

FINAL TENDER VERSION

¹

tender conditions (oudrif trust nr 2 in sequestration)

between:

the Trustees for the time being of the

OUDRIF TRUST NR 2

Registration Number IT385/2005(E)

(in sequestration)

appointed by the Master of the High Court, Grahamstown

by means of Provisional Certificate of Appointment dated 11 June 2019

herein represented by Deborah Joubert, duly authorised thereto

its successors in title and/or assigns

("the **Seller**")

and

The Offeror

("the **Purchaser**")



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and

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("the **Purchaser**")



CONDITIONS OF SALE

1 BACKGROUND

1.1 The Seller is the registered owner of the following immovable properties:

- 1.1.1 Portion 81 of the Farm Klipheuvel No 291
Division of Joubertina
Province of the Eastern Cape
In Extent: 5,5503 ha
- 1.1.2 Remainder of Portion 5 of the Farm
Lauterwater's River No 299
Division of Joubertina
Province of the Eastern Cape
In Extent: 56,1188 ha
- 1.1.3 Portion 6 of the Farm Lauterwater's
River No 299
Division of Joubertina
Province of the Eastern Cape
In Extent: 17,2842 ha
- 1.1.4 Portion 62 of the Farm Klipdrift No 300
Division of Joubertina
Province of the Eastern Cape
In Extent: 25,5423 ha
- 1.1.5 Remainder of the Farm Vierwinde No 457
Division of Joubertina
Province of the Eastern Cape
In Extent: 83,2973 ha
- 1.1.6 Remainder of Portion 1 of the Farm Vierwinde No 457
Division of Joubertina
Province of the Eastern Cape
In Extent: 86,8856 ha
- 1.1.7 Portion 2 of the Farm Vierwinde No 457
Division of Joubertina
Province of the Eastern Cape
In Extent: 1,8536 ha
Held by Deed of Transfer No. T20468/2006CTN



- 1.1.8 Portion 61 of the Farm Klipheuvcl No 291
Division of Joubertina
Province of the Eastern Cape
In Extent: 28,4952 ha
- 1.1.9 Portion 10 of Farm No 296
Division of Joubertina
Province of the Eastern Cape
In Extent: 35,0054 ha
- 1.1.10 Farm No 480
Division of Joubertina
Province of the Eastern Cape
In Extent: 27,5653 ha
Held by Deed of Transfer No. T30114/2013CTN
(Also known as Appelkloof)

including water derived from 22 (twenty two) surface water storage dams, the condition and functionality whereof is not warranted or guaranteed, together with the registered and scheduled water entitlement totalling 6.7 (six point seven) hours canal water from the Louterwater Irrigation Board Scheme every 7th (seventh) day (weekly) as to be confirmed by the Purchaser with the relevant Louterwater Irrigation Board authority.

(collectively "*the PROPERTY*").

- 1.2 The Seller proposes to sell the Property subject to the terms and conditions of the Agreement of Sale, the Sale Terms and Conditions and the Main Schedule, all of these documents to be indivisible and incapable of separate legal operation.

2 DOCUMENTATION

- 2.1 The Tender and Sale of the Property shall be conducted in terms of the following documents, comprising the Tender:
 - 2.1.1 The Sale Terms and Conditions; and
 - 2.1.2 The Main Schedule; and
 - 2.1.3 The Agreement of Sale.



- 2.2 The documents referred to in 2.1.1, 2.1.2 and 2.1.3 shall collectively form the Agreement in terms of which the Property shall be sold by the Seller to the Purchaser (*'the Agreement'*).
- 2.3 All Offerors participating in the Tender shall be bound by the Agreement of Sale, read with the Sale terms and Conditions and the Main Schedule as one indivisible transaction (*"the Agreement"*);
- 2.4 Against the award of a successful bid, the Agreement shall become binding on the successful offeror.

3 TENDER

- 3.1 The Seller invites offers for the purchase of the Property by prospective Purchasers (*"the Offer"*) to be submitted by no later than 15h00 on Tuesday, 27 August 2019 (*"the Submission Date"*).
- 3.2 The Offer shall be submitted to Groenewald's Attorneys, c/o Adriaan Groenewaldt (*"the Agent"*), upon the following terms and conditions.
 - 3.2.1 On or before the Submission Date.
 - 3.2.2 In original format, in a sealed envelope, duly completed (without any blank spaces), signed and initialled by or on behalf of the Offeror.
 - 3.2.3 At 12 Saffrey Street, Humansdorp (telephone 042 291 1634) (*"the Venue"*).
 - 3.2.4 Duly accompanied by a resolution, authorizing the offeror to submit the Offer, in the event of the Offeror being a legal entity.
- 3.3 It shall be the responsibility of all potential Purchasers to acquaint themselves fully with the terms of the Agreement.
- 3.4 The Seller may, in its absolute and sole discretion:
 - 3.4.1 withdraw the Property from the Tender;
 - 3.4.2 take such other action in relation to the Tender and Sale of the Property as it deems necessary or appropriate.

4 CONTRACT

- 4.1 Immediately after the Submission Date, and at the Venue, the Agent shall open all Offers submitted to the Agent.
- 4.2 Any Offeror who submitted an Offer shall be entitled to be present when the Offers are opened.
- 4.3 Each Offer shall constitute a single irrevocable offer, capable of acceptance by the Seller.
- 4.4 Any unsigned Offer, or Offer containing terms that amend the Agreement, or Offer submitted after the Submission Date shall be rejected by the Seller.
- 4.5 The Seller reserves the right to reject the highest or any other Offer. All Offers shall remain irrevocably open for acceptance until 16h00 on 30 August 2019, by which date the Seller shall either accept any Offer submitted or alternatively shall be entitled to reject all the Offers submitted.
- 4.6 By submitting an Offer the Offeror binds itself irrevocably to:
 - 4.6.1 the terms and conditions of the Agreement; and
 - 4.6.2 that the Agreement shall only become binding on all Parties in the event of the Seller accepting the Offer by adopting a resolution to that effect and by affixing its signature to the Offer and the Agreement of Sale on or before 16h00 on 30 August 2019.

the main schedule (oudrif trust nr 2 in sequestration)

This document ("the Main Schedule") contains the final bid submitted by the Offeror in respect of the Property owned by the trustees N.O. for the time being of the Oudrif Trust Nr 2 (IT385/2005(E)) (in sequestration) ("*the Seller*").

OFFEROR'S DETAILS, PURCHASE PRICE AND RELATED DETAILS

1. Name of Offeror _____
2. Address of Offeror _____

3. Registration/Identity Number _____
4. The original resolution, authorising the person representing the Offeror (in the event of the Offeror being a legal entity) and further authorising such person to sign the Tender documentation, should be annexed to the Tender documents.
5. Total Purchase Price offered for the Property amounts to R_____ (excluding VAT)
6. Date of occupation shall be the date of acceptance of the Offer by the Seller
7. Occupational Interest (per month): R 20,000.00 (excluding VAT)
(to be calculated from date of occupation to Transfer Date, both dates inclusive)

AGREEMENT OF SALE

This Offer is made subject to the Terms and Conditions contained in the Agreement of Sale annexed to this Offer, read with the Sale Terms and Conditions and this Main Schedule, collectively, if accepted by the Seller within the Tender Period, to become the binding agreement upon which the Offeror and the Seller are contracting to sell and purchase the Property.

By signing and submitting the Sale Terms and Conditions, the Main Schedule and the Agreement of Sale, the Offeror accepts the terms and conditions as set out in the Agreement of Sale and related indivisible documents.

OFFEROR

DATE



agreement of sale

between:

the Trustees for the time being of the

UDRIF TRUST NR 2

Registration Number IT385/2005(E)

(in sequestration)

appointed by the Master of the High Court, Grahamstown

by means of Provisional Certificate of Appointment dated 11 June 2019

herein represented by Deborah Joubert, duly authorised thereto

its successors in title and/or assigns

("the **Seller**")

and

The Offeror

reflected in paragraphs 1, 2 and 3 of the MAIN SCHEDULE to which this Agreement is annexed

("the **Purchaser**")



1 INTERPRETATION:

In this Agreement, clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:

- 1.1 an expression which denotes –
 - 1.1.1 any gender includes the other genders;
 - 1.1.2 a natural person includes an artificial or juristic person and *vice versa*;
 - 1.1.3 the singular includes the plural and *vice versa*;
- 1.1 the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings -
 - 1.1.4 "**this Agreement**" – this document together with all of its annexures, as amended from time to time.
 - 1.1.5 "**Business Day**" – any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
 - 1.1.6 "**Conveyancers**" – the conveyancers appointed by the Seller;
 - 1.1.7 "**Effective Date**" – the date upon which the Seller accepts this Offer by affixing his/her signature to this Agreement of Sale;
 - 1.1.8 "**Excluded Assets**" – shall mean all movable assets on the Property;
 - 1.1.9 "**Lawful Occupants**" – means those persons presently lawfully resident on the Property and who will continue to remain so indefinitely, which persons appear from the "*Lawful Occupants Schedule*" in 5.3;
 - 1.1.10 "**Lawful Occupants Schedule**" – means the schedule in 5.3 setting out all those persons lawfully occupying the Property, which occupation is to endure indefinitely;
 - 1.1.11 "**Main Schedule**" – shall mean the Main Schedule attached to this Agreement of Sale, reflecting the Purchaser's details, the Purchase Price, the suggested date of occupation and the Occupational Interest offered, collectively with this Agreement of



Sale and the Sale Terms and Conditions to form one indivisible Agreement of Sale of the Property;

- 1.1.12 **"Occupation Date"** shall be the date of occupation as set out in 6 of the Main Schedule or as otherwise agreed by the Parties in writing;
- 1.1.13 **"Parties"** – means the Seller and the Purchaser;
- 1.1.14 **"the Prime Rate"** – means the nominal annual compounded monthly in arrear prime overdraft rate of interest charged by Standard Bank Limited, from time to time publicly quoted as such by Standard Bank, calculated on a 365 (three hundred and sixty five) day factor irrespective of whether or not the year is a leap year, as certified by any manager of Standard Bank, whose appointment as such it shall not be necessary to prove, which certificate shall serve as *prima facie* proof of its contents;
- 1.1.15 **"Property"** – the Property shall mean:
- 1.1.15.1 Portion 81 of the Farm Klipheuvel No 291
Division of Joubertina
Province of the Eastern Cape
In Extent: 5,5503ha
 - 1.1.15.2 Remainder of Portion 5 of the Farm
Lauterwater's River No 299
Division of Joubertina
Province of the Eastern Cape
In Extent: 56,1188ha
 - 1.1.15.3 Portion 6 of the Farm Lauterwater's
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 - 1.1.15.5 Remainder of the Farm Vierwinde No 457
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In Extent: 83,2973ha

- 1.1.15.6 Remainder of Portion 1 of the Farm Vierwinde No 457
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including water derived from 22 (twenty two) surface water storage dams, the condition and functionality whereof is not warranted or guaranteed, together with the registered and scheduled water entitlement totalling 6.7 (six point seven) hours canal water from the Louterwater Irrigation Board Scheme every 7th (seventh) day (weekly) as to be confirmed by the Purchaser with the relevant Louterwater Irrigation Board authority.

(collectively referred to as "***the Property***")



- 1.1.16 "**Purchaser**" – the Offeror as reflected in paragraphs 1, 2 and 3 of the Main Schedule to which this Agreement is annexed.
- 1.1.17 "**Purchase Price**" – the Purchase Price as reflected in paragraph 5 of the Main Schedule.
- 1.1.18 "**Sale Terms and Conditions**" – shall mean the Sale Terms and Conditions annexed to this Agreement of Sale, inviting prospective Offerors to tender on the Property, subject to the terms and conditions as contained in their Agreement of Sale, which Sale Terms and Conditions together with the Main Schedule and the Agreement of Sale shall indivisibly form the agreement in terms of which the Purchaser purchases the Property from the Seller;
- 1.1.19 "**Seller**" – the trustees for the time being of the Oudrif Trust Nr 2 (Registration Number IT385/2005(E)) (in sequestration), appointed by the Master of the High Court, Grahamstown by means of Provisional Certificate of Appointment dated 11 June 2019 herein represented by Deborah Joubert, duly authorised thereto;
- 1.1.20 "**Transfer**" – registration of transfer of the Property into the name of the Purchaser in accordance with the provisions of the Deeds Registries Act, No. 47 of 1937, as amended;
- 1.1.21 "**Transfer Date**" – the date on which Transfer is effected;
- 1.1.22 "**VAT**" – Value-Added Tax payable in terms of the VAT Act;
- 1.1.23 "**VAT Act**" – the Value-Added Tax Act, No. 89 of 1991, as amended;
- 1.2 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the signature date, and as amended or substituted from time to time;
- 1.3 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Agreement;
- 1.4 where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;

- 1.5 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 1.6 any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 1.7 any term which refers to a South African legal concept or process (for example, without limiting the foregoing, winding-up or curatorship) shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this Agreement may apply or to the laws of which a Party may be or become subject;
- 1.8 the use of the word "including" followed by a specific example/s 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/s;
- 1.9 the terms of this Agreement having been negotiated, the agreement in the event of a dispute with regards to the interpretation thereof, shall not be interpreted against the Party responsible for the drafting thereof.

2 **PREAMBLE:**

- 2.1 The Seller is the registered owner of the Property.
- 2.2 The Seller has agreed to sell the Property to the Purchaser, who has agreed to purchase same.
- 2.3 This Agreement contains the contractual terms between the Parties regarding the foregoing.

3 **PURCHASE PRICE AND PAYMENT:**

- 3.1 The Purchase Price plus Value Added Tax, calculated in addition to the Purchase Price reflected in paragraph 5 of the Main Schedule, shall be paid by the Purchaser to the Seller on the Transfer Date.



- 3.2 Pending Transfer and within 21 (twenty one) days from Signature Date of this Agreement by the Seller, the Purchaser shall deliver a Commercial Bank guarantee to the Conveyancers, acceptable to the Seller (acting reasonably), for payment of the Purchase Price in accordance with 3.1 above, alternatively the Purchaser shall pay the aforesaid Purchase Price in cash, prior to Transfer Date, to be held in trust by the Conveyancers until Transfer Date and to be invested in an interest bearing trust account in terms of the provisions of Section 86(3) of the Legal Practice Act, Act 28 of 2014, interest for the benefit of the Purchaser, to be paid by the Conveyancers on Transfer Date to the Seller.
- 3.3 The guarantee shall be drawn and payable:
- 3.3.1 at Grahamstown or such other place as the Seller may direct in writing;
 - 3.3.2 on Transfer Date of the Property into the name of the Purchaser;
 - 3.3.3 on cancellation of any existing mortgage bonds, (if applicable); and
 - 3.3.4 against simultaneous registration of a new mortgage bond in the event that the Purchaser elects to procure mortgage loan finance.
- 3.4 All payments in terms of or arising out of this Agreement shall be made free of bank exchange, commission and all other deductions to the Party entitled thereto upon the due date thereof and in the event of such due date not being a business day then the due date shall be the immediately following business day.
- 3.5 Neither Party shall have the right to defer, adjust or withhold any payment due to the other in terms of or arising out of this Agreement or to obtain deferment of judgment for such amount or any execution of such judgment by reason of any set-off or counterclaim of whatsoever nature or howsoever arising.
- 3.6 Save to the extent otherwise provided all amounts due by one Party to the other (including damages) in terms of or arising out of this Agreement shall, unless paid on due date, bear interest from the due date to date of payment. Such interest shall be-

- 3.6.1 calculated at the prime rate; and
- 3.6.2 capitalized monthly in arrear on the balance due.
- 3.7 More than one guarantee may be requested.
- 3.8 The Purchaser shall bear the costs of the guarantees requested.

4 VALUE-ADDED TAX

Value Added Tax at the applicable rate is payable by the Purchaser in addition to the Purchase Price, as set out in paragraph 5 of the Main Schedule, such VAT being payable within 7 (seven) days of request by the Conveyancers.

5 POSSESSION:

5.1 Possession and occupation of the Property shall be given to and taken by the Purchaser on the Occupation Date, from which date the Purchaser shall be entitled to every benefit arising from the Property and from which date the Property shall be held by the Purchaser at its risk and the Purchaser shall be responsible for and shall pay all rates and taxes and other expenses relating to the Property. The Purchaser shall refund to the Seller, forthwith on demand, an amount equal to all rates and taxes and other expenses relating to the Property pre-paid by the Seller for any period after the Occupation Date, if applicable.

5.2 The Purchaser is aware of the provisions of:

- 5.2.1 the “Restitution of Land Rights Act. 22 of 1994”;
- 5.2.2 the “Land Reform (Labour Tenants) Act of 1996”;
- 5.2.3 the “Extension of Security of Tenure Act 62 of 1997” (ESTA).

which regulate and/or secure the rights of tenure and occupation on land of any third party. Save as may be herein set out, the Seller has not given any warranty or made any representations, whether express or implied, to the Purchaser regarding the rights in law of any occupier or potential occupier or any third party in terms of the aforementioned Acts and more particularly, the Purchaser indemnifies the Seller against any

claim or action which any occupier may bring in terms of the Property.

- 5.3 The following individuals together with their families are Lawful Occupants as set out in 1.1.9 hereinbefore:

NAME	IDENTITY NUMBER
Renaldo Wagenaar	850511 5092 08 2
Venecia Janse	620518 0145 08 7
Petrus Janse	670305 5192 08 1
Sandra Bruintjies	720711 0259 08 6
Kallie Jacobs	660202 6128 08 9
Kosie Janse	850610 5143 08 3
Damon Harmse	640418 5463 08 8
Thys Zondag	630825 5111 08 1
Marcel Lottering	970218 5401 08 2
Dinah Lottering	690119 0167 08 3
Margi Blaauw	
John Bennie	
Eric Nomatye	841212 5847 08 6
Jan Boesak	
Rachel Isaacs	
Stephanus Samson	

6 **TRANSFER:**

- 6.1 The Parties hereby instruct the Conveyancers to cause Transfer to be registered within a reasonable time after the Purchase Price and the rates and costs payable by the Purchaser have been secured or paid.
- 6.2 Each Party shall, within 7 (seven) days of being called upon to do so by the Conveyancers, sign all documents required to be signed, and furnish all documents required to be furnished, by that Party to enable Transfer of the Property to be given to the Purchaser and registration of any mortgage bond required by the Purchaser.

7 **TRANSFER COSTS:**

The Purchaser shall be responsible for the following costs and charges:-

- 7.1 The legal costs for the drafting of this Agreement; and



- 7.2 The costs incidental to Transfer of the Property in the name of the Purchaser, including without limitation transfer duty or VAT (where applicable), Transfer fees, legal fees and the like.

8 BREACH:

- 8.1 If either Party commits a breach of any of the material provisions of this Agreement and fails to remedy such breach within 14 (fourteen) days after receipt of written notice from the other Party calling upon it to remedy such breach, then the innocent Party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement, to -
- 8.1.1 cancel this Agreement and claim from the defaulting Party such damages as it may have sustained; or
 - 8.1.2 claim immediate performance by the defaulting Party of all of its obligations in terms of this Agreement.

9 AGENT/COMMISSION:

The Parties record that the Seller has appointed the Humansdorp Co-operative Limited ("*the Co-op*") as Agent in this transaction. The Co-op has prepared technical reports and agricultural economic reports relating to the Property and shall disclose the aforesaid reports and shall show the Property and advertise the Sale in accordance with its mandate. The Purchaser shall pay commission to the aforesaid appointed Agent, calculated at the rate of 3% (three percent) (plus VAT thereon) of the Purchase Price (excluding the VAT portion thereof), such commission being due and payable by the Purchaser upon the Transfer Date, to the Agent, in addition to the Purchase Price. The Purchaser shall pay the aforesaid commission to the Conveyancers within 14 (fourteen) days from date of request to pay same, together with VAT thereon.

10 DOMICILIUM AND NOTICES:

- 10.1 The Parties select as their respective *domicilia citandi et executandi* the following physical addresses, and for the purposes of giving or sending any notice provided for or required under this Agreement, the said physical addresses as well as the following electronic mail addresses ("Email")



10.1.1 The Seller physical -

c/o Die Humansdorpse Koöperasie Limited
 65 Voortrekker Road
 Humansdorp
 6300

10.1.2 The Purchaser physical –

c/o _____

provided that a Party may change its domicilium or its address for the purposes of notices to any other physical address in the Republic of South Africa or Email by written notice to the other Party to that effect. Such change of address will be effective 5 (five) business days after receipt of the notice of the change.

10.2 All notices to be given in terms of this Agreement will be given in writing, in English, and will –

10.2.1 be delivered by hand or sent by Email;

10.2.2 if delivered by hand during business hours, be presumed to have been received on the date of delivery. Any notice delivered after business hours or on a day which is not a business day will be presumed to have been received on the following business day; and

10.2.3 if sent by Email during business hours, be presumed to have been received on the date of receipt of a read receipt by the sender of the Email. Any Email sent after business hours or on a day which is not a business day will be presumed to have been received on the following business day.

10.3 Notwithstanding the above, any notice given in writing in English, and actually received by the Party to whom the notice is addressed, will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with this clause.



11 VOETSTOOTS:

The said Property is sold voetstoots and according to the extent as it lies at present, with all the buildings and erections thereon in its present state and condition and furthermore with all the orchards and other improvements thereon in their present state and condition, without any warranty (express or implied) of any nature whatsoever, other than the warranties having been provided in terms of this Agreement. Furthermore, the said Property is sold according to its existing diagram and subject to the existing conditions and servitudes, if any, contained in the Title Deeds. Neither the Purchaser nor the Seller shall have any claim against the other in respect of any over or under measurement, which may be revealed on any re-survey. The Seller shall not be responsible for pointing out the beacons of the Property nor for the costs of fixing and/or erecting any beacons or inserting any pegs to clearly define the Property. The Purchaser confirms that he/she/it shall inspect the Property, the orchards as well as the dams constructed thereon, prior to submission of the Tender and the Purchaser accepts the Property, the orchards, the dams and all the improvements in its "as is" condition (i.e. voetstoots) without any warranty whatsoever other than the warranties expressly provided in this Agreement. There shall be no implied warranties.

12 WARRANTIES:

This Sale is subject to the warranties contained in Annexure "A" hereto.

13 EMPLOYMENT CONTRACTS

- 13.1 The Parties acknowledge and agree they are aware of the contents and effect of Section 197 of the Labour Relations Act, Act 66 of 1995, and specifically its application to this deed of sale.
- 13.2 The Parties record that, in accordance with the provisions of Section 197 of the Labour Relations Act 1995, the contracts of employment of each of the employees of the Seller who are employed in respect of the Property on the date of transfer will be transferred to the Purchaser.
- 13.3 The Seller warrants that the list of such employees, the terms of employment applicable to them and all and any claims or entitlements which those employees have arising out of their employment, are contained in Schedule 2 hereto annexed.
- 13.4 For clarity, the Seller guarantees that no employees, other than those listed in Schedule 2, will be in service on the date of transfer of the



Property into the name of the Purchaser and the Seller hereby indemnifies and holds the Purchaser blameless against any claim which may be instituted against the Purchaser by the employees not listed in Schedule 2.

- 13.5 In the event that the Purchaser, within a period of 12 (twelve) months from the date of registration of the Property in the name of the Purchaser, dismiss any of the employees listed in Schedule 2 (due to farming operational requirements only) the Seller will be responsible to the Purchaser for the following regarding these severance packages:
- 13.5.1 Any accrued leave in respect of the particular employee based on the effective date of transfer of Property in the name of the Purchaser;
- 13.5.2 The value of the severance package of the specific employee as calculated on the effective date of transfer of the Property in the name of the Purchaser.
- 13.6 Except as provided for in clause 13.5 above, the Purchaser hereby indemnifies and holds the Seller blameless against any claim which may be instituted against the Seller by any of the employees transferred to the Purchaser pursuant to clause 13.2 or otherwise arising from the dismissal of any of the said employees after the date of transfer, or arising from the failure of the Purchaser to perform any of its obligations relating to the terms and conditions of employment of the said employees.
- 13.7 Notwithstanding anything to the contrary herein contained the Purchaser shall not be entitled to terminate the services or any employee prior to the registration of transfer of the Property.
- 13.8 The Seller assumes the responsibility to disclose the contents of this clause 13 to the employees that will be affected by this Agreement and to explain its implications to such employees.

14 COMPANY TO BE FORMED

- 14.1 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.

- 14.2 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 as surety and co-principal debtor in *solidium* with such company for the due performance by it as Purchaser of the terms, conditions and obligations arising out of this Agreement.

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

- 15.1 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 the Purchaser's obligations arising from this Agreement.
- 15.2 If any individual purport to be representing another person including a company, close corporation, association or trust, and signs this Agreement on that basis, that individual shall by signing this Agreement on behalf of such other person be held personally responsible for the due and proper discharge of all the Purchaser's obligations in terms of this Agreement and that individual shall be deemed to be the Purchaser where such other person does not exist at the time of signing this Agreement by the individual.

16 **ELECTRICAL INSTALLATION CERTIFICATE OF COMPLIANCE**

- 16.1 The Purchaser hereby undertakes to furnish the Seller's attorneys, prior to Transfer, with a certificate of compliance in respect of the Property, in terms of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act (Act No. 85 of 1993, as amended), issued by an electrical contractor who is registered in terms of the Regulations. All costs incurred in obtaining such, shall be borne by the Purchaser.

- 16.1.1 Upon the Purchaser furnishing the Seller's attorneys with such certificate, the Purchaser shall have no claim



whatsoever against the Seller in respect of electrical installations and no further liability in this regard shall rest upon the Seller.

17 ALIEN AND INVASIVE SPECIES REGULATIONS

The Seller acknowledges his obligations in terms of the Alien and Invasive Species Regulations of 2014 to notify the Purchaser of listed invasive species categorised in terms of Chapter 2 of the Regulations and hereby confirm that no such invasive species is present on the property or alternatively that a list of invasive species will be provided to the Purchaser prior to Transfer Date.

18 GENERAL:

- 18.1 This Agreement constitutes the sole record of the agreement between the Parties in relation to the subject matter hereof. Neither Party shall be bound by any express, tacit or implied term, representation, warranty, promise or the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the Parties in respect of the subject matter hereof.
- 18.2 No addition to, variation, novation or agreed cancellation of any provision of this Agreement shall be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties.
- 18.3 No indulgence or extension of time which either Party may grant to the other shall constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.
- 18.4 Without prejudice to any other provision of this Agreement, any successor-in-title, including any executor, heir, liquidator, judicial manager, curator or trustee, of either Party shall be bound by this Agreement.
- 18.5 The signature by either Party of a counterpart of this Agreement shall be as effective as if that Party had signed the same document as the other Party.

Signed by the **Seller** at _____ on _____ 2019

1. _____
_____ who warrants that he/she is duly authorised hereto
2. _____

Signed by the **Purchaser** at _____ on _____ 2018

1. _____
_____ who warrants that he/she is duly authorised hereto
2. _____



ANNEXURE 'A'**PROPERTY WARRANTIES**

(Property Purchase Agreement)

1. The Seller hereby gives the warranties and undertakings and makes the representations contained in 2 to and in favour of the Purchaser on (unless otherwise stipulated) the following basis -
 - 1.1 the warranties shall be deemed to be representations and undertakings by the Seller in favour of the Purchaser;
 - 1.2 each warranty shall conclusively be deemed to be a representation of fact inducing the Purchaser to enter into this Agreement;
 - 1.3 each warranty shall be presumed to be material;
 - 1.4 insofar as any warranty is promissory or relates to a future event, it shall be deemed to have been given as at the due date for fulfilment of the promise or the happening of the event, as the case may be;
 - 1.5 each warranty shall be a separate warranty and in no way limited or restricted by reference to or inference from the terms of any other warranty;
 - 1.6 each warranty is given as at the signature date and as at the Effective Date;
2. The Seller warrants and undertakes to the Purchaser that -
 - 2.1 the Seller is the owner of and has the absolute right to dispose of the Property to the Purchaser in accordance with the provisions of this Agreement;
 - 2.2 no part of the Property is occupied by any illegal occupant;



- 2.3 the Property is however occupied by Lawful Occupants, as disclosed in this Agreement of Sale;
- 2.4 no agreements have been entered into by the Seller whereby any restrictive conditions or servitudes or other real rights attach to the Property or in terms of which any person, natural or corporate, is entitled to obtain any real rights to the Property;
- 2.5 the Property is not subject to any servitude or condition of title which does not appear in the current title deed thereof;
- 2.6 no notice has been received by the Seller of the intention of any authority to expropriate the Property or any portion thereof nor is the Seller aware of any intention to expropriate the Property or any portion thereof by any such authority;
- 2.7 the Property is not subject to any claim under the Restitution of Land Rights Act, No. 22 of 1994, and no notice to this effect has been served on the Seller;
- 2.8 no legal action has been instituted against the Seller and the Seller has no knowledge of any contemplated legal action in terms whereof the Property may be attached and/or Transfer thereof may be interdicted.