

SALE OF SHARES AGREEMENT

PARTIES

NAME OF PERSON : _____
(IDENTITY NUMBER : _____)

AND

NAME OF PERSON: _____
(IDENTITY NUMBER: _____)

(Hereinafter referred to as the “PURCHASERS”)

AND

COMPANY NAME: _____
ENTITY REGISTRATION NUMBER: _____

Herein Presented by

Name of representative: _____
Identity Number : _____

(hereinafter referred to as the “SELLER”)



2. DEFINITIONS

For the purpose of this agreement unless the context indicates a contrary meaning:

- 2.1 **AGREEMENT** shall mean the Sale of Shares Agreement contained herein;
- 2.2 **CLAIMS** shall mean all the SELLERS' claims against the Company at the EFFECTIVE DATE from whatsoever cause arising;
- 2.3 **SALE CLAIMS** means the amount payable by the Purchasers to the Seller for the sale claims in terms of this agreement;
- 2.4 **COMPANY** shall mean _____;
- 2.5 **SHARES** shall mean ____% of the shares of _____ of the issued and paid-up share capital of the _____ and _____ at the EFFECTIVE DATE;
- 2.6 **EFFECTIVE DATE** shall mean DATE OF LAST SIGNATURE
- 2.7 **ATTORNEYS** shall mean _____.

3. INTERPRETATION

- 3.1 If any provision in a definition is a substantive provision conferring rights or imposing obligations on either Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this Agreement.
- 3.2 Unless inconsistent with the context, an expression which denotes:
- 3.2.1 any one gender includes the other gender;
- 3.2.2 a natural person includes an artificial person and vice versa; and-
- 3.2.3 the singular includes the plural and vice versa.
- 3.3 When any number of days is prescribed in this Agreement, same shall be reckoned inclusively of the first and exclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the immediately following Business Day;
- 3.4 Where figures are referred to in numerals and in words, if there is any conflict

between the two, the words shall prevail;

- 3.5 Where any term is defined within the context of any particular clause in this Agreement, 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 same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
- 3.6 The use of the word “including” followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis rule* shall not be applied in the interpretation of such general wording or such specific example or examples;
- 3.7 Any reference to an enactment in this Agreement is to that enactment, as at the Signature Date and as amended or re-enacted from time to time;
- 3.8 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provided 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.

4. **SALE**

- 4.1 Subject to the fulfilment or waiver, as the case may be, of the conditions in clause 5 below, the SELLERS sells _____ % (_____ PERCENT) of the shares to the PURCHASERS with effect from the commencement of business on the EFFECTIVE DATE, on which date all risk and benefits attaching to _____ % (_____ PERCENT) of the shares shall pass to the PURCHASERS;
- 4.2 This transaction constitutes an indivisible sale of _____ % (_____ PERCENT) of the shares;
- 4.3 Subject to the warranties and representations contained in the Agreement, the SELLERS hereby sells to the PURCHASERS, who hereby purchases from the SELLERS with effect from the EFFECTIVE DATE the SHARES;
- 4.4 Notwithstanding the date upon which this Agreement is signed and the date upon which the SHARES are delivered to the PURCHASERS, all risk in and benefits attaching to the SHARES shall pass to the PURCHASERS on the EFFECTIVE

DATE.

5. CONDITIONS TO THE SALE OF SHARES

The Sale of Shares as contemplated in this Agreement is subject to the following conditions:

- 5.1 The Sellers and the Purchasers duly authorised have signed a Letter of Intent up to and including the date of completion of the sale of shares;
- 5.2 The Purchasers to act as Financial Planner and Business Development Director of the Company;
- 5.3 The Sellers have completed due diligence including all financial, taxation, commercial, actuarial and appropriate legal due diligence in respect of the Book of Business of the Company;
- 5.4 All necessary legislative and or regulatory approvals have been acquired;
- 5.5 the signature date and effective date shall be the date upon which the last signatory to the agreement has duly signed this Agreement in the presence of the appropriate witnesses;
- 5.6 upon acceptance of this Agreement, the Sellers undertake to provide the Purchasers with all relevant documentation and company information required to evaluate the transaction on the Effective Date or as soon as possible thereafter and in any event not later than 7 (Seven) days after the Effective Date, failing which this Agreement will lapse and be automatically cancelled. All parties will be placed in the position they were prior to the transaction and all payments made in contemplation of this Agreement will be returned;
- 5.7 The issued shares will be held as security by the Seller until the purchase price has been paid in full. The Seller undertakes to transfer the issued shares into the names of the Purchasers once all the conditions of the sale has been fulfilled.
- 5.8 Additional conditions:
 - 5.8.1 _____
 - 5.8.2 _____
 - 5.8.3 _____
 - 5.8.4 _____

6. COUNTER PERFORMANCE FOR THE SHARES

The Purchase price for the SHARES will be determined based on the company's capitalisation costs and goodwill to date; The valuation of the company reflecting the purchase price together with the payment schedule is attached hereto as Annexure "A";

7. WARRANTIES

7.1 the SELLERS have the right, authority and power to sell the shares to the PURCHASERS in accordance with this Agreement, free from any pre-emptive rights, option, right of first refusal, encumbrance or restrictions whatsoever;

7.2 The SELLERS warrant to the PURCHASERS (and it is recorded that this agreement is entered into by the Purchasers relying on such warranties), namely:

7.2.1 the Company will not be under any obligation (whether contingently upon the exercise of any right or otherwise) to increase or reduce its authorised share capital;

7.2.2 no resolution will have been passed, nor will the Company be obliged, to alter any of the rights attaching to the SHARES;

7.2.3 no person will be entitled to obtain an order for the rectification of the register of members of the Company;

7.2.4 the Company's books and records will have been properly maintained according to the law and will be capable of being written up within a reasonable time so as to record all the transactions of the Company.

7.2.5 the Company will not be in breach of any law, and without derogating from the generality of a foregoing, it will not be in breach of any laws and/or by-laws relating to taxation and licences, and it will have complied with any requirements communicated by any inspector acting in pursuant to the enforcement of any law;

7.2.6 the Company will have all such licences, permits and authorities required by law and pertaining to its activities for the lawful conduct of the business;

- 7.2.7 the Company will have maintained register of its assets in accordance with generally accepted and sound accounting practice;
 - 7.2.8 no person will have any right or option to purchase any of the assets;
 - 7.2.9 the Company will not be liable, whether contingently or otherwise and whether as surety, co-principal debtor, guarantor or indemnitor, for the liabilities of any third party;
 - 7.2.10 no person will be entitled to participate in or to a commission on the profits of the Company except as shareholders.
- 7.3 The Company is not engaged in any legal proceedings of whatever nature, other than proceedings for the collection of debts from trade debtors in the ordinary course of business. Having made all reasonable enquiries, the Sellers are not aware of any facts, matter or circumstances which may give rise to any legal proceedings;
- 7.4 Having made all reasonable enquiries, the SELLERS are not aware of any facts, matters or circumstances which may give rise to:
- 7.4.1 the cancellation of any policy of insurance or repudiation of any claims in respect of the COMPANY'S ASSETS and/or ENCUMBERED ASSETS, or such policy not being capable of being renewed subject to the imposition of onerous conditions not presently applicable;
 - 7.4.2 the cancellation of any agreement to which the Company is a party, as a result of any breach thereof of the Company's obligations.

8. **FINANCIAL STATEMENTS**

The SELLERS undertake and warrant that the FINANCIAL STATEMENTS will be prepared on the same basis and in accordance with the same principles employed in the previous FINANCIAL STATEMENTS of the Company and that they will be reported on by the AUDITORS without any qualifications.

9. **INDEMNITIES**

9.1 Without prejudice of any of the rights of the PURCHASERS arising from any of the provisions of this Agreement, the SELLERS indemnify the PURCHASERS against all loss, liability, damage or expenses which the PURCHASERS may suffer as a result of or which may be attributable to:

9.1.1 any liability of the Company, whether actual or contingent, arising prior to the effective date not reflected in the financial statements;

9.1.2 any liability of the Company for taxation not provided for in the financial statements arising from or out of the profits or income of the Company for all period prior to the effective date, for which purpose the term "**taxation**" shall include:

9.1.2.1 normal taxation;

9.1.2.2 Sales VAT;

9.1.2.3 all other forms of taxation, including rates and taxes on the assets;

9.1.2.4 any taxation arising from new assessments of taxation and/or the re-opening of any income tax assessment of the Company for any period to the effective date;

9.1.2.5 any penalties or interest as a result thereof, and;

9.1.2.6 any taxation in respect of undistributed profits in respect of any periods ending prior to the effective date and not provided for in the financial statements, unless such taxation could have been avoided by a declaration of dividends after the effective date.

9.1.3 Any claims or liabilities (including claims or liabilities for consequential loss) as a result of any breach of contract occurring before the effective date and is not provided for in the financial statements.

9.2 All existing liabilities of the Company will be ring fenced so as to indemnify the Purchasers from same.

10. **EXCLUSIVITY**

The Sellers undertake not to solicit any offer or engage in discussions with a third party in connection with the sale of shares of the Company as envisaged by this Agreement.

11. **DOMICILIA AND NOTICES**

11.1 The parties choose *domicilium citandi et executandi (domicilium)* for the purpose of giving of any notice, the payment of any sum, the serving of any process and for any other purpose arising from this Agreement, as follows:

11.1.1 the SELLERS:

11.1.2 the PURCHASER:

11.1.3 the COMPANY:

11.2 Each of the parties shall be entitled from time to time, by written notice to the other, to vary its *domicilium* to any other address within the Republic of South Africa, which is not a post office box or post restante;

11.3 Any notice given and any payment made by either party to the other (the addressee) which:

11.3.1 is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being, shall be presumed, until the contrary is proved to have been received by the addressee at the time of delivery;

11.3.2 if posted by pre-paid post and from the address within the Republic of South Africa, to the addressee at the addressee's *domicilium* for the time being shall be presumed until the contrary is proved, to have been received by the addressee on the fourth day after the date of posting;

11.3.3 It is recorded that in the event of the Sellers having given the Purchasers notice on two occasions, in respect of any matter in this agreement, then

in the event of any subsequent breach by the Purchasers of the terms or conditions of this agreement, the Sellers shall not be required to give any further notice as required by this agreement.

12. GENERAL

- 12.1 This document and the Annexures attached thereto constitute the sole record of the Agreement between the parties;
- 12.2 No party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein;
- 12.3 No addition to, variation (including this term), or consensual cancellation of this Agreement shall be of any force or effect, unless in writing and signed by or on behalf of the parties;
- 12.4 No indulgence which either party, (the grantor) may grant to the other (the grantee), shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee, which may have arisen in the past or which may arise in the future.

13. BREACH

Should either party commit a breach of any provision of this Agreement, and fail to remedy such breach within 14 (FOURTEEN) days of despatch of a written notice from the other party require him to do so, then such other party shall be entitled, without prejudice to his other rights in Law:

- 13.1 to cancel this Agreement and retain all amounts paid by the Purchasers as "rouwkoop" and/or as an agreed pre-estimation of liquidated damages deemed to have been suffered by the Sellers up to the date of such cancellation and without prejudice to any other rights which the Purchasers may have; or-
- 13.2 To cancel this Agreement and claim for liquidated damages deemed to have been suffered by the Purchasers up to date of such cancellation and without prejudice to any other rights which the Purchasers may have;
- 13.3 to claim the full outstanding balance, then owing by the Purchasers without further notice;

13.4 in either event without prejudice to the aggrieved party's right to claim damages.

14. COSTS

14.1 The Company shall bear and pay all of the costs payable in accordance with the normal tariffs in relation to the transfer of the shares;

14.2 The Company shall be liable to Legal Alliance for the preparation and finalization of this agreement.

DATED at _____ on this the ___ day of _____.

AS WITNESSES :

1. _____

2. _____

(The PURCHASER)

DATED at _____ on this the ___ day of _____.

AS WITNESSES :

1. _____

2. _____

(The PURCHASER)

DATED at _____ on this the ___ day of _____.

AS WITNESSES :

1. _____

2. _____

(The SELLER)