

AGREEMENT OF LEASE

Between

Two-A-Day Group Proprietary Limited

Herein represented by Philip Toerien duly authorised hereto

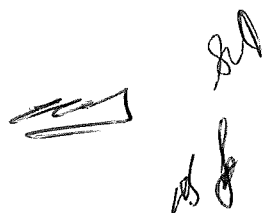
"the Landlord"

and

Overberg District Municipality

Herein represented by DP Beretti duly authorised hereto

"the Tenant"

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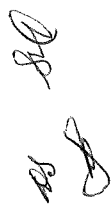
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1. RECITALS

- 1.1 The Tenant has requested the Landlord to erect a fire brigade station, namely the Grabouw Fire Station, on the Premises for the use thereof by the Tenant.
- 1.2 The Landlord has undertaken to erect the Grabouw Fire Station for its costs.
- 1.3 The Tenant shall in turn, and after erection of the Grabouw Fire Station, lease the Grabouw Fire Station and surrounding Premises from the Landlord in order to make use of the Grabouw Fire Station.
- 1.4 The Parties accordingly wish to enter into this Agreement which shall record the terms and conditions on which the Tenant will lease the Grabouw Fire Station and surrounding ancillary Premises from the Landlord.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement unless the context otherwise indicates:
 - 2.1.1 “**Agreement**” or “**Lease**” means this lease agreement and the conditions of lease included herein, including any annexures and/or schedules, as amended from time to time;
 - 2.1.2 “**Building Plans**” means the building plans for the Grabouw Fire Station to be erected on the Premises as indicated in **Annexure B** attached hereto;
 - 2.1.3 “**Business Day**” means a day which is not a Saturday, Sunday or official public holiday in the Republic South Africa;
 - 2.1.4 “**the balance of the Capital Amount**” means an amount equal to the Capital Amount less the aggregate amount paid in respect of monthly rental already paid by the Tenant to the Landlord as at the date of cancellation or termination of this Lease;
 - 2.1.5 “**Capital Amount**” means the aggregate amount paid/spent by the Landlord in order to erect the Grabouw Fire Station, in compliance with the Building Plans, determined and proved by a certificate signed by any director of the Landlord (whose appointment, qualification or authority need not be proved) and provided that the certificate by the director of the Landlord in terms hereof shall be binding on the Tenant as *prima facie* proof of the aggregate amount paid/spent by the Landlord in order to erect the Grabouw Fire Station and shall be valid as a liquid document against the Tenant in any competent court for the purpose of obtaining provisional sentence against the Tenant thereon.



- 2.1.6 “**the Commencement Date**” means the commencement date of this Lease and shall be the 1 March 2019 or date of building completion;
- 2.1.7 “**Grabouw Fire Station**” means the fire brigade station to be erected on the Premises, as per the Building Plans;
- 2.1.8 “**the Initial Period**” means a period of 3 (three) years commencing on the Commencement Date.;
- 2.1.9 “**the Landlord**” means Two a Day Group Proprietary Limited, a company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa under Registration Number 1993/007906/07, and classified as a profit company and a private company under the Companies Act, 2008;
- 2.1.10 “**the Tenant**” means Overberg District Municipality;
- 2.1.11 “**the Occupation Date**” means the date on which the tenant shall be entitled to occupy the Premises being 1 March 2019 or date of building completion;
- 2.1.12 “**the Premises**” means the premises owned by the Landlord, namely Portion 65 of Erf 319, on which the Grabouw Fire Station will be erected, as indicated in **Annexure A** attached hereto;
- 2.1.13 “**Parties**” means collectively the Landlord and the Tenant and reference to “**Party**” shall mean any one of them as the context requires;
- 2.1.14 “**Prime Rate**” means the publicly quoted basic rate of interest per annum from time to time, as certified by any officer of the Landlord’s bank whose appointment and authority it shall not be necessary to prove, at which the said bank lends monies in South African Rand on unsecured overdraft to first class corporate borrowers in general on the basis of such interest being compounded monthly in arrear and calculated on a 365 (three hundred and sixty five) day year factor, irrespective of whether or not the year is a leap year (and which said rate of interest is sometimes referred to as the prime commercial overdraft rate of interest);
- 2.1.15 “**Rand**” or “**R**” means South African Rand, the lawful currency of South Africa;
- 2.1.16 “**Signature Date**” means the date on which this Agreement is signed by the Party signing last in time (provided that all the Parties sign this Agreement).
- 2.2 In this Lease:
- 2.2.1 the clause headings are provided for convenience only and no regard shall be had thereto in the interpretation of this Agreement;

- 2.2.2 unless the context indicates otherwise, in this Agreement references to one gender shall include the other gender, use of the singular shall include the plural and *vice versa*, and reference to natural persons shall include bodies corporate and *vice versa*;
- 2.2.3 any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time;
- 2.2.4 if any provision in a definition is a substantive provision conferring any right or imposing any obligation on any Party, then, notwithstanding that it is only in the definition clause, effect shall be given to it as if it was a substantive provision in this Lease;
- 2.2.5 any reference in this Agreement to a "clause" by number refers to a corresponding provision of this Agreement;
- 2.2.6 when any number of days is prescribed, such number shall exclude the first and include the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 2.2.7 unless any such schedule or annexure provides otherwise, any such schedule or annexure to this Lease shall be deemed to be incorporated in and form part of this Agreement and this interpretation clause and the definitions contained in this Lease shall likewise apply to any such schedule or annexure;
- 2.2.8 any term defined in this Lease shall have the same meaning ascribed to it in any schedule or annexure to this Lease, except if the context clearly provides otherwise;
- 2.2.9 where any term is defined within the context of any particular clause in this Lease, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Lease, notwithstanding that that term has not been defined in this interpretation clause;
- 2.2.10 the expiration or termination of this Lease shall not affect such of the provisions of this Lease as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;

- 2.2.11 references to “days” (other than a reference to a “business day”), “months” or “years” in this Agreement shall be construed as calendar days, months or years, as the case may be. Any reference in this Agreement to “business hours” shall be construed as being the hours between 08:30 and 17:00 on any business day. Any reference in this Agreement to time shall be based upon Central African Time;
- 2.2.12 the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply;
- 2.2.13 any reference in this Lease to a Party shall include a reference to that Party’s assigns expressly permitted under this Lease and, if such Party is liquidated or sequestrated, be applicable also to and binding upon that Party’s liquidator or trustee, as the case may be;
- 2.2.14 the words “include”, “including” and “in particular” shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s;
- 2.2.15 the words “other” and “otherwise” shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible;
- 2.2.16 the use of any expression in this Lease covering a process available under South African law such as a winding-up (without limitation *eiusdem generis*) shall, if any of the Parties to this Lease is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such defined jurisdiction; and
- 2.2.17 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.

3. AGREEMENT

- 3.1 The Landlord shall be responsible for the erection of the Premises at its costs. The Landlord shall be responsible for the appointment of the architect, engineer, contract workers, builders and all other contractors of its choice required for the construction and erection of the Grabouw Fire Station or the Premises. At all times, the Landlord is the owner of the Grabouw Fire Station and the Premises.
- 3.2 The Landlord hereby leases to the Tenant who hereby lets from the Landlord the Grabouw Fire Station and the ancillary Premises, necessary for the conduct of the Tenant’s business at the Grabouw Fire Station, for the Initial Period, and subsequent Renewal Period, if any, upon the terms and conditions set out herein.

4. LEASE PERIOD

- 4.1 This Lease shall commence on the Commencement Date and shall continue to remain in force for the Initial Period.
- 4.2 This Lease shall automatically renew for a successive period of 3 (three) years (“**the Renewal Period**”) commencing on the first day following expiry of the Initial Period, unless notice to the contrary is provided by either of the Parties to the other by no later than 3 (three) months prior to expiry of the Initial Period. All the terms of this Lease shall continue to apply during the Renewal Period save that there shall be no further right of renewal after expiry of the Renewal Period, unless otherwise agreed between the Parties prior to the expiry of the Renewal Period, and the rental for the Renewal Period shall be as set out in clause 7.2.

5. NOTICE OF EARLY TERMINATION

- 5.1 During the Lease Period either Party may terminate the Lease by giving the other 3 (three) months’ notice in writing of its intention to terminate the Lease.
- 5.2 If the Tenant terminates the Agreement during the Initial Period, the Lease is not renewed for the Renewal Period at the option of the Tenant or the Lease is cancelled or terminated during the Initial Period as a result of a breach by the Tenant, the balance of the Capital Amount will be payable on or before the termination date of the Initial Period.
- 5.3 If the Tenant terminates the Agreement during the Renewal Period or the Lease is cancelled or terminated during the Renewal Period as a result of a breach by the Tenant, the balance of the Capital Amount will be payable on or before the termination date of the Renewal Period.

6. PAYMENT OF RENTAL

The Tenant shall, for the duration of this Lease, pay the monthly rental on the last day of each and every month to the Landlord, or to such other person and/or at such other place as the Landlord may from time nominate in writing, by way of electronic funds transfer into such bank account nominated by the Landlord from time to time.

7. RENTAL

- 7.1 The monthly rental payable by the Tenant to the Landlord for the Initial Period shall be as follows:



- 7.1.1 for the first year of the Initial Period, from the Commencement date until the first anniversary of the Commencement Date, shall be R19 000.00 (nineteen thousand Rand);
- 7.1.2 for the second year of the Initial Period, from the first anniversary of the Commencement Date until the second anniversary of the Commencement Date, shall be R20 140.00 (twenty thousand one hundred and forty Rand); and
- 7.2 The monthly rental payable by the Tenant to the Landlord for the first year of the Renewal Period, from the third anniversary of the Commencement Date until the fourth anniversary of the Commencement Date, shall be an aggregate amount equal to R20 140.00 (twenty thousand one hundred and forty Rand) plus 6% (six percent) of R20 140.00 (twenty thousand one hundred and forty Rand), and thereafter the monthly rental shall escalate annually on the anniversary of the Commencement Date, for the duration of the Renewal Period, with 6% (six percent).
- 7.3 The rental will include reasonable water and electricity usage.

8. USAGE

The Tenant shall use the Grabouw Fire Station and the ancillary Premises only for the purpose of carrying on the business of a fire station at the Grabouw Fire Station and for no other purpose whatsoever, without the Landlord's prior written consent, which shall not be unreasonably withheld.

9. RULES

The Landlord shall from time to time during the Lease Period be entitled to formulate reasonable rules relating to the use of the Grabouw Fire Station and/or Premises which will be applicable to the Tenant. These rules shall however be formulated in consultation with the Tenant and such rules shall not in any manner whatsoever result in the Tenant's ability to conduct its business activities at the Grabouw Fire Station or on the Premises or same being restricted and/or adversely effected and/or not directly and/or indirectly result in any costs in addition to rental payable by the Tenant in terms of this Lease, being levied against the Tenant.

10. TENANTS RIGHTS AND OBLIGATIONS

- 10.1 The Tenant shall:
 - 10.1.1 not use the Grabouw Fire Station and/or the Premises or allow it to be used, in whole or part, for any purpose other than described in this Agreement (and specifically clause 8);

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- 10.1.2 take all reasonable measures to protect the Grabouw Fire Station and the Premises, and all parts thereof, from abuse, damage, destruction and theft;
- 10.1.3 not cause or commit any nuisance at the Grabouw Fire Station or on the Premises or cause any annoyance or discomfort to the Landlord and/or any other occupiers of dwellings on adjacent properties;
- 10.1.4 refrain from interfering with the electrical, plumbing, or gas installations or systems serving the Grabouw Fire Station or the Premises, except as may be necessary to enable the Tenant to carry out his/her obligations of maintenance and repair in terms of this Lease;
- 10.1.5 at the Tenant's cost, be liable for the maintenance of, and for the repairs of, the interior of the Grabouw Fire Station, including, without limitation, all the Landlord's fixtures, and appliances therein and all carpets, tiles, taps, toilets, mirrors, cupboards, electronic switches, locks, keys, door handles and door bells, baths, basins, geysers and stoves (which includes the replacement of the thermostats and/or elements), and all glass windows and doors in respect thereof; and on terminations of this Lease shall deliver same to the Landlord in such good order and condition as it was received in, fair wear and tear excepted;
- 10.1.6 maintain and keep the Grabouw Fire Station clean and tidy as no such service shall be supplied by the Landlord;
- 10.1.7 take all reasonable measures to prevent blockages and obstructions from occurring in the drains, sewerage pipes, water pipes and taps serving the Grabouw Fire Station and at its own costs repair and maintain same;
- 10.1.8 provide, at the Tenant's own expense, all electric, fluorescent, and incandescent light bulbs required for the Grabouw Fire Station;
- 10.1.9 ensure that any persons entering the Grabouw Fire Station or the Premises obey all the rules and regulations of the Landlord regarding the access to and use of the Grabouw Fire Station and the Premises.

10.2 Alterations and additions

- 10.2.1 The Tenant shall not make any alterations and/or additions of any nature whatsoever to the Grabouw Fire Station or the Premises without the Landlord's prior consent (which consent shall not be unreasonably withheld). In the event of any such alteration and/or additions being made by the Tenant at its own expense with the approval of the Landlord, the Landlord shall at the termination of this Lease be entitled to:



10.2.1.1 retain such alterations and/or additions as its own and to receive benefits thereof without any obligation to compensate the Tenant in respect thereof ;
or

10.2.1.2 the Tenant shall, if so required by the Landlord, reinstate the Grabouw Fire Station and/or the Premises to the same condition that it was prior to such alterations and/or additions.

10.3 Fixtures and Fittings

10.3.1 The Tenant may:

10.3.1.1 at any time install fixtures, fittings and equipment in the Grabouw Fire Stations for the purpose of carrying on the Tenant's business;

10.3.1.2 at any time, and shall, prior to the termination of this Lease, remove any fixtures or fittings installed in terms of clause 10.3.1.1, provided that the Tenant shall at its own cost and expense repair any damage caused by the installation and/ or removal of such fixtures, fittings or equipment; or may offer to Landlord to purchase.

10.4 Notification of Defects in the Premises

10.4.1 The Tenant shall:

10.4.1.1 notify the Landlord in writing within 14 (fourteen) days after the Commencement Date of this Lease of any defects in the Grabouw Fire Station.

10.4.1.2 if it has failed to notify the Landlord as set out in clause 10.4.1.1, be deemed to have acknowledged that the Grabouw Fire Station were received in good order and condition and the Tenant shall have no claim against the Landlord for any defect which may subsequently be found therein.

10.5 Air Conditioners and Blinds

10.5.1 The Tenant shall:

10.5.1.1 not install any, air-conditioner or like device on or adjacent to any window of the Grabouw Fire Station unless the manner of installation thereof has been approved in writing by the Landlord, which approval shall not be unreasonably withheld.

10.5.1.2 remove any, air-conditioner or like device affixed in terms of clause 10.5.1.1 at the expiration or earlier termination of this Lease and re-instate the

relevant part of the Grabouw Fire Station to the same good order and condition as they were at the Commencement Date.

10.6 Legislation and Regulations

- 10.6.1 The Tenant shall at its own cost, comply with all requirements of the Municipality, laws, by-laws, ordinances, proclamations and regulations (including but not limited to the requirements of the Fire Brigade Services Act 99 of 1987, Environment Conservation Act 73 of 1989, the National Environmental Management Act 107 of 1998, the Hazardous Substances Act 15 of 1973, the Atmospheric Pollution Prevention Act 45 of 1965, the National Water Act 36 of 1998, the Occupational Health and Safety Act 85 of 1993 and the Compensation for Occupational Injuries and Diseases Act 130 of 1993), and/or any other competent authorities in connection with the conduct of its business at the Grabouw Fire Station and the Premises, and shall not contravene or permit contravention of any of the conditions of title under which the Grabouw Fire Station and the Premises is held by the Landlord or any of the provisions of the Town Planning Scheme applicable to the building(s) situated on the Premises, nor do or cause or permit to be done in or about the building(s) situated on the Premises anything which may be or cause a nuisance or disturbance to other occupiers of neighbouring premises or properties.
- 10.6.2 In the event of the Tenant conducting any alterations or expansions or modifications to the Grabouw Fire Station and/or the Premises, the Tenant shall obtain the necessary consent from the local authority (if any is required).
- 10.6.3 If the Tenant, as occupier of Grabouw Fire Station, contravenes or fails to conform with any relevant legislation and the Landlord, as owner of the Grabouw Fire Station, is furnished with a notice calling upon it to bring about within a period specified in the said notice the cessation of such activities stipulated in the notice, the Tenant undertakes, upon being furnished with a copy of such notice to immediately cease all such activities referred to in the notice and to remedy any complaint referred to in the notice within the prescribed time period.
- 10.6.4 The Tenant indemnifies and holds the Landlord harmless from and against any claims, costs, damages or loss (hereinafter referred to as "liability") arising as a result of any liability with regards to claims by governmental authorities or others for non-compliance by the Landlord with any act of parliament, law, ordinance, regulation or by-law made by a lawful authority in respect of any action taken by the Tenant in terms of clause 10.6.2 or clause 10.6.3.

10.7 No Assignment, Sub-Leasing



10.7.1 The Tenant shall not cede any of its rights; delegate any of its obligations; or mortgage, pledge or encumber any of its rights under the Lease without the Landlord's prior written consent.

10.7.2 The Tenant shall not be entitled to sub-let or to place any person, company or partnership in occupation or possession of the Grabouw Fire Station or the Premises or any portion thereof without the prior written consent of the Landlord, subject always that the Tenant shall remain liable for the obligations imposed upon the Tenant by this Lease.

10.8 Refuse

The Tenant shall ensure that refuse does not remain on or outside the Grabouw Fire Station or the Premises save in the place provided therefore.

10.9 No Claims

The Tenant shall not have any claim of any nature against the Landlord for any loss, damage or injury which the Tenant may directly or indirectly suffer by reason of any latent or patent defects in the Grabouw Fire Station or the Premises, or fire in the Grabouw Fire Station or on the Premises, or theft from the Grabouw Fire Station or the Premises or by reason of the disrepair or any particular repair not being effected by the Landlord timeously or at all, or arising out of the functioning or malfunctioning of the air-conditioning (if any) serving the Grabouw Fire Station or the Premises, or arising out of *vis major* or causes fortuitous or any other cause either wholly or partly beyond the Landlord's control, or arising out of any act or omission by any other tenant of the Premises. In view of the provisions of this clause, the Tenant is advised to take the necessary steps to insure its interests.

10.10 Insurance

The Tenant shall not do or permit to do anything or keep in, at or on the Grabouw Fire Station or the Premises anything or allow anything to be done or kept at, in or on the Grabouw Fire Station or the Premises which in terms of any fire insurance policy held from time to time by the Landlord in respect of the Grabouw Fire Station and the Premises may not be done or kept therein, or which may render any policy(ies) void or voidable and the Tenant shall comply in all respects with the terms of any such policy(ies), provided that if any premium payable in respect of any such policy(ies) is increased:-

10.10.1 by reason of the nature or scope of the business which the Tenant carries on in the Grabouw Fire Station or the Premises in terms of this Lease; or



10.10.2 as a result of the Tenant 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 to the Landlord the amount of that additional premium.

11. THE LANDLORD'S RIGHTS AND OBLIGATIONS

11.1 Maintain Exterior

The Landlord shall, at its own cost, keep and maintain the exterior structure and roof of the Grabouw Fire Station (except the glass in the windows and doors of the Grabouw Fire Station) in good order and condition.

11.2 Access

The Landlord, or its representatives, agents, employees and contractors, may at all reasonable times, without thereby giving rise to any claim or right of action on the part of the Tenant, enter the Grabouw Fire Station: -

11.2.1 for the purpose of inspecting or repairing the Grabouw Fire Station or any part of the Premises for any purpose associated therewith;

11.2.2 for purposes of carrying out repairs, replacements, other works or effect essential alterations to the Grabouw Fire Station and/or the Premises;

11.2.3 to alter the Grabouw Fire Station when required to do so by any lawful authority, acting in terms of applicable legislation, regulations or by-laws, or to perform any other lawful function in the *bona fide* interests of the Landlord;


provided that the Landlord shall exercise its rights in terms hereof with the least possible inconvenience to the Tenant.

11.3 Municipal Regulations

Notwithstanding anything to the contrary contained herein, the Tenant shall not be obliged to affect any repairs and/or alterations and/or additions to the Grabouw Fire Station or the Premises in order to comply with the requirements of the Tenant and/or competent authorities in connection with the conduct of the Tenant's business on the Premises.

12. WARRANTIES

12.1 The Tenant represents and warrants to the Landlord that, other than as expressly provided for to the contrary, as at the Signature Date:



- 12.1.1 it has the necessary power and legal capacity to enter into and perform its obligations under this Agreement and all matters contemplated herein, to sue and be sued in its own name, to carry on the business which it conducts and to own its assets;
- 12.1.2 it has taken all necessary internal action to authorise the execution and performance of this Agreement;
- 12.1.3 the provisions of this Agreement are and shall remain legally binding on it and the obligations imposed on it pursuant to this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their terms; and
- 12.1.4 the execution of this Agreement and performance of its obligations hereunder does not and shall not:
- 12.1.4.1 contravene any law or regulation to which it is subject; or
 - 12.1.4.2 contravene any provision of its constitutional documents; or
 - 12.1.4.3 conflict with, or result in a breach of any of the terms of, or constitute a default under any agreement or other instrument to which it is a party, or any licence or other authorisation to which it is subject, or by which it or any of its property or revenues are bound;
 - 12.1.4.4 breach any court order or any decision by any arbitrator, arbitral tribunal or government authority and which is binding on the Tenant,

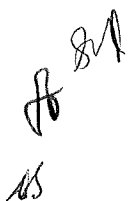
so as to prevent it or restrict it from executing and/or performing any or all of its obligations under this Agreement.

- 12.2 In addition to the general warranties set out in clause 12.1, the Tenant gives to the Landlord the further warranties that, other than as expressly provided for to the contrary, as at the Signature Date:
- 12.2.1 it has or shall approve the Buildings Plans and has or shall give all other necessary approvals, consents and certificates within its power as is necessary for the erection and occupation of the Grabouw Fire Station at set out in **Annexure B** attached hereto;
 - 12.2.2 it is authorised in terms of, and will comply at all times with, all relevant legislation, by-laws and/or regulations applicable to it, to lease, conduct and operate a fire station at the Premises; and

- 12.2.3 it will at all times ensure that, save in the event of emergencies, the operation of the Grabouw Fire Station will cause minimal disruptions and the least possible inconvenience to other properties, roads and people on the Premises.
- 12.3 The Tenant hereby indemnifies and holds the Landlord harmless from all and any costs, claims, expenses and fees that are suffered or incurred or that might be suffered or incurred as a result of any breach of the warranties provided by it in terms of this Agreement.
- 12.4 Each warranty provided by the Tenant to the Landlord shall remain in force notwithstanding the completion of the Lease, unless the warranty itself determines otherwise.
- 12.5 Each of the warranties shall be construed and be enforceable as a separate and severable warranty from the remaining warranties and no warranty will limit or otherwise adversely affect any other warranty.
- 12.6 All the warranties provided by the Tenant in terms of this Agreement are deemed to be material.

13. DESTRUCTION

- 13.1 The Landlord may cancel this Lease if:
- 13.1.1 the Grabouw Fire Station are destroyed or are damaged to such an extent as to be substantially unfit for renting for the purposes contained in this Agreement; or
- 13.1.2 there is destruction or damage to any building or any other parts of the Premises, whether or not the Grabouw Fire Station is involved, and the Landlord determines to put an end to the tenancies in the Grabouw Fire Station in order to engage in reconstruction, renovation or rebuilding.
- 13.2 The cancellation in terms of clause 13 shall be by written notice given by the Landlord within 60 (sixty) days of the taking place of the event giving rise to the cancellation.
- 13.3 If there is damage to the Grabouw Fire Station or to any other property on the Premises so as to effect the enjoyment of the Grabouw Fire Station and/or the Premises, but not to such extent as to entitle the Landlord to cancel in terms of clause 13, then the Tenant shall be entitled to remission of rental for the period during which and to the extent which it is deprived of beneficial occupation and enjoyment of the Premises, provided that such damage was not occasioned by any act or omission (whether wilful or negligent) by the Tenant, its agents, representatives, invitees, contractors or employees.



14. BREACH

14.1 Should the Tenant: -

- 14.1.1 fail to pay the monthly rental as provided for in clauses 6 and/or 7 when due or within 7 (seven) days of due date: or
- 14.1.2 fail to pay any other amount due by the Tenant in terms of this Lease (that is to say any amount other than the said rental) on due date and remain in default not less than 7 (seven) days after being notified in writing to do so by the Landlord; or
- 14.1.3 commit any other breach of any terms of this Lease, whether such breach goes to the root of this Agreement or not, and fail to remedy that breach within a period of 14 (fourteen) days after the receipt of notice to that effect by the Landlord; or
- 14.1.4 repeatedly breach any of the terms of this Lease in such manner as to justify the Landlord in holding that the Tenant's conduct is inconsistent with the intention or ability of the Tenant to carry out the terms of this Lease;

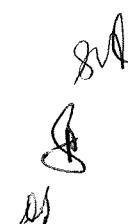
then and in any of such events the Landlord shall, without prejudice to its rights to claim damages from the Tenant or to the Landlord's right to eject the Tenant from the Grabouw Fire Station and the Premises or to any other claim of any nature whatsoever that the Landlord may have against the Tenant as a result thereof, be entitled to

- 14.1.5 cancel this Lease; or
- 14.1.6 in the case of clause 14.1.3, remedy such breach and immediately recover the total cost incurred by the Landlord in so doing from the Tenant.
- 14.1.7 Should the Landlord institute action against the Tenant pursuant to a breach by the Tenant of this Lease, then without prejudice to any other rights which the Landlord may have, the Landlord shall be entitled to recover all legal costs incurred by it including Attorney/Client charges, tracing fees and such collection commission as the Landlord is obliged to pay its attorneys, from the Tenant. The same rights are available to the Tenant should the Landlord be in breach.
- 14.1.8 Should the Landlord cancel this Lease and the Tenant dispute the Landlord's rights to do so and remain in occupation of the Premises pending the determination of that dispute, then: -
 - 14.1.8.1 the Tenant shall continue to pay, on due date, all amounts due by the Tenant in terms of this Lease;
 - 14.1.8.2 the Landlord shall be entitled to recover and accept those payments;

- 14.1.8.3 the acceptance by the Landlord of those payments shall be without prejudice to and shall not in any manner whatever affect the Landlord's claim to cancellation of this Lease or of any other nature whatever.
- 14.1.9 Should the dispute between the Landlord and the Tenant be determined in favour of the Landlord, then the payments made to the Landlord in terms of this clause 14 shall be regarded as damages paid by the Tenant on account of the loss sustained by the Landlord as a result of holding over by the Tenant of the Premises.
- 14.1.10 The Landlord or Tenant shall be entitled at its option to institute any legal proceedings which may arise out of or in connection with this Lease in any Magistrate's Court having jurisdiction, notwithstanding the fact that the claim or value of the matter in dispute might exceed the jurisdiction of such Magistrate's Court in respect of the cause of action.
- 14.1.11 Without Prejudice to all or any of the Landlord's rights granted hereunder; should the Tenant fail to pay the said monthly rental or any sum(s) which may become due by the Tenant to the Landlord on due date, then in either or both of such events the Tenant shall pay the Landlord interest on the outstanding amount, such interest to be calculated at the Prime Rate plus 3% (three percent) per annum. Such interest shall be compounded monthly on the last day of every month and will be calculated from the due date for payment of the money in respect of which the interest is chargeable until the payment of such monies in full.

15. MEDIATION

If any dispute arises between any of the Parties regarding the carrying into effect of any of the Parties' rights and obligations arising from this Agreement, or the termination or purported termination of this Agreement, such Parties agree to negotiate with each other in good faith in an effort to resolve such dispute. If such negotiations fail or do not occur within 3 (three) days after the dispute arises, the dispute shall not become the subject of litigation or arbitration until it has been heard by a mediator unless such action is critical to avoid the prescription of a cause of action or right at law or in order to obtain an interdict, or otherwise to limit any material damage to such Party's interests. Such dispute shall be referred to mediation before a mediator within 3 (three) days after the dispute arises if the good faith negotiations have not resulted in the resolution of the dispute. The mediator shall be appointed by the Parties or failing agreement by them as to the mediator, shall be nominated by the chairperson for the time being of Alternative Dispute Resolution Association of South Africa. The mediation shall terminate upon any one of the disputants withdrawing or the mediator informing the



disputants that in the mediator's opinion, no useful purpose will be achieved in continuing the mediation. All communications made by the disputants to the mediator or to each other during or in connection with the mediation are made without prejudice to any rights which they may have and form part of *bona fide* settlement negotiations. The Parties shall keep the mediation proceedings and any order made by the mediator confidential save to the extent otherwise contemplated herein. The mediator shall not be compelled by any disputant to disclose any fact learnt in the course of the mediation in any subsequent legal proceedings which may take place and the Parties waive their right to require the mediator to testify regarding what transpired in the mediation. The mediator shall:-

- 15.1 be entitled to communicate and meet with any disputant either in the presence of the other disputant/s or in private;
- 15.2 not disclose any information furnished in confidence by any one disputant to the mediator, to any other disputant without the prior consent of the disputant who furnished the information;
- 15.3 act impartially and disclose to the disputants any relationship or dealings which the mediator may have had with any of the disputants;
- 15.4 not make any decision which is binding upon the disputants, the resolution of the dispute depending entirely upon the disputants achieving agreement in respect thereof.

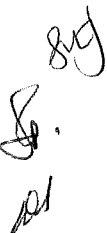
16. ARBITRATION

- 16.1 Save in respect of those provisions of the Agreement which provide for their own remedies which would be incompatible with arbitration, a dispute which arises in regard to:-
 - 16.1.1 the interpretation of; or
 - 16.1.2 the carrying into effect of; or
 - 16.1.3 any of the Parties' rights and obligations arising from; or
 - 16.1.4 the termination or purported termination of or arising from the termination of; or
 - 16.1.5 the rectification or proposed rectification of,

this Agreement, or out of or pursuant to this Agreement, (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction) and in respect of which the mediation referred to in clause 15 has not been successful, shall be submitted to and decided by arbitration.



- 16.2 That arbitration shall be held:-
- 16.2.1 with only the Parties and their representatives other than legal representatives, present thereat;
- 16.2.2 at Cape Town.
- 16.3 It is the intention that the arbitration shall, where possible, be held and concluded in 21 (twenty one) business days after it has been demanded. The Parties shall use their best endeavours to procure the expeditious completion of the arbitration within that period. The arbitrator shall be entitled to extend the aforesaid time limits under exceptional circumstances.
- 16.4 Save as expressly provided in this Agreement to the contrary, the arbitration shall be subject to the arbitration legislation for the time being in force in South Africa.
- 16.5 The arbitrator shall be an impartial admitted attorney whether practising or non-practising of not less than 10 (ten) years standing appointed by the Parties or, failing agreement by the Parties within 5 (five) days after the arbitration has been demanded, at the request of either of the Parties shall be nominated by the Chairperson for the time being of the Legal Practice Council of the Western Cape (or its successor body in the Western Cape), whereupon the Parties shall forthwith appoint such person as the arbitrator. If that person fails or refuses to make the nomination, either Party may approach the Western Cape High Court, Cape Town, to make such an appointment. To the extent necessary, the court is expressly empowered to do so.
- 16.6 The Parties shall keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential.
- 16.7 The arbitrator shall be obliged to give his award in writing fully supported by reasons.
- 16.8 The provisions of this clause are severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.
- 16.9 The arbitrator shall have the power to give default judgment if any Party fails to make submissions on the due date and/or fails to appear at the arbitration.
- 16.10 The arbitrator's award shall be final and binding on the Parties to the dispute.
- 16.11 The costs of any venue, arbitrator's remuneration, recording, transcription and other costs and expenses ancillary to the hearing shall be borne by the Parties and shall be recoverable, as costs in the cause under the provisions of any award. The Parties, together with the arbitrator will agree from time to time on the arbitrator's



remuneration, which will be paid by the Parties in equal shares, upon receipt of invoices therefor.

17. NOTICES AND DOMICILIA

17.1 The Parties hereby choose *domicilia citandi et excentandi* for all purposes under this Lease whether in respect of court process, notices or other documents or communications of whatever nature, the following addresses:

17.1.1 Landlord:

17.1.1.1 Physical: 1 Villiersdorp Road, Grabouw, 7160

17.1.1.2 Email: philipt@tad.co.za

17.1.1.3 For attention: Philip Toerien

17.1.2 Tenant:

17.1.2.1 Physical: 22 Longstreet Bredasdorp

17.1.2.2 Email: mm@odm.org.za

17.1.2.3 For attention: DP Beretti.

17.2 Any notice or communication required or permitted to be given in terms of this Lease shall be valid and effective only if in writing but it shall be competent to give notice by email.

17.3 Any Party may by notice to any other Party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that Party to another physical address where postal delivery occurs in the Republic of South Africa or its email address, provided that the change shall become effective *vis-à-vis* that addressee on the 10th (tenth) Business Day from the receipt of the notice by the addressee.

17.4 A notice to a Party:

17.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 10th (tenth) Business Day after posting (unless the contrary is proved);

17.4.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

17.4.3 sent by email to its chosen email number stipulated in clause 1 of this Agreement, shall be deemed to have been received on the date of despatch (unless the contrary is proved).

17.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent or delivered at its chosen *domicilium citandi et executandi*.

18. REPRESENTATIONS

The Tenant will not be entitled to rely on representations not contained in this Lease. It is the Tenant's obligation to ensure that all representations made to the Tenant in respect of the Grabouw Fire Station and the Premises and which the Tenant relied on when entering into this Lease are recorded in writing and that same be attached as an annexure to this Agreement.

19. VALUE ADDED TAX

19.1 It is recorded and agreed that:

19.1.1 the monthly rental payable by the Tenant to the Landlord during the currency of this Lease excludes Value added Tax ("VAT") as defined in the Value-Added Tax Act, No 89 of 1991 ("VAT Act");

19.1.2 all other amounts payable by the Tenant to the Landlord or to any third party during the currency of this Lease excludes VAT.

19.2 Accordingly, the Tenant shall be liable for the payment of VAT levied in terms of the VAT Act (or any statutory modification or re-enactment thereof in terms of any other statutory enactment):

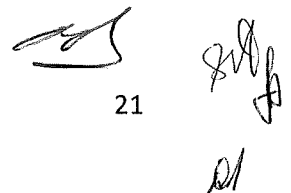
19.2.1 in respect of any other amount payable to the Landlord in terms of this Lease;

19.2.2 in respect of any other amount payable by the Tenant to the Landlord or to any other party in terms of this Lease.

19.3 The Tenant shall effect payment of any VAT:

19.3.1 levied in terms of clause 19.2 to the Landlord simultaneously with payment of the said monthly rental;

19.3.2 levied in terms of clause 19.2.2 simultaneously with payment of any amount so payable to the Landlord or to any party (as the case may be).



20. FORCIBLE ENTRY

The Tenant shall repair any damage to the Grabouw Fire Station and/or the ancillary Premises, both the interior and exterior, caused by any actual or attempted forcible entry to the Grabouw Fire Station and/or the ancillary Premises by any other person whomsoever, provided that such damage would not normally be covered by the Landlord's insurance and/or be less than any excess payable on the Landlord's insurance.

21. GENERAL

- 21.1 This Lease constitutes the whole agreement between the Parties and no warranties or representations whether express or implied shall be binding on the Parties other than as recorded herein.
- 21.2 No variation, alteration or cancellation of this Agreement shall be force or effect unless it is reduced to in writing and signed by the Landlord and the Tenant.
- 21.3 This Lease contains all the terms and conditions of the agreement between the Landlord and the Tenant. The Parties acknowledge that there are no understandings, representations or terms between the Landlord and the Tenant in regard to the letting of the Premises other than those set out herein.
- 21.4 No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement, and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 21.5 The Landlord shall be entitled to cede, assign, transfer and/or delegate this Lease to any third party with prior notification to the Tenant.
- 21.6 The rights and remedies of the Parties in connection herewith are cumulative and are not exclusive of any rights or remedies provided by law.
- 21.7 The Tenant warrants that any and all information and/or documentation supplied and/or provided to the Landlord is true and correct and indemnifies and holds the Landlord harmless against any and all claims, losses and/or damages of any nature

whatsoever sustained by the Landlord as a result of a breach of this warranty by the Tenant.

21.8 The signature by any Party of a counterpart of this Agreement shall be as effective as if that Party had signed the same document as the other Party.

21.9 In the event of a conflict with the terms of this Lease and any annexures attached hereto, the provisions of the Lease shall prevail.

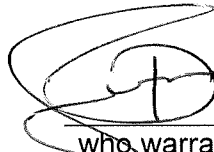
21.10 Each provision in this Agreement is severable, the one from the other, and, if at any time any provision is or becomes or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect

22. COSTS

Each Party shall be liable to for its own costs in connection with the negotiation, drafting, execution and implementation, and matters incidental thereto, of this Agreement.

Signed at Graham

on 1 February 2019
for **TWO-A-DAY GROUP PROPRIETARY LIMITED**



who warrants that he/she is duly authorised hereto

WITNESSES.

1. Sean Jaarveld

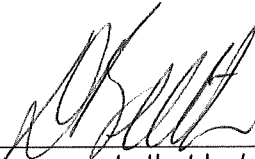
2. [Signature]

Signed at

on

2019

for **OVERBERG DISTRICT MUNICIPALITY**



who warrants that he/she is duly
authorised hereto

WITNESSES

1. _____

2. _____

