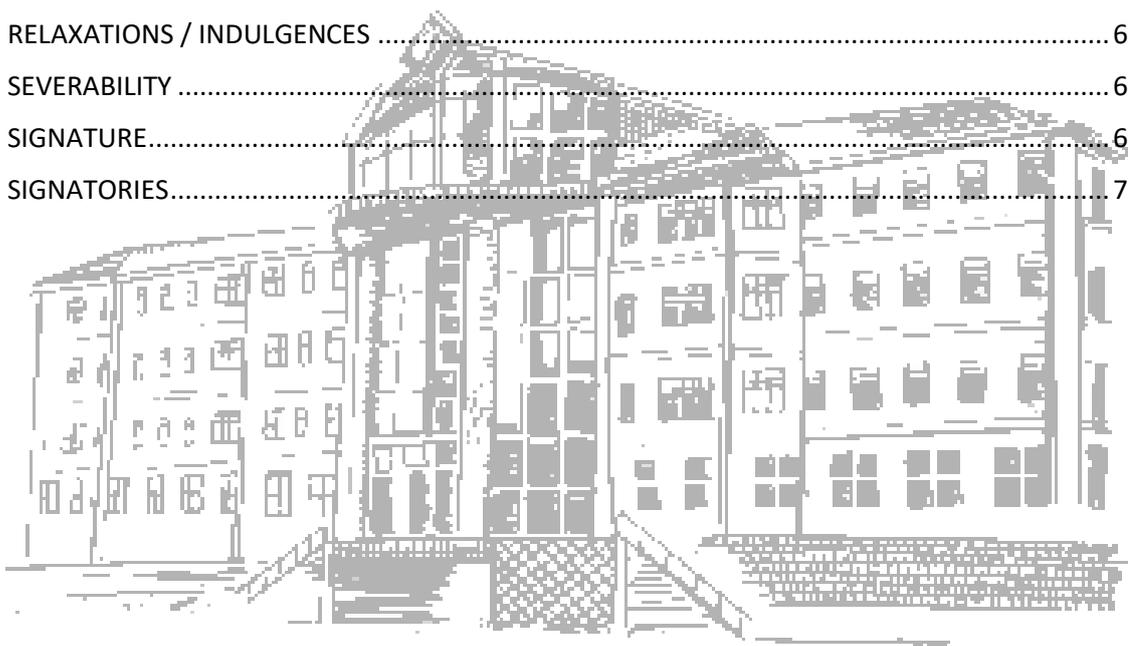




COMMERCIAL: RENT DEFERMENT (PAYMENT HOLIDAY) AGREEMENT, INCORPORATING DEED OF SURETY

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1. SCHEDULE

1.1 The Tenant

| | |
|---------------------|--|
| Name | |
| Registration number | |
| Physical address | |
| Contact person | |
| Email address | |
| Mobile number | |
| Landline number | |

1.2 The Landlord

| | |
|---------------------|--|
| Name | The Eastern Cape Development Corporation |
| Registration number | Established in term of Section 2 off the Eastern Cape Development Corporations Act 2 of 1997 |
| Physical address | ECDC House, Ocean Terrace Park, Moore Street, Quigney, EAST LONDON |
| Contact person | |
| Email address | |
| Mobile number | |
| Landline number | |

1.3 The Premises

| | |
|----------------------|--|
| The Deferred Amounts | rent / operating costs / rates and taxes / utilities*; *delete that which is not applicable |
|----------------------|--|

1.5 The Deferment End Date

| | |
|----------------------|--|
| The Deferment Period | |
|----------------------|--|

1.7 The Deferment Start Date

| | |
|-------------------|--|
| The Interest Rate | |
|-------------------|--|

1.9 The Repayment Date

| | |
|--|--|
| The Temporary Payment Amount per Month | |
|--|--|

1.11 The Surety

| | |
|--|--|
| | |
|--|--|

Initial

2. DEFINITIONS

- 2.1. In this Agreement, unless the context requires otherwise, the words below mean the following;
- 2.1.1. "**Act**" means the Disaster Management Act No 57 of 2002;
- 2.1.2. "**Agreement**" means this rent deferment agreement, together with all Schedules and annexures hereto;
- 2.1.3. "**Deferred Amounts**" means the amounts contemplated in item 1.4 which fall due for payment in terms of the Lease Agreement during the Deferment Period, the repayment of which will be deferred until the Repayment Date, subject to payment of the Temporary Payment Amount, if any;
- 2.1.4. "**Deferment End Date**" means the date set out in item 1.5;
- 2.1.5. "**Deferment Period**" means the period set out in item 1.6;
- 2.1.6. "**Deferment Start Date**" means the date set out in item 1.7;
- 2.1.7. "**Interest**" means the interest payable by the Tenant to the Landlord on the Deferred Amounts, calculated on the balance of the Deferred Amounts from time to time at the Interest Rate, from the due date for payment in terms of the Lease Agreement, to the date of final repayment thereof;
- 2.1.8. "**Interest Rate**" means the rate of Interest set out in item 1.8 (if filled in), alternatively a rate of Prime plus 2 (Two) percent;
- 2.1.9. "**Juristic Person**" means any juristic person of whatever nature including a body corporate, association, company, close corporation, trust or partnership (whether or not having separate legal personality);
- 2.1.10. "**Landlord**" means the Party set out in item 1.2, being the creditor, and includes its successors, cessionaries and assigns;
- 2.1.11. "**Lease Agreement**" means the agreement in terms of which the Tenant rents the Premises from the Landlord, whether oral or in Writing;
- 2.1.12. "**Premises**" means the premises set out in item 1.3;
- 2.1.13. "**Prime**" means the prime lending rate of the Standard Bank of South Africa Limited from time to time;
- 2.1.14. "**Rent / al**" means the rent payable by the Tenant under the Lease Agreement;
- 2.1.15. "**Repayment Date**" means the date set out in item 1.9;
- 2.1.16. "**Schedule**" means the schedule set out in clause 1;
- 2.1.17. "**Signature Date**" means the date of Signature of this Agreement by the Party signing last in time;
- 2.1.18. "**Temporary Payment Amount**" means the amount set out in item 1.10, payable by the Tenant to the Landlord on a Monthly basis during the Deferment Period, in partial payment of the Deferred Amounts; and
- 2.1.19. "**Tenant**" means the Party set out in item 1.1, being the debtor.
- 2.2. All other capitalised terms in this Agreement shall have the meaning ascribed to them in the Lease Agreement unless the contrary is specified.

3. INTERPRETATION

- 3.1. Any reference in this Agreement to:
- 3.1.1. a **clause** is, subject to any contrary indication, a reference to a clause of the main body of this Agreement;
- 3.1.2. an **item** is, subject to any contrary indication, a reference to an item in the Schedule to this Agreement;
- 3.1.3. **law** means any law including common law, statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other measure of the government, local government, statutory or regulatory body or court having legal authority within South Africa; and
- 3.1.4. **person** means, unless the context indicates otherwise, any natural or Juristic Person, government, state, agency or organ of a state.
- 3.2. Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 3.3. The headings do not govern or affect the interpretation of this Agreement.
- 3.4. If any provision in a definition confers rights, or imposes obligations on any Party, effect is given to it as a substantive provision of this Agreement.
- 3.5. Unless the context indicates otherwise, an expression which denotes any gender includes the other gender; reference to a natural person includes a Juristic Person; the singular includes the plural, and the plural includes the singular.
- 3.6. Any number of days prescribed in this Agreement excludes the first day and includes the last day.
- 3.7. The words "including" and "in particular" are without limitation.
- 3.8. Any reference to legislation is to that legislation as at the Signature Date, as amended or replaced from time to time, and includes all regulations and schedules to such legislation.
- 3.9. Any reference to a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time.

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- 3.10. A reference to a Party includes that Party's successors-in-title and permitted assigns.
- 3.11. A time of day is a reference to Johannesburg time.
- 3.12. The rule of interpretation that, in the event of ambiguity, the contract must be interpreted against the party responsible for the drafting of the contract does not apply.
- 3.13. The cancellation or termination of this Agreement does not affect those of its provisions which expressly provide that they will operate after cancellation or termination, or which must continue to have effect after cancellation or termination, or which must by implication or by their nature continue to have effect after cancellation or termination.
- 3.14. No provision in this Agreement is intended to contravene or limit any applicable provisions of the CPA or POPIA.

4. INTRODUCTION / PREAMBLE

- 4.1. On 15 March 2020, the Minister of Cooperative Governance and Traditional Affairs, declared a national state of disaster in terms of section 27 (2) of the Act, as a response to the COVID-19 pandemic ("**Disaster**").
- 4.2. In recognition of the potential adverse economic consequences arising from the declaration of the Disaster and the underlying COVID-19 pandemic, and in order to assist the Tenant, the Landlord and the Tenant have agreed to the Rental payment holiday contained in this Agreement.

5. DEFERMENT

- 5.1. The payment of all Deferred Amounts which would otherwise accrue or become due for payment by the Tenant to the Landlord in terms of the Lease Agreement during the Deferment Period, will be deferred until the Repayment Date.
- 5.2. If the Schedule provides for a Temporary Payment Amount to be paid by the Tenant to the Landlord in partial payment of the Deferred Amounts, then payment of the balance of the Deferred Amounts will be deferred until the Repayment Date, provided that the Tenant continues to pay the Temporary Payment Amount for the duration of the Deferment Period.
- 5.3. If the Tenant is required to pay a Temporary Payment Amount, that amount must be paid on the same day of the Month that the Tenant is otherwise obliged to pay Rent to the Landlord in terms of the Lease Agreement.

6. REPAYMENT

- 6.1. The Deferred Amounts (or the balance thereof, if Temporary Payment Amounts have been paid by the Tenant), together with the Interest thereon, shall be paid by the Tenant to the Landlord on the Repayment Date.
- 6.2. The Repayment Date shall have no effect on the Tenant's obligation to pay, on the due date for payment thereof in terms of the Lease Agreement:
 - 6.2.1. any other amounts (not being Deferred Amounts as defined) which fall due for payment in terms of the Lease Agreement during the Deferment Period;
 - 6.2.2. any amounts which fall due for payment in terms of the Lease Agreement after the Deferment Period;
 - 6.2.3. any amounts which fell due for payment in terms of the Lease Agreement before the Deferment Period.

7. BREACH

- 7.1. The landlord will have the right to cancel this agreement immediately, should the Tenant:
 - 7.1.1. breach any term of this Agreement;
 - 7.1.2. breach any term of the Lease Agreement;
 - 7.1.3. if a natural person, die;
 - 7.1.4. if a natural person, be sequestered, whether provisionally or finally;
 - 7.1.5. if a Juristic Person, be liquidated, whether provisionally or finally;
 - 7.1.6. if a Juristic Person, be placed into business rescue;
 - 7.1.7. vacate, the Premises, or attempt to do so, without the prior Written consent of the Landlord;
 - 7.1.8. remove the assets, or any portion thereof, now on the Premises, from the Premises, or attempt to do so, otherwise than in the ordinary course of trading or with the prior Written consent of the Landlord;
 - 7.1.9. cease trading, except if it is compelled to do so by the Act or by any other applicable law.
- 7.2. Should the Landlord cancel this Agreement, all Deferred Amounts shall immediately become due and payable, with Interest.

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8. COSTS

- 8.1. In the event of the Landlord instituting legal proceedings against the Tenant for the recovery of the whole or any portion of the Deferred Amounts and Interest, the Tenant shall pay for all legal costs incurred by the Landlord on the scale as between attorney and client, including the cost of any letter of demand, collection fees, tracing agents fees and fees of counsel as on brief.

9. CERTIFICATE OF INDEBTEDNESS

- 9.1. In the event of there being a dispute as to the amounts due and payable by the Tenant to the Landlord in terms of this Agreement, including any dispute as to the Interest, or Rate of Interest, payable by the Tenant, a certificate signed by:
- 9.1.1. a director, member, trustee, partner or manager of the Landlord, or of the Landlord's letting or managing agent, whose appointment need not be proved, shall be proof on the face of it of the amounts so due and payable;
 - 9.1.2. an auditor or chartered accountant appointed by the Landlord shall be conclusive proof of the amounts so due and payable.

10. LETTERS AND NOTICES

- 10.1. Any letter or notice given in terms of this Agreement shall be in Writing and shall:
- 10.1.1. if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
 - 10.1.2. if posted by prepaid registered post be deemed to have been received by the addressee on the 5th (Fifth) Business Day following the date of such posting; and
 - 10.1.3. if transmitted by facsimile or email be deemed to have been duly received by the addressee on the date of delivery.
- 10.2. Notwithstanding anything to the contrary contained herein, a Written notice of communication actually received by a Party shall be an adequate Written notice or communication to it notwithstanding that it was not sent to or delivered to the addresses set out in items 1.1 and 1.2 (as the case may be).
- 10.3. The addresses given by the Parties in the Schedule shall constitute the Parties chosen addresses for any and all purposes stipulated under this Agreement and the receipt of any documentation and the institution of any legal proceedings.

11. APPROPRIATION AND SET OFF

- 11.1. The Tenant shall pay all amounts due by it to the Landlord without (further) deferment, deduction or set off for any reason whatsoever.
- 11.2. The Tenant shall pay all amounts due by it to the Landlord free of bank charges, exchange, commission and the like.

12. ANNUAL TURNOVER / NET ASSET VALUE

- 12.1. If the Tenant is a Juristic Person then, unless the contrary is stated herein, the Tenant warrants that its annual turnover and net asset value are each in excess of R1 000 000.00 (One Million Rand).

13. REVIEW

- 13.1. The Landlord shall be entitled, although not obliged, to review the terms of this Agreement at any time, with a view to requiring the Tenant to increase any Temporary Payment Amount, or to bring the Repayment Date forward.

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14. BLANK SPACES

14.1. This Agreement shall not be invalid merely because certain of the information contemplated by the Schedule has not been filled in or has been left blank. In particular, the tenant agrees that the omission of the following information as contemplated by the Schedule is not material: the interest date; the Interest Rate; the registration number or identity number of the Landlord; the Landlord's nominated bank account; the registration number or identity number of the Tenant; the Temporary Payment Amount and the Tenant's address (es) or any of them.

15. SURETY

15.1. The Surety agrees to accept service of any court process, or to accept delivery of any notice, either as contemplated by this Agreement or at law, or in terms of any applicable legislation, at the addresses chosen by the Tenant in item 1.1 and hereby agrees that the provisions of clauses 8 to 12 above shall apply equally to him, with the necessary adjustments.

16. JURISDICTION OF THE MAGISTRATES COURT / GOVERNING LAW

- 16.1. This Agreement is governed by South African Law.
- 16.2. Not limiting the jurisdiction that any other court may have, the Parties consent in terms of section 45 of the Magistrates' Courts Act 32 of 1944 (or any similar section of an act replacing such act) to the jurisdiction of the Magistrate's Court for the purpose of any proceedings in terms of or incidental to this Agreement, notwithstanding that the amount claimed or the value of the matter in dispute may exceed such jurisdiction.

17. NON VARIATION / ENTIRE AGREEMENT / MUTUAL SUPPORT

- 17.1. No addition to or variation or consensual cancellation of this Agreement, including this clause, has effect unless it is in Writing and Signed by both Parties.
- 17.2. The Parties agree that this Agreement is the whole agreement between the Parties in regard to its subject matter.
- 17.3. The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

18. RELAXATIONS / INDULGENCES

18.1. No indulgence by one Party to the other Party, or failure to strictly enforce the terms of this Agreement, is to be construed as a waiver or a basis for raising estoppel in any way.

19. SEVERABILITY

19.1. Each provision in this Agreement is severable from all others, notwithstanding the manner in which they may be linked together or grouped grammatically, and if in terms of any judgment or order, any provision, phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force. In particular, the Parties acknowledge their intention to continue to be bound by this Agreement notwithstanding that any provision may be found to be unenforceable or void or voidable, in which event the provision concerned shall be severed from the other provisions, each of which shall continue to be of full force.

20. SIGNATURE

- 20.1. This Agreement shall be Signed in Writing.
- 20.2. This Agreement may be executed in counterparts, each of which will be an original and which together constitute the same agreement.

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21. SIGNATORIES

DATED AT (place)

ON

20

LANDLORD

(on behalf of and duly authorised)

AS WITNESS (1)

NAME OF SIGNATORY

AS WITNESS (2)

DATED AT (place)

ON

20

TENANT

(on behalf of and duly authorised)

AS WITNESS (1)

NAME OF SIGNATORY

AS WITNESS (2)

DATED AT (place)

ON

20

SURETY

(on behalf of and duly authorised)

AS WITNESS (1)

NAME OF SIGNATORY

AS WITNESS (2)

Initial