

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NO:

In the matter between:

EVERFRESH MARKET VIRGINIA (PTY) LIMITED
[Previously known as WILD BREAK 166 (PTY) LTD]

Applicant

and

SHOPRITE CHECKERS (PTY) LIMITED

Respondent

NOTICE OF MOTION

TAKE NOTICE THAT EVERFRESH MARKET VIRGINIA (PTY) LIMITED (hereinafter called “the applicant”) intends to make application to this Court for an order:

- (a) That applicant be granted leave to appeal against the decision by the Court *a quo* that a contractual provision permitting parties to a

lease to reach agreement as to the rentals for a renewal period places no obligation on a party thereto to engage in negotiations aimed at arriving at such agreement regarding rentals; and

- (b) That the order of the KwaZulu-Natal High Court, Pietermaritzburg, in case number 6675/09 be set aside and substituted with an order dismissing the application for eviction, with costs.
- (c) Granting applicant further and/or alternative relief.

AND that the accompanying affidavit of **LEONEL ALEXANDRE LUIZINHO** will be used in support thereof.

TAKE NOTICE FURTHER that the applicant has appointed **SHANNON LITTLE ATTORNEYS**, Infinity Office Park, Suite 2, Block G, Ground Floor, Robin Close, Cnr Michelle Avenue and Hennie Alberts Street,

Meyersdal, as the address at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application you are required to:

- (a) notify applicant's attorney in writing on or before the _____ day of _____, 2010; and
- (b) within fifteen (15) days after you have so given notice of your intention to oppose the application, to file your answering affidavit, if any, and further that you are required to appoint in such notification and address at which you will accept notice and service of all documents in these proceedings.

IF no such notice of intention to oppose is given, the applicant will request the Registrar to place the matter before the President to be dealt with in terms of these rules.

