



TENDER DOCUMENT

Concluded between

**Giba Group Proprietary Limited
(Formerly known as Natal Board of Property Administrators (Pty) Ltd)
Registration Number: 2015/044617/07
"In Business Rescue"
Herein represented by the Business Rescue Practitioner
Neil David Button N.O., duly authorized thereto**

("The Seller")

And

(Name)

(Registration / Identity number) (complete)

(Hereinafter referred to as the "Purchaser")

And

**In2assets Legal (Pty) Ltd
Registration Number: 2011/000231/07**

("The Agent")

INTRODUCTION

- a. The Business Rescue Practitioner has been authorized by the Creditors to offer the Immovable Property more fully described hereunder, registered in the name of the Seller by way of tender to the ultimate purchaser.
- b. The acceptance of any tender by the Business Rescue Practitioner shall be in his sole and absolute discretion, subject to the approval of the Creditors as set out in the tender conditions hereinafter.
- c. All tenders to acquire the Property must be submitted to Strauss Daly Attorneys , as set out in paragraph 2.4.7, on or before 11h00 on the 25th day of July 2024. Any tender submitted after this date will not be considered.

PART A: INTERPRETATION AND PRELIMINARY

1. DEFINITIONS

The headings of the clauses in this Tender Document are for the purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Tender Document no any clause hereof. In this Tender Document, unless the context requires otherwise:

1.1. Words importing –

- 1.1.1. the masculine gender shall include the feminine gender and neuter genders and *vice versa*;
- 1.1.2. the singular include the plural and *vice versa*; and
- 1.1.3. persons include natural persons, created entities (corporate and un-incorporated) and the State and *vice versa*.

- 1.2. Each of the following terms shall have the meaning assigned to them in the body of this Tender Document (in each case, in the clauses indicated in brackets after the term) and cognate expressions shall have corresponding meanings: **“Act Of Default”** (clause 18); **“Offer”** (clause 3); **“Related Person”** (clause 31); **“Signatory”** (clause 35) and **“VAT”** (clause 8).
- 1.3. In addition, the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –
 - 1.3.1. **“Acceptance Date”** shall mean the date on which this Tender Document is signed by the Seller in acceptance of the Offer, which date shall be no more than 21 Days after the Submission Date.
 - 1.3.2. **“Agent”** shall mean In2assets Legal (Pty) Ltd, Registration Number: 2011/000231/07.
 - 1.3.3. **“Business Rescue Practitioner”** shall mean Neil Button N.O. in his capacity as the Business Rescue Practitioner of Giba Group Proprietary Limited, Registration number: 2015/044617/07.
 - 1.3.4. **“Conveyancer and or Attorney”** shall mean: Stowell & Co

295 Pietermaritz Street, Pietermaritzburg, 3201

Tel: 033 845 0500
 - 1.3.5. **“Deposit”** shall mean an amount equivalent to 10% of the full Purchase Price exclusive of VAT (if applicable) payable by way of EFT to the account nominated by the Agent in clause 6.1.
 - 1.3.6. **“Day/s”** shall mean week days excluding any public holidays.
 - 1.3.7. **“Property”** shall mean the immovable properties owned by the Seller as at the Effective Date and described hereunder, including all other fixtures and fittings of a permanent nature on the immovable property together with all existing lease agreements:

PROPERTY 1: -

TITLE DEED DESCRIPTION:	PORTION 139 OF THE FARM CLIFTON NO 939
TITLE DEED:	T 11166/1999
IN EXTENT:	25,2065 HECTARES

PROPERTY 2: -

TITLE DEED DESCRIPTION:	PORTION 140 OF THE FARM CLIFTON NO 939
TITLE DEED:	T 11167/1999
IN EXTENT:	31,3224 HECTARES

- 1.3.8. **Lease Agreements**” shall mean the current valid lease agreements currently in force between the Seller and tenants
- 1.3.9. **“Mandatory Disclosure Form”** shall mean the condition report regarding the Property as per Annexure “D - Mandatory Disclosure Form “ hereto.
- 1.3.10. **“Parties”** means collectively the Sellers and the Purchaser, and includes an individual reference to any one or more of them, as the context may require.
- 1.3.11. **“Property”** shall mean all buildings situated on the Property and the property itself.
- 1.3.12. **“Prime Rate”** shall mean the publicly quoted rate at which South African Commercial Banks, lend to its ordinary clients in the private sector on overdraft from time to time.
- 1.3.13. **“Purchase Price”** shall mean the purchase price payable by the Purchaser to the Sellers for the Property which is indicated in clause 3.
- 1.3.14. **“Purchaser”** shall mean the person, partnership, company, close corporation or body corporate whose name and other relevant details are inserted as purchaser on page 1 above and clause 35.2. below.

- 1.3.15. **Rand**" or "**R**" means the lawful currency of South Africa.
- 1.3.16. **"Seller"** shall mean Giba Group Proprietary Limited, Registration number: 2015/044617/07, herein represented by the Business Rescue Practitioner, duly authorized thereto.
- 1.3.17. **"South Africa"** means the Republic of South Africa.
- 1.3.18. **"Subject matter"** shall also mean the Property.
- 1.3.19. **"Submission Date"** shall mean 11h00 on 25th day of July 2024.
- 1.3.20. **"Tender Document"** shall mean this tender document (which comprises of, *inter alia*, the tender conditions, the terms of the sale of the Immovable Property and all annexures and other documents that may be specifically incorporated herein.
- 1.3.21. **"Transfer Date"** shall mean the date on which the Property is registered into the Purchaser`s name at the Deeds Registry.
- 1.3.22. **"VAT"** means value-added tax, as levied in terms of the VAT Act, as amended from time to time.
- 1.4. Any reference in this Tender Document to a statutory provision is to that statutory provision as at the Signature Date and as amended or re-enacted or replaced from time to time, and includes any subordinate legislation made from time to time under such enactment.
- 1.5. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Tender Document.
- 1.6. When any number of days is prescribed in this Tender Document, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a Day, in which case the last day shall be the next succeeding Day.

- 1.7. Expressions defined in this Tender Document shall bear the same meanings in schedules or annexures to this Tender Document which do not themselves contain their own conflicting definitions.
- 1.8. The use of any expression in this Tender Document 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 Tender Document 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.
- 1.9. Where any term is defined within the context of any particular clause in this Tender Document, 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 Tender Document, notwithstanding such that term has not been defined in this interpretation clause of the Tender Document.
- 1.10. The expiration or termination of this Tender Document shall not affect such of the provisions of this Tender Document 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.
- 1.11. 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.
- 1.12. Any reference in this Tender Document to a Party shall include a reference to that Party's assigns expressly permitted under this Tender Document and, if such Party is liquidated, sequestrated or placed under business rescue, be applicable also to and binding upon that Party's liquidator, trustee or business rescue practitioner, as the case may be.
- 1.13. Any reference in this Tender Document to any other agreement or document shall be construed as a reference to such other agreement or

document as same may have been, or may from time to time be, amended, varied, novated or supplemented.

- 1.14. The words “**include**”, “**including**”, “**in particular**”, “**other**” and “**otherwise**” 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 meaning or generality of any preceding word/s (and as such the *eiusdem generis* rule shall not apply).

PART B: TENDER CONDITIONS

2. TENDER CONDITIONS

- 2.1. The only offers to purchase the property which need be considered by the Seller, are those which are submitted on this Tender Document especially prepared for this purpose by the Seller, and accordingly no tender or Offer which:
- 2.1.1. is made on any Tender Document other than this Tender Document obtained from the Seller; and/or
 - 2.1.2. seeks to impose any conditions or provisions in addition to or at variance with the conditions and provisions contained in this Tender Document need be considered by the Seller unless the Seller acting in its own entire discretion decides otherwise.
- 2.2. The Seller shall –
- 2.2.1. not be obliged to accept the highest or any particular offer for the Property, made in terms of this Tender Document.
 - 2.2.2. in its sole discretion decide:
 - 2.2.2.1. whether the Seller shall accept any offer or offers for the purchase of the property made in terms of this Tender Document; and/or

- 2.2.2.2. which offer or offers for the purchase of the property made in terms of this Tender Document, shall be accepted by the Seller.
- 2.3. The Purchaser may, by utilizing this Tender Document only, or any number of copies of this Tender Document, and by following the tender conditions and instructions referred to herein, offer to purchase the Property.
- 2.4. In making an offer to purchase the property in terms of this Tender Document, each Tender Document submitted by the Purchaser shall be completed, signed and submitted to the Seller strictly in accordance with the following procedures:
 - 2.4.1. This Tender Document must be completed by the Purchaser inserting all of the particulars required on page 1 above ("the purchaser") and in clauses 3 and 35.2 below. In the aforesaid clauses, if the Purchaser is a natural person, s/he shall insert his/her full names, identity number, marital status, physical address (not post box address) and e-mail address. If the Purchaser is a company, Trust, close corporation or body corporate, then it shall insert the full name and registration of that entity, together with the full names and identity number of the authorized signatory, as well as the physical address (not box number) and e-mail address of that entity. Should the Purchaser be a partnership, the full names, identity numbers, email addresses, and physical addresses (not box numbers) of all the partners are required.
 - 2.4.2. By delivering and lodging the Deposit simultaneously with the Tender Document. Such proof of payment must accompany this tender.
 - 2.4.3. By completing the purchase price in numerals and words in the place specified herein in clause 3, which the Purchaser offers to pay for the purchase of the Property.
 - 2.4.4. In the event of the Purchaser being a company, Trust, close corporation or body corporate, this Tender Document must be

completed by inserting the full names and Identity number of the party signing on behalf of the Purchaser, as provided for in clause 35.2 below, which party is hereinafter referred to as the signatory.

- 2.4.5. By completing the date and place of signature of this Tender Document where provided for, by the Purchaser and the two witnesses, all of who shall initial each page of this Tender Document at the foot thereof.
- 2.4.6. By attaching a certified copy of the authorising resolution, if the Purchaser is a company, a Trust, close corporation or body corporate.
- 2.4.7. By delivering this Tender Document, duly completed, initialled and signed as above, in a sealed envelope which must in each case and in respect of each tender be delivered by hand delivery clearly marked "**GIBA TENDER DOCUMENT**" at the following address, on or before **11h00** on the **25th of July 2024** (being the Submission Date), namely :

Strauss Daly Attorneys
9th floor,
41 Richefond Circle
Umhlanga Ridge

Attention: HV Hattingh

- 2.4.8. No consideration will be given to any Tender Document which is not delivered timeously in accordance with these provisions and which is not accompanied by the required Deposit.
- 2.4.9. Every Tender Document delivered to the Seller and the contents thereof in each case, shall become the confidential and exclusive property of the Seller who shall open the Tender Documents in the presence of an independent third party.

2.4.10. The Seller shall not be obliged to:

- 2.4.10.1. make available the contents of any Tender Document to any person whatsoever;
- 2.4.10.2. publish the contents of any Tender Document; and
- 2.4.10.3. make known to any person, save to the relevant Purchaser, the name of the successful tenderer in each case, and/or the price offered for the Subject Matter.

2.4.11. The delivery to the Seller of a Tender Document duly completed and signed in terms of this clause, shall and does hereby constitute:

- 2.4.11.1. an irrevocable Offer which the Purchaser hereby extends to the Seller to purchase the Subject Matter, as inserted and indicated in this Tender Document; and
- 2.4.11.2. an agreement between the Seller and the Purchaser, in terms of which the Offer shall be and is irrevocable and open and capable of acceptance by the Seller for the period up to and including the Acceptance Date in the manner stipulated below, and which is hereby confirmed by the signature by or on behalf of the Purchaser of this Tender Document.

3. **PURCHASE PRICE**

The purchase price of the **PROPERTY**, shall be

R _____

(words)

plus Value-Added Tax ("VAT") if applicable,

- 3.1. The Purchaser hereby offers to the Seller (herein called the “**Offer**”) to purchase the Property.
- 3.2. The Offer is subject to the following terms and conditions:
 - 3.2.1. The Offer is irrevocable and open for acceptance by the Seller at any time up to and including the Acceptance Date.
 - 3.2.2. Acceptance of the offer shall be transmitted to the Purchaser by an acceptance letter dispatched, either by personal delivery to the Purchaser at the address, or nominated e-mail address, set forth by the Purchaser, whose details are set out in Clause 35.2. Delivery of the acceptance letter shall be deemed to have taken place on date of personal delivery or on transmission by the Seller of the telefax or e-mail. Proof of such delivery shall be a written receipt by the Purchaser or by production of e-mail transmission from the Seller.
 - 3.2.3. Should the Business Rescue Practitioner not have the necessary authority to accept the Offer then the Offer will be subject to confirmation by an order of the High Court or by directions given by creditors at a General Meeting specifically convened for the purposes of giving directions to the Business Rescue Practitioner either specifically or generally.

4. SALE AND PURCHASE

Upon the proper and timeous acceptance, by the Seller, of the Offer by the Purchaser under this Tender Document, a binding sale of the property shall come into force between the Seller and Purchaser, in terms of which the Seller sells to the Purchaser, who purchases the property, subject to the terms and conditions contemplated in this Tender Document.

5. **PURCHASE PRICE**

- 5.1. The Purchase Price payable by the Purchaser to the Seller is the sum inserted by the Purchaser, where provided in for in clause 3 of this Tender Document.

6. **PAYMENT OF THE PURCHASE PRICE**

the purchase price shall be paid as follows:

- 6.1. A deposit of **10% (TEN PER CENT)** of the purchase price to the **AGENT** by the **PURCHASER** immediately on the **SELLER's** signature of this agreement by way of **Electronic Bank Transfer (EFT)** into the following Trust Account of the Agent: -

Bank	: Standard Bank
Account Name	: In2assets Properties (Pty) Ltd
Account No.	: 050022032
Branch Name	: Kingsmead
Branch code	: 040026

which amount the **PURCHASER** hereby authorises the **AGENT** to pay over to the **SELLER's** attorneys on date of acceptance to remain in Trust pending Registration of Transfer.

- 6.2. 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**.
- 6.3. 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 30 (Thirty) days from receipt of a written request to that effect from the **SELLER's** attorneys.

7. ACCEPTANCE AND CONFIRMATION

- 7.1. By signing this Deed of Sale at the end thereof, the **PURCHASER** offers to purchase the **PROPERTY** on the terms and conditions contained herein and the **PURCHASER's** offer shall remain open for acceptance by the **SELLER** or by the **AGENT** on behalf of the **SELLER**, until **17H00** on the **15th** day of **August 2024** ("confirmation period"). The **PURCHASER** and the **AGENT** acknowledge and agree that this provision is inserted and intended for the benefit of the **SELLER**.
- 7.2. The **PURCHASER's** offer shall be deemed to have been accepted only when the **SELLER** or the **AGENT**, whichever may be applicable, has signed this Deed of Sale on behalf of the **SELLER** 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.
- 7.3. Should the **SELLER** reject the **PURCHASER's** offer, the **AGENT** will repay to the **PURCHASER** any deposit and commission paid to it in terms of this agreement.
- 7.4. 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.
- 7.5. 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 or by directions given by the Creditors at a general meeting specifically convened for the purposes of giving directions to the Business Rescue Practitioner.

8. VALUE-ADDED TAX

- 8.1. The **SELLER** is a VAT Vendor.
- 8.2. The Purchase Price is inclusive of VAT, but at a Zero Rate, in terms of clause 8.3 below.
- 8.3. It is recorded that it is the intention of the Parties (not a warranty by the **SELLER**) that this transaction may be a “zero rated” transaction in terms of Section 11 (1) (e) of the Value-Added Tax Act (the “Act”) as per clause 8.4 below and it is agreed that the Purchase Price will be inclusive of VAT at a rate of 0% (zero per centum) only in the event of the Receiver of Revenue accepting the transaction as a Zero Rated transaction in the absence whereof the Purchase Price will be exclusive of VAT at a rate of 15% (fifteen per cent) which VAT will be payable as per clause 8.7 below.
- 8.4. It is recorded that:
 - 8.4.1. The **PROPERTY** constitute an enterprise as defined in the Act and is sold as a going concern that will on the date of transfer of the **PROPERTY** into the name of the **PURCHASER** be an income earning activity capable of separate operation, and the supply of the **PROPERTY** shall be “zero rated” in terms of Section 11 (1) (e) of the Act;
 - 8.4.2. The assets (excluding any assets and/or any fixtures and fittings which are the property of any tenant/s) and all other aspects of the business that are necessary for carrying on the enterprise, including all lease agreement/s pertaining to the **PROPERTY** are being disposed of to the **PURCHASER** in terms of this Agreement.
- 8.5. The **SELLER** and **PURCHASER** respectively warrant to the other that they will, with effect from the date of conclusion of this Agreement, be registered as vendors in terms of the Act.

- 8.6. Notwithstanding what is stated in this clause 8, if the **PURCHASER** has not within 7 (seven) days from the date of acceptance hereof by the **SELLER**, delivered to the **SELLER's** Attorneys its VAT Registration Certificate (Form V103) and such other documents as may be required by the **SELLER's** Attorneys and/or the South African Revenue Services ("SARS") for the obtaining of SARS' clearance in respect of the sale, the sale shall be deemed not to be "zero rated" as provided for in this clause 8, and VAT shall be levied on the Purchase Price at the rate of 15% (fifteen per centum), which amount shall be payable by the **PURCHASER** to the **SELLER** against receipt of a valid tax invoice duly completed in accordance with the Act and secured by the **PURCHASER** delivering to the **SELLER's** Attorneys at the same time as delivery of the guarantee/s referred to in clause 6.3 above, an unconditional and irrevocable bank guarantee/s, or payment in cash, as stated in the said clause 6.3 above. The **PURCHASER** specifically authorizes and agrees to the **SELLER's** Attorneys preparing and submitting such documents to SARS immediately after the conclusion of this Agreement.
- 8.7. If for any reason VAT is payable on this sale or any part thereof for any reason at any time at a rate other than at the "zero rate", then the **PURCHASER** agrees and undertakes that it will be liable for payment of any such VAT or additional VAT together with any interest and penalties thereon to the **SELLER** and such VAT will be added to the Purchase Price and payable on registration of transfer of the **PROPERTY** into the name of the **PURCHASER** and shall be secured as provided for in clauses 6.3 and 8.6 above to the satisfaction of the **SELLER** and the **SELLER's** Attorneys.

9. **AGENT'S COMMISSION**

- 9.1. The **PURCHASER** shall be liable for and pay, in addition to the amounts payable in terms of clauses 6.1 and 6.3, **AGENT's** commission of **5% (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**.

- 9.2. The **PURCHASER** shall pay the full amount of **AGENT's** commission into the trust account of the **AGENT** immediately upon the signing of hereof by the **PURCHASER**, but this amount shall remain the property of the **PURCHASER** and shall be retained in trust by the **AGENT** 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.

10. **OCCUPATIONAL RENT / INTEREST**

Should the **PURCHASER** not take possession and occupation of the **PROPERTY** on date of Registration of Transfer as per clause 14.1 below and take earlier possession of the **PROPERTY** as per pre-agreed written agreement with the **SELLER** as well as the existing Bondholder, the **PURCHASER** shall pay occupational rent to the **SELLER**, calculated at 12% (Twelve Percent) per annum on 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).

11. **RATES AND TAXES**

- 11.1. 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.

- 11.2. 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.

12. **SELLER RESIDENCY AND WITHHOLDING TAX**

It is recorded that **the SELLER, AGENT and PURCHASER** are aware of an obligation on the part of the **PURCHASER** to withhold part of the Purchase Price from the

SELLER, if he is a non-resident and pay such withheld portion to the South African Revenue Services (hereinafter referred to as "SARS") in terms of Section 35A of the Income Tax Act, (hereinafter referred to as the "Act") and in that regard:

- 12.1. The **SELLER** warrants that he is a RESIDENT of the Republic of South Africa.
- 12.2. The **SELLER** hereby indemnifies and holds harmless both the **AGENT** and the **SELLER's** Attorneys attending to the transfer of the **PROPERTY** hereby sold, against any claim howsoever arising by virtue of them having acted in terms of the Act, on information supplied by the **SELLER**, or from any other source and the **SELLER** further waives any right of recourse he may have against the said **SELLER's** Attorneys and/or **AGENT**, in respect of any action or omission by them in terms of the Act, on information supplied to them by the **SELLER**, or any other source.

13. **TRANSFER AND COSTS OF TRANSFER**

- 13.1. Transfer of the **PROPERTY** shall be passed, by the **SELLER's** Conveyancers, as soon as possible after date of acceptance, provided the **PURCHASER** has paid or secured all amounts payable in terms hereof.
- 13.2. The **PURCHASER** hereby specifically authorises and agrees to the **SELLER's** Conveyancers preparing and completing from information provided by the **PURCHASER** herein, a transfer duty form required by SARS for the clearance of the **PROPERTY** for transfer; and specifically authorises and agrees to the **SELLER's** Conveyancers on behalf of the **PURCHASER** signing and submitting such form to SARS for which preparation, completion, signature and submission this Agreement shall be sufficient authority.
- 13.3. Transfer of the **PROPERTY** shall be effected by the **SELLER's** Conveyancers 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.

- 13.4. 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** Conveyancers all information and documentation required by the **SELLER's** Conveyancers to enable the **SELLER's** Conveyancers to fulfil their obligations in terms of FICA.

14. **POSSESSION AND RISK**

- 14.1. Possession of the **PROPERTY** shall only be given by the **SELLER** and taken by the **PURCHASER** on registration of transfer, provided that clauses 6.1 and 6.3 above have been complied with, from which date all risks and benefits of ownership in respect of the **PROPERTY** shall pass to the **PURCHASER**.
- 14.2. 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.
- 14.3. Upon the **PURCHASER** taking possession of the **PROPERTY** and pending transfer, the following further provisions shall apply –
- 14.3.1. 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;

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

15. **EXISTING TENANCIES**

- 15.1. The **PROPERTY** is currently being let to tenant/s other than the **PURCHASER** and is being, sold subject to all existing tenancies.
- 15.2. The **PURCHASER** shall be bound by the terms and conditions of all existing leases, **of which he acknowledges he is fully apprised alternatively which he has elected to accept and abide by.**
- 15.3. The **PURCHASER** acknowledges herewith that he has conducted a complete due diligence on the tenant/s in particular as far as deposits are concerned including the rental payment history and general conduct of the tenant/s during his/their tenure at the premises.
- 15.4. From the date of acceptance until the transfer date:-
- 15.4.1. the **SELLER** shall be entitled to conduct the business in the ordinary course of business and without recourse to the **PURCHASER**;
- 15.4.2. if any tenant is in arrears with rental due to the **SELLER** in respect of the Leases, the **SELLER** shall be entitled to proceed with or take :-

15.4.2.1. any legal action or other proceedings against the tenant; and

15.4.2.2. a civil judgment against the tenant and/or evict the tenant from the leased premises concerned;

15.4.2.3. enforce any of its rights in terms of the Leases.

15.4.3. in the event that the **SELLER** enters into a new lease agreement in respect of the Properties and/or Buildings or renews the existing Leases, the **PURCHASER** shall be liable for the pro-rata commissions and tenant installation costs related thereto for the period of such leases or renewal beyond the date of transfer;

15.5. Neither the **SELLER** nor the **AGENT** guarantee any vacant occupation.

15.6. 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.

16. **REPAIRS AND IMPROVEMENTS**

16.1. 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**.

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

16.3. 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**.

17. **VOETSTOOTS, EXTENT AND REPRESENTATIONS**

- 17.1. The **PROPERTY** is sold “voetstoots” 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 **AGENT** 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 **AGENT** 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 and furthermore acknowledges that there is no obligation on the **SELLER** to provide an Occupation Certificate in respect of any of the improvements on the **PROPERTY**. The **SELLER** has no knowledge of any Occupation Certificate issued in respect of any buildings on the **PROPERTY** neither whether any building plans have been issued in respect of any buildings on the **PROPERTY**. The **PURCHASER** acknowledges that he will have no claims against the **SELLER** or the **AGENT** in respect hereof unless the **SELLER** and / or **AGENT** had knowledge of any such discrepancies, occupational certificate and or building plans that should have been disclosed to the **PURCHASER**.
- 17.2. 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 **AGENT** or any other person, or by or on behalf of the **SELLER** and that is not contained in this Agreement.

17.3. 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.

17.4. Annexure D hereto sets out information pertaining to the **PROPERTY** which is specifically brought to the attention of the **PURCHASER**.

18. **BREACH**

18.1. 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:

18.1.1. to cancel this Agreement and upon cancellation: -

18.1.1.1. if the defaulting party is the **PURCHASER** the **SELLER** shall be entitled to retain all amounts paid by the **PURCHASER**, excluding **AGENT'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; and

- 18.1.1.2. 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)

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

- 18.2. 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.

- 18.3. 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.

19. **MORA CLAUSE**

- 19.1. 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.
- 19.2. 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.

20. **LEGAL COSTS**

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

21. **ADDRESS / DOMICILIUM**

21.1. The **PURCHASER** and the **SELLER** hereby choose their respective addresses / *domicilium citandi et executandi* for all purposes in respect of this Deed of Sale, including all notices and Court process to be delivered in terms hereof, the address recorded below in clause 35.2. 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.

21.2. 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 email address as stipulated herein.

21.3. The terms of "writing" shall include communications by email.

22. **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 **AGENT** shall be joint and several *in solidum*.

23. **SECTION 112 OF THE COMPANIES ACT**

23.1. It is recorded that the **SELLER** and the **PURCHASER** are aware of the provisions of Section 112 of the Companies Act 71 of 2008 (as amended) ("Section 112"), namely that if the **SELLER** is a company and if the **PROPERTY** constitutes either all or the greater part of the assets or the

undertaking of the **SELLER**, then the directors of the **SELLER** shall not have the power, save by a special resolution of the shareholders of the **SELLER**, to dispose of the **PROPERTY**.

23.2. Accordingly, the **SELLER** warrants that the provisions of Section 112 are / are not (delete as appropriate) applicable to the sale of the **PROPERTY**.

23.3. If Section 112 is applicable to the sale of the **PROPERTY** and if the directors of the **SELLER** have not already been granted the necessary authority in terms of Section 112 to dispose of the **PROPERTY**, then within 45 (forty-five) days of the acceptance date the **SELLER** shall procure that its shareholders pass a special resolution ratifying the sale of the **PROPERTY**.

24. **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:

24.1. 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**;

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

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

24.3.1. that it is fully aware of all the terms and conditions of this Deed of Sale as if fully set out in such written acknowledgement; and

24.3.2. that it is bound by the provisions of this Deed of Sale as the **PURCHASER**;

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

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

24.4.2. 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 the **AGENT**, for all the **PURCHASER'S**

obligations under this agreement, including damages, and renounces the benefits of division and *excussion*.

25. COMPANY TO BE FORMED

- 25.1. 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.
- 25.2. 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 the AGENT 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.**

26. COMPANIES, CLOSE CORPORATIONS, ASSOCIATIONS OR TRUSTS

- 26.1. **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.**
- 26.2. **If any individual purports to be representing another person including a company, close corporation, association or trust, and signs this Deed of Sale 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 this Deed of Sale and that individual shall be deemed to be the **PURCHASER** where such other person does not exist at the time of signing this Deed of Sale by that individual. This provision does not apply to instances contemplated in clause 25.

27. ELECTRICAL INSTALLATION CERTIFICATE OF COMPLIANCE

27.1. 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.

27.1.1. 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 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**.

27.2. 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.

27.3. 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 27.

28. **GAS COMPLIANCE CERTIFICATE (IF APPLICABLE)**

The **PURCHASER** shall, at its expense, deliver to the **SELLER**, on or before the transfer or occupation date, whichever is the earlier, a Certificate of Conformity issued by an authorised person as defined in the Pressure Equipment Regulations 2009 made by the Minister of Labour under section 43 of the Occupational Health and Safety Act 85 of 1993, to the effect that the gas installation on the **PROPERTY** conforms to the required health and safety standard. The **PURCHASER** undertakes not to alter, install or remove the gas installation after issue of the said Certificate. In so far as the authorised person appointed by the **PURCHASER** to provide such Certificate requires corrective work to be carried out as a precondition to the issue of such Certificate, the **PURCHASER** will procure such work is carried out at the **PURCHASER's** cost and expense. Existing Certificates shall not pre-date the date of acceptance of the Agreement of Sale by more than 2(two) years.

29. **ENTOMOLOGIST CERTIFICATE**

If on the date of the sale there are any buildings included in the **PROPERTY**, then notwithstanding anything herein before contained, the **PURCHASER** shall, at his own expense and within 14 (fourteen) days after the date of the sale or fulfillment of all precedent conditions, whichever is the later, cause all the said buildings to be inspected by a Government approved Entomologist and furnish to the conveyancer a certificate by the said Entomologist that such inspection disclosed no visible sign of active infestation of the said buildings by cryptotermis brevis, beetles, termites, borers or white ants. If the **PURCHASER** is unable to furnish the said certificate within the said period because there is such sign of any such infestation the **PURCHASER** shall, at his own expense and within 45 (forty five) days after the date of the sale, cause such infestation to be eradicated and furnish to the conveyancer a certificate by a Government approved Entomologist that such infestation has been eradicated.

30. **DISPUTE RESOLUTION AND ARBITRATION**

30.1. In the event of any dispute or difference arising between the parties with regard to:

30.1.1. The un-conditionality of; or the interpretation of; or the carrying into effect of; or any of the parties rights and

obligations arising from; or the termination or purported termination of or arising from the termination of; or the rectification or proposed rectification of this Agreement; or out of or pursuant to this Agreement, the parties shall forthwith attempt to settle such dispute or difference and failing such settlement within a period of 5 (five) business days, then such dispute or difference **MAY** be submitted to an arbitration in accordance with the rules of AFSA or its successors, subject to the provision set out below;

- 30.2. The arbitrator shall be a suitably experienced and qualified senior advocate of not less than ten (10) years standing, alternatively a retired Judge.
- 30.3. The Parties shall use their respective reasonable commercial endeavors to reach agreement as to the appointment of the arbitrator.
- 30.4. In the event that agreement cannot be reached within five (5) Business Days after the arbitration has been demanded, as to the appointment of the arbitrator, then the arbitrator shall be appointed in accordance with the procedure set out hereunder:
 - 30.4.1. the claimant shall nominate five (5) potential arbitrators within five (5) Business Days of the expiry of the period referred to in clause 30.4 in writing. The defendant shall be entitled to accept the nomination of one (1) of the five (5) arbitrators. The defendant shall communicate its acceptance of one (1) nominated arbitrator within five (5) Business Days thereafter. That arbitrator shall be the duly appointed arbitrator. Should that arbitrator refuse or fail to accept the appointment, then the process shall be repeated with the remaining four (4) arbitrators until an arbitrator acceptable to the defendant accepts the appointment;
 - 30.4.2. should the claimant fail to nominate five (5) arbitrators or the defendant fail to accept one (1) nomination as envisaged in clause 30.4.1, then

either party shall have the right to request the Chairman of the Kwa-Zulu Natal Bar Counsel to appoint an arbitrator. The appointment by the Chairman of the Kwa-Zulu Natal Bar Counsel shall be final and binding on the Parties.

30.5. The arbitration proceedings:

30.5.1. shall be governed in accordance with the rules regulating the conduct of proceedings in the High Court of South Africa;

30.5.2. shall be subject to the application of the law of evidence;

30.5.3. shall take place in Durban.

30.6. The Parties shall use their best endeavors to complete the arbitration proceedings within a period of ninety (90) days of the appointment of the arbitrator.

30.7. The arbitrator's decision will be final and binding, save for manifest error, unless the Parties otherwise agree in writing.

30.8. The arbitrator's decision may, at the instance of any of the disputing parties, be made an order of any court of competent jurisdiction.

30.9. The proceedings in the arbitration shall, as far as practicable, take place in private and be kept confidential.

30.10. The arbitration clause is intended to give the parties an option to arbitrate any dispute but nothing herein contained shall prevent any of the disputing parties, especially the **AGENT** in respect of a claim for

commission, from proceeding in a court of competent jurisdiction should they elect not to submit the matter to arbitration.

31. CONFIDENTIALITY AND PUBLICITY

- 31.1. Any information obtained by any Party to this Tender Document in terms of, or arising from the implementation of, or the contents of this Tender Document shall be treated as confidential by the Parties and shall not be used, divulged or permitted to be divulged to any person not being a Party to this Tender Document, without the prior written consent of the other Party (which consent shall not be unreasonably withheld), save that each Party shall be entitled to disclose such information to such of its Related Persons who need to know for the purposes of this Tender Document or for any act which a Party is obliged to take in law.
- 31.2. For the foregoing, "Related Persons" includes employees, directors, agents, advisors (including, but not limited to legal, tax and/or financial advisors, bankers), contractors and/or consultants.

32. GENERAL CLAUSES

- 32.1. This Deed of Sale 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.
- 32.2. 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.
- 32.3. No variation or alteration or cancellation of this Deed of Sale or any of the terms hereof, shall be of any force or effect, unless in writing and signed by the Parties hereto.
- 32.4. 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*.

32.5. 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.

32.6. The **SELLER** and the **PURCHASER** warrant that they are duly authorised to sign this Deed of Sale.

33. **CONSENT**

Insofar as may be required in law this sale and the terms and conditions hereof are subject to all necessary consents being obtained from the Existing Bond Holder, the Business Rescuer and or the Creditors referred to in 7.5 above, this sale is subject to such consent. Should such consent not be obtained, or should the Existing Bond Holder, the Business Rescuer and or the Creditors referred to in 7.5 above decline for any reason, then this agreement shall lapse and be null and void. In such event, the **SELLER** shall be obligated to repay to the **PURCHASER** all amounts which has been paid by him by virtue of this agreement against payment by the **PURCHASER** to the **SELLER** of reasonable compensation for all benefits which the **PURCHASER** has had as a result of this agreement, in particular, but not limited to, occupational rent as calculated above, but the parties shall otherwise have no further claims against each other.

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

34.1. The parties agree that the sale of the business shall only be advertised in terms of Section 34 of the Insolvency Act, No. 24 of 1936 after conclusion of the sale if directed or requested by of any Financial Institution funding the Purchase Price of the **PROPERTY** in which event, the **SELLER** authorises the Conveyancers to place the advertisement in terms of Section 34 of the Insolvency Act at the cost of the **SELLER**. To this extent the parties acknowledge that the transfer of the **PROPERTY** is required to take place no earlier than the 30 and no later than the 60 days following placement of the last advertisement as required to be placed in terms of section 34 of the Insolvency Act, No 24 of 1936, and that the parties

undertake to co-operate accordingly to facilitate the transfer within such prescribed period.

35. EXECUTION

- 35.1. This Tender Document may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same agreement as at the date of signature of the party that signs its counterpart last in time.
- 35.2. In the event of the **PURCHASER** being a company, close corporation, Trust or body corporate, this Tender Document is hereby signed on behalf of the **PURCHASER** by

Name: _____
 Identity no.: _____

(Herein referred to as the "Signatory")

Who warrants to the **SELLER** that he has the authority to bind the **PURCHASER** and who attaches a certified extract of the resolution conferring authority on him to sign.

- 35.3. The signatory, by his signature hereto, renounces the benefits of excussion and division, hereby personally interposes and binds himself as surety and co-principal debtor with the **PURCHASER** to and in favour of the **SELLER** for the fulfilment of the **PURCHASER'S** obligations hereunder.

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:

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 **AGENT** for all the obligations of the **PURCHASER** under the Deed of Sale 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 Deed of Sale 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 D**PROPERTY DISCLOSURE FORM**

- 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.
- The **PURCHASER** acknowledges that the **SELLER** is represented by the Business Rescue Practitioner who is not in a position to provide the **PURCHASER** with the mandatory **PROPERTY DISCLOSURE FORM** in terms of the **PROPERTY PRACTITIONERS ACT**. The **PURCHASER** herewith waives his right and hereby indemnifies the **SELLER** and the **AGENT** in respect of any claims that he might have due to the non-submission of the above-mentioned **PROPERTY DISCLOSURE FORM**.
- The **PURCHASER** acknowledges professional expertise and/or technical skill and knowledge may be required to detect defects concerning the **PROPERTY** which the **PURCHASER** will obtain at his own cost.
- This report does not constitute a guarantee and/or warranty of any kind or nature by the owner of the **PROPERTY** or by the **PROPERTY** practitioners representing that owner in any transaction. This report should, therefore, not be regarded as a substitute for any inspections or warranties that prospective **PURCHASERS** may wish to obtain prior to concluding an agreement of sale in respect of the **PROPERTY**.