

**RULES OF AUCTION**

And

CONDITIONS OF SALE

PLACE OF AUCTION: THE EAST LONDON GOLF CLUB, 22 GLENEAGLES ROAD, BUNKERS HILL, EAST LONDON
DATE OF AUCTION: 23 NOVEMBER 2023
TIME OF AUCTION: 11H00

IN2ASSETS LEGAL (PTY) LTD
Registration Number: 2011/000231/07
Unit 505, 5th Floor, Strauss Daly Place, 41 Richefond Circle, Ridgeside Office Park, Umhlanga Ridge
(031) 574 7600
(the "AUCTIONEER")
Duly represented by: Andrew Miller

duly instructed by

EASTERN CAPE DEVELOPMENT CORPORATION
1905/032307/06
(the "SELLER")

hereby offers for sale by public auction the following immovable **PROPERTY**:

TITLE DEED DESCRIPTION: _____

TITLE DEED: _____

IN EXTENT: _____ m²

STREET ADDRESS / KNOWN AS: _____

And all improvements thereon (the "**PROPERTY**") on the following terms and conditions:

1. **AUCTION PROCEDURE**

- 1.1. The sale by auction is subject to a reserve price.
- 1.2. The **AUCTIONEER** or his agent shall be entitled to bid up to the reserve price on behalf of the owner, but shall not be entitled to make a bid equal to or exceeding the reserve price.
- 1.3. The rules of auction comply with section 45 of the Consumer Protection Act, Act 68 of 2008 ("the Act") and with the Consumer Protection Act Regulations ("the Regulations") that have been published in terms thereof in Government Gazette No. 34180 on 1 April 2011 (Volume 550) and any amendments thereto from time to time.
- 1.4. Registration to bid at the auction:
 - 1.4.1. Anyone that intends to bid at the auction must register his or her identity on the bidder's record **prior to the commencement of the auction** and such registration must meet the requirements of FICA (Financial Intelligence Centre Act, 2001) in respect of the establishment and verification of identity of the person and the person must sign the registration entry.
 - 1.4.2. A person who attends the auction to **bid on behalf of another person (i.e. on behalf of a company)** must produce a letter of authority that expressly authorises him or her to bid on behalf of that person and that person and the person bidding on his or her behalf must meet the requirements set out in clause 1.4.1 above. Where a person is bidding on behalf of a company the letter of authority must appear on the letterhead of the company and must be accompanied by a certified copy of the resolution authorising him or her to bid on behalf of the company.
 - 1.4.3. In the event that the letter of authority referred to in clause 1.4.2. above is not produced as contemplated above and / or is not valid, then the bidder shall be deemed to be the **PURCHASER** in his private capacity, and will be responsible in his personal capacity in accordance with the Rules of Auction & Conditions of Sale.
 - 1.4.4. Where the bidder signs the Rules of Auction & Conditions of Sale and / or is the successful bidder on any lot (s) in a representative capacity, the bidder hereby binds himself as surety and co – principal debtor for all the obligations of the concern that he represents.
- 1.5. The bidder's record and the vendor roll will be made available for inspection at the offices of the **AUCTIONEER** during normal business hours without the charge of a fee. The bidder's record will also be available for inspection at the auction.
- 1.6. The **AUCTIONEER** has a trust account. All money due to the **SELLER** in terms of the Rules of Auction will be paid into this trust account for the benefit of the **SELLER**, minus any commission payable to **AUCTIONEER**.
- 1.7. The **AUCTIONEER** will during the auction announce the reason for the auction unless that reason is the normal and voluntary disposal of **PROPERTY** by the **SELLER**.

- 1.8. The conduct of the auction is subject to the control of the **AUCTIONEER** who has the sole right to regulate the bidding procedure.
- 1.9. The sale shall be by the rise and the **PROPERTY** shall be sold to the highest bidder subject to the Rules of Auction. All bids are being made in South African Rand.
- 1.10. Every prospective bidder must read the Rules of Auction and must not bid unless he or she has done so.
- 1.11. Every bid shall constitute an offer to purchase the **PROPERTY** for the amount bid upon the terms and conditions contained herein, which the **SELLER** or the **AUCTIONEER** may accept or reject in their absolute discretion. The **SELLER** shall be entitled, in its absolute discretion, to withdraw the **PROPERTY** from sale prior to acceptance by the **SELLER**.
- 1.12. If no bid equals or exceeds the reserve price, the **PROPERTY** may be withdrawn from the auction. The **SELLER** shall be entitled to instruct the **AUCTIONEER** to accept any lower bid.
- 1.13. In the event of any dispute between the bidders, the decision of the **AUCTIONEER** shall be final and binding.
- 1.14. Any error by the **AUCTIONEER** shall be entitled to be corrected by him.
- 1.15. No bid may be withdrawn after the fall of the hammer until the expiry of the confirmation period that is provided for in the Rules of Auction, during which time the offer shall be open for acceptance by the **SELLER** or his agent and if the offer is accepted, the sale shall be deemed to be a sale by auction for purposes of the Act.
- 1.16. The highest bidder ("the **PURCHASER**") shall sign the Rules of Auction immediately on the fall of the hammer.
- 1.17. Guide Price: In the event of the **AUCTIONEER** issuing any guidance as to price of any Property, Bidders should be aware that:
 - 1.17.1. any guide price may have varied upwards or downwards by the date on which any contract is formed;
 - 1.17.2. guide prices, and estimates as to current or future open market rental for the whole or part of the Property, are not a substitute for detailed professional advice as to value;
 - 1.17.3. guide prices are not to be taken as an indication of any Reserve;
 - 1.17.4. The **AUCTIONEER** shall not be deemed as having undertaken any sort of valuation, formal or otherwise under any circumstances;
 - 1.17.5. Bidders shall place no reliance on any guide price or view as to current or future open market rental for the whole or part of the Property which may be issued by the **AUCTIONEER**.

- 1.18. Each Bidder acknowledges section 45(3) of the Consumer Protection Act but furthermore, acknowledges the requirement thereof would not suit an electronic medium or platform in the form of the sales process. However, a Bid will lapse as an offer after the expiry of the confirmation period should it not have been super ceded, accepted or a sale not occurred as below reserve. No Bid may be withdrawn after acceptance.
- 1.19. The contract is formed immediately upon the auction ending by the **AUCTIONEER** accepting the winning Bid. When a Property is sold at auction, a "SOLD" message will appear beneath the onscreen bidding history and a message will be displayed onscreen to the winning Bidder announcing the Bidder's offer has been accepted. Thereafter if it is an online bid, the successful Bidder will be sent an email to further confirm the formation of the contract of sale on the terms contained in these Rules of Auction & the Conditions of Sale, and stipulate where the payment of the Deposit by the Bidder in accordance therewith.
- 1.19.1. If the successful Bidder is an online Bidder, he consents to an electronic signature unique to the successful Bidder's Bid being added to the Recordal; and
- 1.19.2. Unsuccessful Bidders will see on screen that they have not been successful and this will be confirmed by email and their Initial Deposits (if any) will be repaid without interest.

2. **ACCEPTANCE AND CONFIRMATION**

- 2.1. The **PURCHASER's** offer shall remain open for acceptance by the **SELLER** or by the **AUCTIONEER** on behalf of the **SELLER**, until **17H00** on the **22nd** day of **DECEMBER 2023** ("confirmation period"). The **PURCHASER** and the **AUCTIONEER** acknowledge and agree that this provision is inserted and intended for the benefit of the **SELLER**.
- 2.2. The **PURCHASER's** offer shall be deemed to have been accepted only when the **SELLER** has signed these Rules of Auction in the space provided at the end thereof and the **SELLER** shall not be required to notify the **PURCHASER** of the acceptance of its offer prior to expiry of the confirmation period.
- 2.3. Should the **SELLER** reject the **PURCHASER's** offer, the **AUCTIONEER** will repay to the **PURCHASER** any deposit and commission paid to it in terms of this agreement.
- 2.4. The **SELLER** shall notify the **PURCHASER** in writing of either its acceptance or its rejection of the **PURCHASER's** offer immediately upon receipt of written request therefore from the **PURCHASER**, which request shall not be made before the last day of the Confirmation Period.
- 2.5. In the event of the sale requiring the consent of any statutory authority, The Master of the High Court, or any court of law, then this sale is subject to the granting of such consent.

2.6. This sale shall be subject to there being no lawful impediment (either interdictory or otherwise) which prevents the transfer of the **PROPERTY** from the **SELLER** to the **PURCHASER** in terms of clause 9 below.

3. **PURCHASE PRICE**

The Purchase Price of the **PROPERTY**, plus Value-Added Tax ("VAT") if applicable, shall be paid as follows:

- 3.1 A deposit of 10% (ten per cent) of the Purchase Price to the **AUCTIONEER** by the **PURCHASER** immediately on the fall of the hammer, which amount the **PURCHASER** hereby authorises and instructs the **AUCTIONEER** to pay over to the **SELLER's** Attorneys; in Trust pending Registration of Transfer.
- 3.2 The **PURCHASER's** signature hereto shall constitute the **PURCHASER's** written consent to authorise the **SELLER's ATTORNEYS** to invest all amounts paid on account of the Purchase Price in an interest-bearing account with a bank of their choice in terms of Section 78(2A) of the Attorneys Act No.53 of 1979 (as amended) and the interest thereon less the attorneys usual administration fee shall accrue for the benefit of the **PURCHASER**.
- 3.3 The balance of the Purchase Price shall be secured to the satisfaction of the **SELLER's** Attorneys, by a written guarantee from a Bank or registered financial institution, payable free of exchange, against registration of transfer of the **PROPERTY** into the **PURCHASER's** name. The **PURCHASER** may elect to secure the balance of the Purchase Price by payment in cash to the **SELLER's** Attorneys, who shall hold same in trust, pending registration of transfer into the name of the **PURCHASER**. The aforesaid guarantee shall be presented and/or cash shall be payable by the **PURCHASER** to the **SELLER's** Attorneys within 45 (Forty-Five) days from receipt of a written request to that effect from the **SELLER's** attorneys.

4. **VALUE-ADDED TAX**

- 4.1 The **SELLER** is not a VAT Vendor in respect of the **PROPERTY** sold herewith.
- 4.2 The purchase price attracts Transfer Duty.
- 4.3 The Transfer Duty shall be paid by the **PURCHASER** to the **Transferring attorneys** immediately on demand thereof as per Clause 9.2.

5. **AUCTIONEER'S COMMISSION**

- 5.1 The **PURCHASER** shall be liable for and pay, in addition to the amounts payable in terms of clauses 3.1 and 3.3, **AUCTIONEER's** commission of 5,5% (FIVE COMMA FIVE PER CENT) of the Purchase Price, plus VAT thereon, which commission shall be

deemed to have been earned and is payable immediately upon the signing of acceptance of the **PURCHASER's** offer in terms hereof by the **SELLER**.

- 5.2 The **PURCHASER** shall pay the full amount of **AUCTIONEER's** commission into the trust account of the **AUCTIONEER** immediately on the fall of the hammer, but this amount shall remain the property of the **PURCHASER** and shall be retained in trust by the **AUCTIONEER** for the benefit of the **PURCHASER** pending acceptance by the **SELLER** of the **PURCHASER's** offer or until the **SELLER** either rejects the offer or until expiry of the confirmation period.
- 5.3 The provisions of this clause 5 are inserted and intended for the benefit of the **AUCTIONEER** who by his signature hereto, accepts such benefit.

6 OCCUPATIONAL RENT / INTEREST

Should the **PURCHASER** not take possession and occupation of the **PROPERTY** on date of Registration of Transfer as per clause 10.1 below and take earlier possession of the **PROPERTY** as per pre-agreed written agreement with the **SELLER**, the **PURCHASER** shall pay occupational rent to the **SELLER**, calculated at 12% (Twelve Percent) per annum on the balance of the purchase price, payable in advance on the first day of every month, from date of possession until date of transfer, both days inclusive, payable directly to the **SELLER's** Attorney (reduced *pro rata* for any period less than a month).

7 RATES AND TAXES

- 7.1 The **SELLER** shall be liable for all rates and taxes and other Municipal charges levied on the **PROPERTY** for the period prior to registration of transfer and the **PURCHASER** shall be liable for all rates and taxes and other Municipal charges levied thereafter. In the event of the **PURCHASER** being an existing tenant or occupant on the **PROPERTY** such tenant shall be liable for all municipal services charged on the **PROPERTY** for the period prior to transfer excluding rates and taxes.
- 7.2 The **PURCHASER** shall refund to the **SELLER** a pro rata share of all rates and taxes and services paid in advance by the **SELLER** for the period after registration of transfer, which refund shall be paid upon registration of transfer excluding services in the event of the purchaser being the existing tenant on the **PROPERTY**.
- 7.3 In the event of the applicable Local Council demanding Rates, Taxes and Services to be paid in advance of a period exceeding 3 (three) months from date of issue of Rates Clearance figures to the conveyancers ("the advanced period"), the **PURCHASER** shall be liable to pay the total amount charged for such advanced period payable on demand by the conveyancers.

8 SELLER RESIDENCY AND WITHHOLDING TAX

NOT APPLICABLE.

9 **TRANSFER AND COSTS OF TRANSFER**

- 9.1 Transfer of the **PROPERTY** shall be passed, by the **SELLER's** Attorneys, as soon as possible after date of acceptance, provided the **PURCHASER** has paid or secured all amounts payable in terms hereof.
- 9.2 Transfer of the **PROPERTY** shall be effected by the **SELLER's** Attorneys and all expenses of and incidental to the preparation and registration of transfer, the conveyancing fees, disbursements, transfer duty and/or VAT (whatever is applicable), in respect of such transfer, shall be borne by the **PURCHASER** including all expenses and legal costs incidental to the preparation and registration of any mortgage bond to finance the Purchase Price herein, including any disbursement levied by the financial institution approving the finance which will all be payable to the Transferring Attorneys immediately on demand thereof.
- 9.3 The **PURCHASER** acknowledges and accordingly undertakes to comply with all the FICA requirements as set out in **Annexure "1"** annexed hereto within 7 (seven) days from date of acceptance of this Agreement by the **SELLER** and to supply the **SELLER's** Attorneys all information and documentation required by the **SELLER's** Attorneys to enable the **SELLER's** Attorneys to fulfil their obligations in terms of FICA.
- 9.4 The parties shall be obliged to sign all transfer documents presented by the attorneys appointed in 9.1 above within **30 (THIRTY)** days of submission of the guarantee referred to in clause 3.3 above to enable the attorneys to proceed with the transfer of the **PROPERTY** into the name of the **PURCHASER**.
- 9.5 In the event of the **PURCHASER** being in arrears in respect of any rent or occupational rent due to the **SELLER**, the **SELLER** shall be entitled to instruct the **SELLER'S Attorneys** not to proceed with the registration of transfer until such time that the **PURCHASER** pays all sums due in respect of rent and occupational rental. In the event of an individual in arrears in terms of this clause, purchasing the property on behalf of a Company, Close Corporation or Trust the conditions of this clause shall similarly apply to such Entity purchasing the property.

10 **POSSESSION AND RISK**

- 10.1 Possession of the **PROPERTY** shall only be given by the **SELLER** and taken by the **PURCHASER** on registration of transfer, provided that clauses 3.1, 3.3 and 9.5 above have been complied with, from which date all risks and benefits of ownership in respect of the **PROPERTY** shall pass to the **PURCHASER**.
- 10.2 Should the **PURCHASER** take and the **SELLER** allow possession of the **PROPERTY** prior to registration of transfer, the **PURCHASER** shall at its own expense insure the **PROPERTY** and improvements thereon for the full replacement value thereof from date of possession, against risk of loss or damage by any cause with an insurer acceptable to the **SELLER**. The **SELLER's** interest in the **PROPERTY** shall be endorsed against such policy for such period.

10.3 Upon the **PURCHASER** taking possession of the **PROPERTY** and pending transfer, the following further provisions shall apply –

10.3.1 the **PURCHASER** shall not sell, let or in any other manner dispose of or part with (whether temporarily or otherwise) the **PROPERTY** or his rights of occupation thereof, except with the written consent of the **SELLER**, which consent shall not be unreasonably withheld;

10.3.2 the **PURCHASER** shall be responsible for and pay all costs of electricity and water consumed in the **PROPERTY**.

11 **EXISTING TENANCIES**

11.1 The **SELLER** is not aware of any terms and conditions of any lease agreements that may have been concluded in respect of the **PROPERTY**.

11.2 Neither the **SELLER** nor the **AUCTIONEER** guarantee any vacant occupation.

11.3 Occupancy of the **PROPERTY** by the **PURCHASER** or persons on the authority of the **PURCHASER** shall not create a tenancy either in terms of any statutory provision or at common law.

11.4 It is solely the responsibility of the **PURCHASER** to conduct his own due diligence on the property. Any responsibility to remove or evict the tenants will be solely for the **PURCHASER's** account.

12 **REPAIRS AND IMPROVEMENTS**

12.1. Prior to registration of transfer, the **PURCHASER** shall not be entitled to effect any alterations to the **PROPERTY** without the prior written consent of the **SELLER**.

12.2. The **SELLER** shall not be obliged to compensate the **PURCHASER** for any authorised alteration effected in the event of the sale being cancelled.

12.3. The **PURCHASER** shall be liable for any damages suffered by the **SELLER** as a result of any alterations effected by the **PURCHASER**, not authorised by the **SELLER**.

13. **VOETSTOOTS, EXTENT AND REPRESENTATIONS**

13.1. The **PROPERTY** is sold “voetstoets” and subject to the terms and conditions, servitudes (if any), expropriations (if any) and encroachments (if any) mentioned or referred to in the current and/or prior Title Deeds and to the conditions of establishment of the Township in which it is situated and to the zoning applied to it under any Town Planning Scheme. The **SELLER** shall not profit by any excess nor shall it be answerable for any deficiency in the extent thereof. Neither the **SELLER** nor the **AUCTIONEER** shall be responsible for pointing out to the **PURCHASER** any surveyor's pegs or beacons in respect of the **PROPERTY** unless requested do so by the **PURCHASER** or unless the **SELLER** and/or **AUCTIONEER** had

knowledge of any material deficiencies in the extent. The PURCHASER acknowledges herewith that he has fully acquainted himself with the availability and legality of an occupation certificate issued in respect of the improvements on the PROPERTY (if any) as well as the building plans and any deviations that may be applicable between the building plans and the improvements on the PROPERTY itself. The PURCHASER acknowledges that he will have no claims against the SELLER or the AUCTIONEER in respect hereof unless the SELLER and / or AUCTIONEER had knowledge of any such discrepancies, occupational certificate and or building plans that should have been disclosed to the PURCHASER.

- 13.2. The PURCHASER acknowledges that he has not been induced into entering into this Agreement by any express or implied information, statement, advertisement or representation made or given any warranties in respect of the PROPERTY or anything relating thereto, by the AUCTIONEER or any other person, or by or on behalf of the SELLER and that is not contained in this Agreement.
- 13.3. The PURCHASER acknowledges that he has fully acquainted himself with the PROPERTY that he has purchased alternatively that he/she has elected to purchase the PROPERTY without fully acquainting him/herself therewith.
- 13.4. Annexure 2 hereto sets out information pertaining to the PROPERTY which is specifically brought to the attention of the PURCHASER.

14. **BREACH**

- 14.1. If one of the Parties commits a breach of this Agreement or fails to comply with any of the provisions hereof, then the Aggrieved Party shall be entitled to give the Defaulting Party 7 (seven) days notice in writing to remedy such breach or failure (unless such breach or failure occurs after the transfer documents have been lodged in the Deeds Office for registration, in which case the 7 (seven) day period may, at the election of the Aggrieved Party be reduced to 48 (forty eight) hours. If the defaulting party fails to comply with such notice then the innocent party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which it may have in law, including the right to claim damages:

14.1.1. to cancel this Agreement and upon cancellation: -

- 14.1.1.1. if the defaulting party is the PURCHASER the SELLER shall be entitled to retain all amounts paid by the PURCHASER, excluding AUCTIONEER's commission, as *rouwkoop* or as a genuine pre-estimate of damage suffered by the SELLER, and furthermore the PURCHASER shall not be entitled to compensation from the SELLER for any improvements of whatsoever nature it may have caused on the PROPERTY, whether with or without the SELLER's consent. The parties specifically agree that the AUCTIONEER shall be entitled, but not obliged, to immediately resubmit the PROPERTY for auction; and

- 14.1.1.2. if the defaulting party is the **SELLER** the **PURCHASER** shall be entitled to a full refund of all money paid in terms hereof to the **SELLER** and to claim any other damages from the **SELLER** that it may have suffered as a result of the **SELLER's** default;

(OR)

- 14.1.2. to claim immediate performance and/or payment of all the defaulting party's obligations in terms hereof.

- 14.2. Upon cancellation of this Agreement for whatever reason, the **PURCHASER** hereby undertakes to forthwith vacate the **PROPERTY** and to procure that the **PROPERTY** shall be vacated by any persons who occupy the **PROPERTY** through the **PURCHASER's** title or by his permission. Occupation shall be re-delivered in the same good condition as at the date of possession.
- 14.3. Occupancy of the **PROPERTY** by the **PURCHASER** or persons on the authority of the **PURCHASER** shall not create a tenancy either in terms of any statutory provision or at common law.
- 14.4. Notwithstanding what is contained herein, should the **PURCHASER** pay any amount as required under these Rules of Auction, the parties record and agree that such amount will be proportionally allocated towards the deposit payable in terms hereof and the commission payable in terms of clause 5 above.
- 14.5. It is recorded further that the deduction by the **AUCTIONEER** of commission due to it under the sale does not absolve the **PURCHASER** from any and all other obligations arising from these Rules of Auction.

15 MORA CLAUSE

- 15.1 In the event of there being any delay in the registration of transfer caused by the **PURCHASER**, the **PURCHASER** agrees to pay interest on the total purchase price at 2% (Two Percent) above the prime overdraft rate charged by any of the Registered South African Banks from time to time calculated from the date the **PURCHASER** is notified in writing by the **SELLER** (or the **SELLER's** agents) as being in mora, to the date upon which the **PURCHASER** has ceased to be in mora, both days inclusive.
- 15.2 A certificate by any Branch Manager of any of the aforementioned Banks as to such prime overdraft rate from time to time shall be *prima facie* proof of such rate.

16 LEGAL COSTS

The Defaulting Party shall be liable for all legal costs incurred by the Aggrieved Party, the **AUCTIONEER** and his Agent / Attorneys in enforcing the terms of this agreement, on an Attorney and own client scale, including collection commission.

17 **ADDRESS / DOMICILIUM**

17.1 The **PURCHASER** and the **SELLER** hereby choose their respective addresses / *domicilium citandi et executandi* for all purposes in respect of these Rules of Auction, including all notices and Court process to be delivered in terms hereof, the address recorded below his signature hereunder. Any notice sent by pre-paid registered post shall be deemed to have been received on the fifth day after posting; any notice delivered by hand shall be deemed to have been received on the day of delivery; any notice sent by telefax or electronically transmitted by email, shall be deemed to have been received on the first business day after date of despatch thereof.

17.2 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a Party to this Agreement shall be deemed to be adequate written notice or communication to him notwithstanding that it was not sent or delivered at the chosen address / *domicilium citandi et executandi* or transmitted to such Party's telefax number and/or email address as stipulated herein.

17.3 The terms of "writing" shall include communications by email or facsimile.

18 **JOINT AND SEVERAL LIABILITY**

If this agreement is concluded with more than one **PURCHASER**, the liability of all such **PURCHASER's** to the **SELLER** and to the **AUCTIONEER** shall be joint and several *in solidum*.

19 **SECTION 112 OF THE COMPANIES ACT**

NOT APPLICABLE.

20 **NOMINEE**

The **PURCHASER** shall be entitled, by notice in writing to the **SELLER**, to nominate a nominee in his place as **PURCHASER**, upon the following terms and conditions:

20.1 the aforesaid notice shall be handed to the **SELLER** by not later than 24h00 on the same day as the acceptance date by the **SELLER**;

20.2 the notice shall set out the name and address of the nominee so nominated as **PURCHASER**;

20.3 the notice shall be accompanied by the nominee's written acknowledgement:

20.3.1 that it is fully aware of all the terms and conditions of these Rules of Auction as if fully set out in such written acknowledgement; and

20.3.2 that it is bound by the provisions of these Rules of Auction as the **PURCHASER**;

20.4 should the **PURCHASER** nominate a nominee in terms of this clause, then:

20.4.1 all reference to the **PURCHASER** in this agreement shall be deemed to be a reference to its nominee; and

20.4.2 the PURCHASER by his signature hereto, hereby interposes and binds himself as surety and co-principal debtor *in solidum*, for and on behalf of all the obligations of the aforesaid nominee as PURCHASER, to and in favour of the SELLER and/or AUCTIONEER, for all the PURCHASER's obligations under this agreement, including damages, and renounces the benefits of division and *excussion*.

21 **COMPANY TO BE FORMED**

21.1 In the event of the **PURCHASER** signing this agreement in his capacity as agent for a company to be formed and the **PURCHASER** fails within 20 (twenty) days from date of acceptance and confirmation of this agreement to register such company having as one of its objects the ratification and adoption of this agreement, or such company fails to adopt or ratify this agreement within 15 (fifteen) days after date of its incorporation, then in such an event the **PURCHASER** shall be deemed as from the date thereof to have entered into this agreement in his personal capacity and to have acquired all the rights and obligations of the **PURCHASER** under this agreement.

21.2 In the event of such company being registered and duly adopting or ratifying this agreement, or the nomination effected, then the **PURCHASER by his signature hereunder, shall be deemed to bind himself to the SELLER and/or AUCTIONEER as surety and co-principal debtor *in solidum* with such company for the due performance by it as PURCHASER of the terms, conditions and obligations arising out of this agreement.**

22 **COMPANIES, CLOSE CORPORATIONS, ASSOCIATIONS OR TRUSTS**

22.1 Should the **PURCHASER** be a company, close corporation, association or trust, the person signing this agreement on behalf of such **PURCHASER**, by his signature hereto interposes and binds himself as surety for and co-principal debtor with the **PURCHASER** for the due and proper discharge of all its obligations arising from this agreement.

22.2 If any individual purports to be representing another person including a company, close corporation, association or trust, and signs these Rules of Auction on that basis, that individual shall by signing this agreement on behalf of such other person shall be held personally liable for the due and proper discharge of all the **PURCHASER's** obligations in terms of these Rules of Auction and that individual shall be deemed to be the **PURCHASER** where such other person does not exist at the time of signing these Rules of Auction by that individual. This provision does not apply to instances contemplated in clause 21.

23 ELECTRICAL INSTALLATION CERTIFICATE OF COMPLIANCE

23.1 The **PURCHASER** agrees and undertakes to take steps sufficient to ensure, as far as is reasonably practicable, that the **PROPERTY** will comply with all prescribed requirements, including the issue of a Certificate of Compliance in respect thereof as required in terms of clause 7 of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act (Act No. 85 of 1993, as amended), and in the event of an Electric Fence System installed on the **PROPERTY** as referred to in Regulation 12 (4) of the Electrical Machinery Regulations, 2011, a Certificate of safety thereof, and that the **PROPERTY** will be safe and without risks to health.

23.1.1 The **PURCHASER** hereby relieves the **SELLER** from the duty imposed upon him by the provisions of section 10 of Act 85 of 1993. All costs incurred in obtaining such a Certificates of Compliance, including costs of any repairs or replacements required in order for the certificates to be issued, shall be borne by the **PURCHASER**.

23.2 Should there have been any addition or alteration to the electrical installations existing on the **PROPERTY** subsequent to the issue of such certificates, the **PURCHASER** shall be obliged to obtain a Certificate of Compliance for such addition or alteration.

23.3 An Electrical Certificate of Compliance issued not more 2 (two) years prior to the date of this Agreement of Sale shall be valid and effective for the purposes of this clause 23.

23.4 The **PURCHASER** herewith waives his rights to obtain an electrical certificate of compliance in terms of clause 23.1 above prior to date of transfer and hereby indemnifies the **SELLER**, the **AUCTIONEER** and the Conveyancers in respect of any claims he might have against any of them as a result of non – compliance of such certificate being issued prior to date of transfer or any time thereafter.

24 GAS COMPLIANCE CERTIFICATE & ENTOMOLOGIST CERTIFICATE

The **PURCHASER** herewith waives his rights to obtain or receive either a Gas Compliance or Entomologist Certificate in respect of the property and herewith instructs the Conveyancers to register the property into his / her name without such certificates being issued.

25 MAGISTRATE'S COURT JURISDICTION

The parties hereby consent in terms of Section 45 of the Magistrate's Court Act 1944 to the jurisdiction of any Magistrate's Court having jurisdiction over their respective person under Section 28 of the Magistrate's Court Act, notwithstanding that any action or proceeding arising out of this agreement would otherwise be beyond the jurisdiction of such Court, provided that the **SELLER** shall have the right to institute proceedings in any other Court of competent jurisdiction.

26 **GENERAL CLAUSES**

- 26.1 These Rules of Auction constitute the whole agreement between the Parties as to the subject matter hereof and no agreement, representation or warranty between the Parties other than those set out herein are binding on the Parties.
- 26.2 No extension of time, waiver, indulgence or suspension of any of the provisions of this agreement, which any Party hereto may have given, shall be binding unless recorded in a written document signed by all Parties.
- 26.3 No variation or alteration or cancellation of these Rules of Auction or any of the terms hereof, shall be of any force or effect, unless in writing and signed by the Parties hereto.
- 26.4 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and words importing persons shall include partnerships and bodies corporate, and *vice versa*.
- 26.5 The Parties signing this document confirm that they have read and understood all of the terms and conditions contained herein and agree that they are bound hereto.
- 26.6 The **SELLER** and the **PURCHASER** warrant that they are duly authorised to sign these Rules of Auction.

27 **SECTION 34 OF THE INSOLVENCY ACT, NO. 24 OF 1936**

NOT APPLICABLE.

28 **PROTECTION OF PERSONAL INFORMATION**

The parties record and agree that they will at all times uphold and comply with the spirit and intention of the provisions of the Protection of Personal Information Act No. 4 of 2013, as amended from time to time ("**POPI Act**") and any regulations promulgated pursuant thereto in dealing with any personal information connected to this agreement and the transaction envisaged herein.

29 **BUILDING PLANS**

The **PURCHASER** acknowledges herewith that he has fully acquainted himself with the improvements on the property. The **PURCHASER** however acknowledges that no plans have either been approved or not available for the improvements on the property. The **PURCHASER** will be liable for any/all costs involved in obtaining and passing of the building plans.

THE **PROPERTY** WAS PUT UP FOR SALE BY PUBLIC AUCTION ON THE

_____ DAY OF _____

And sold by the rise for the amount of

R _____

(words) _____

(PLUS VALUE ADDED TAX IF APPLICABLE)

DRAFT

IN THE EVENT OF THE PURCHASER BEING A COMPANY / TRUST / CC:

TO: _____

COMPANY/ CLOSE CORPORATION/ TRUST/ OTHER _____

(hereinafter referred to as the "**PURCHASER**")

ENTITY REGISTRATION NO.: _____

ENTITY ADDRESS: _____

TELEPHONE DETAILS: (landline) _____

(Fax) _____

(Email) _____

(Cell) _____

MARITAL STATUS _____ (In/Out of Community of PROPERTY)

SPOUSE'S NAME _____

SPOUSE'S ID NO _____

IN THE EVENT OF THE PURCHASER BEING A NATURAL PERSON:

TO: _____

MR/MRS/MS _____

(hereinafter referred to as the "**PURCHASER**")

IDENTITY NO.: _____

ADDRESS: _____

TELEPHONE DETAILS: (home) _____

(Work) _____

(Fax) _____

(Email) _____

(Cell) _____

MARITAL STATUS _____ (In/Out of Community of PROPERTY)

SPOUSE'S NAME _____

SPOUSE'S ID NO _____

I, THE PURCHASER, HEREBY CONFIRM THAT THE FULL EXTENT OF MY OBLIGATIONS AND RIGHTS HEREIN HAVE BEEN EXPLAINED TO ME AND THAT I HAVE BEEN GIVEN AN OPPORTUNITY TO MAKE THE NECESSARY ENQUIRIES IN RESPECT OF THE PROPERTY AND ALL MATERIAL ASPECTS RELATED TO THIS PROPERTY AND SALE AND THAT I UNDERSTAND THE EFFECT OF THIS AGREEMENT.

SIGNED BY THE PURCHASER AT _____ ON THE ____ DAY OF _____

AS WITNESS:

1. _____

PURCHASER (and where applicable, the signatory binding himself as surety and co-principal debtor *in solidum*)

AS WITNESS:

1. _____

IN2ASSETS LEGAL (PTY) LTD
 duly authorised who hereby accept all the rights conferred upon it in terms of this Agreement

ACCEPTANCE AND CONFIRMATION

SIGNED BY THE SELLER AT _____ ON THE ____ DAY OF _____

AS WITNESSES:

1. _____

SELLER (and where applicable the **SELLER** is duly authorised)

2. _____

SELLER'S ADDRESS:

I hereby certify that the auction rules to the best of my knowledge meet the requirements of Regulation 21



AUCTIONEER

AUCTIONEER FULL NAME/S: Andrew Ronald Miller

ADDRESS: Unit 505, 5th Floor, Strauss Daly Place, 41 Richefond Circle, Ridgeside Office Park,
Umhlanga Ridge

CONTACT NUMBER: 031 574 7600

DRAFT

DEED OF SURETYSHIP

I / We the undersigned, _____

ID NUMBER: _____

do hereby interpose and bind myself / ourselves as surety and co-principal debtor/s in solidum for and on behalf of the **PURCHASER** to and in favour of the **SELLER** and the **AUCTIONEER** for all the obligations of the **PURCHASER** under the Rules of Auction foregoing and in particular for all amounts of money that may be due, including damages, from whatsoever cause arising under renunciation of the benefits of division and excussion. **I/We do further acknowledge that I/we are fully aware of all the terms and conditions of the Rules of Auction & Conditions of Sales as if fully set out herein.** I/We do accept *domicilium et executandi* at the address hereinafter set out.

THUS DONE AND SIGNED at _____ this _____ day of _____

AS WITNESSES:

1. _____

SURETY

2. _____

SELLER

IN2ASSETS LEGAL (PTY) LTD

duly authorised

SURETY ADDRESS: _____

Tel No: _____

EXTRACT FROM THE MINUTES OF A MEETING OF THE MEMBERS OF

.....

HELD ATON

IT IS RESOLVED THAT:

1. The CLOSE CORPORATION BUYS the following **PROPERTY**

.....

from

for **R**.....

2. That in his capacity as Member be and is hereby authorised to execute and sign all documents necessary to give effect to the above resolution, thus ratifying and confirming all such things done and documentation already signed as if duly and properly authorised at the time of execution thereof.

Certified a true copy,

.....
MEMBER

.....
MEMBER

.....
MEMBER

.....
MEMBER

EXTRACT FROM THE MINUTES OF A MEETING OF THE DIRECTORS OF

.....

HELD ATON

IT IS RESOLVED THAT:

1. The COMPANY BUYS the following **PROPERTY**

.....

from

for **R**.....

2. That in his capacity as Director be and is hereby authorised to execute and sign all documents necessary to give effect to the above resolution, thus ratifying and confirming all such things done and documentation already signed as if duly and properly authorised at the time of execution thereof.

Certified a true copy,

.....
DIRECTOR

.....
DIRECTOR

.....
DIRECTOR

.....
DIRECTOR

EXTRACT FROM THE MINUTES OF A MEETING OF THE TRUSTEES OF

.....

HELD ATON

IT IS RESOLVED THAT:

1. The TRUST BUYS the following **PROPERTY**

.....

from

for **R**.....

2. That in his capacity as Trustee be and is hereby authorised to execute and sign all documents necessary to give effect to the above resolution, thus ratifying and confirming all such things done and documentation already signed as if duly and properly authorised at the time of execution thereof.

Certified a true copy,

.....
TRUSTEE

.....
TRUSTEE

.....
TRUSTEE

.....
TRUSTEE

(ANNEXURE 1)**FICA REQUIREMENTS: Natural Persons**

- [1] South African identity document (foreigners: passport);
- [2] Utility bill addressed to your residential address less than 3 months (accounts for mobile phones are not acceptable);
- [3] South African Income Tax reference number.

- [4] (Confirmation marital status, i.e. unmarried or married.)

If Married

- [5] Marriage certificate.
 - If IN community of property (no antenuptial contract)
- [6] S.A. identity document (foreigner: passport) of your SPOUSE.
 - If OUT of community of property (by Antenuptial Contract ("ANC"))
- [7] Page 1 (and page 2 if necessary) reflecting the registered number and names of both parties.
 - If your Marriage is governed by the Laws of another country/state
- [8] S.A. identity document (foreigner: passport) of your SPOUSE;
- [9] Name of the country/state governing your marriage, i.e. the country where the husband was living at the time of the marriage with the intention of staying there permanently.

FICA REQUIREMENTS: Entities

- Person acting on behalf of the Entity must comply with paragraphs 1 to 4 above.
- All directors / members / trustees must also comply with paragraphs 1 to 4 above

PLUS THE FOLLOWING:**Companies:**

- [1] CM1.
- [2] CM22.

Close Corporations:

- [1] CK1;
- [2] and, if applicable, CK2.

Trusts:

- [1] Letters of Authority / Master's Certificate;
- [2] Trust Deed and all amendments thereto.
- [3] **Resolution to approve the purchase (and loan application, if applicable) taken before the Agreement of Sale was signed.** (The only exception is where it is a cash transaction and all the Trustees have signed the Agreement of Sale.)

- Detailed FICA requirements for Entities, will be supplied to such Purchasers, in due course.

- FICA requirements for Other Entities, if applicable, will be supplied to such Purchasers.

(ANNEXURE 2)**PROPERTY DISCLOSURE FORM**

- The **SELLER** has not been able to gain access into the respective property which may be occupied by Occupants not authorized by the **SELLER**. The information pertaining to the properties have been obtained from the Valuation report dated [REDACTED]. We are unable to verify and confirm the accuracy in respect of the accommodation details.
- There are defects on the **PROPERTY**; however, the **PURCHASER** confirms that he has fully acquainted himself with the **PROPERTY** which he has inspected and that the **PROPERTY** is sold voetstoots as per clause 13 of the Rules of Auction of Auction & Conditions of Sale.
- Neither the **SELLER** nor **IN2ASSETS** will be liable for any misrepresentation or discrepancies with the information provided.

DRAFT