

ZA-CPcsl07

## **Company purchase agreement: Group of companies**

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**This agreement is dated:** [date]

The Seller is: [name] of [private address]

*OR*

The Sellers are: those persons whose names are set out in Part 1 ■ ■ ■

The First Guarantor is: [name] of [private address]

The Second Guarantor is: [name] of [private address]

**It is now agreed as follows:**

## 1. Definitions

**“Confidential Information”** means all information about the Group Company and parties to this agreement, including any information which may give a commercially

## **“Disclosure Letter”**

## “Domain Names”

## "Group"

## "Group Accounts"

## "Group Company"

## “Holding Company”

## "Know-how"

means scientific or technical information, and



## 2. Interpretation

In this agreement unless the context otherwise requires:

### **3. Entire agreement**



#### **4. The Purchase Price**



## **5. Buyer's acknowledgment of inspection**

The Buyer admits that:

## **6. Agreement for Sale**



## **7. Completion and delivery of documents**



#### **7.4. Each Seller undertakes that he will:**

## **8. Warranties applicability and limitation**

## **9. Warranties by Sellers**

- 9.1.5 unless otherwise specified, [REDACTED];  
[REDACTED];
  - 9.1.6 [Each corporate Seller] [REDACTED];  
[REDACTED];
  - 9.1.7 the Shares constitute the whole [REDACTED] [REDACTED];  
[REDACTED];
  - 9.1.8 there is [REDACTED]
- .
- 9.2. The Warranties in this agreement are not [REDACTED]  
[REDACTED]  
[REDACTED].
- OR*
- 9.3. The Warranties in this agreement are not limited in monetary value, but no claim [REDACTED], [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED].

## 10. Trustee Warranties

Each of the Trustees warrants:

- 10.1. that he has legal title [REDACTED]  
[REDACTED];
- 10.2. that he has [REDACTED]  
[REDACTED];
- 10.3. that he has no knowledge of any circumstance unknown [REDACTED]  
[REDACTED], [REDACTED], [REDACTED], [REDACTED]  
[REDACTED].

## 11. Restrictive agreement

- 11.1. So that the Buyer has the full benefit [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]:

## **12. Sellers' protection**

- 12.1. Any claim against any Seller, in [REDACTED],  
[REDACTED]  
[REDACTED].

12.2. No single Seller can be liable for any Warranty claim unless his [REDACTED]  
[REDACTED]  
[REDACTED], [REDACTED] [REDACTED].

- 12.3. In any event, the [REDACTED] [REDACTED].
- 12.4. The Buyer may not claim more [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].

## 13. The Guarantee

- 13.1. [Each of] [REDACTED]  
[REDACTED]:
  - 13.1.1 that every statement, [REDACTED]  
[REDACTED];
  - 13.1.2 that he will procure [REDACTED]  
[REDACTED];
  - 13.1.3 that he will indemnify the Buyer against all [REDACTED], [REDACTED]  
[REDACTED];
- 13.2. [Each of] The Guarantor accepts that compliance by the [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].
- 13.3. [Each of] The Guarantor accepts that the Buyer is [REDACTED]  
[REDACTED]  
[REDACTED].
- 13.4. This guarantee is limited to:
  - 13.4.1 the sum [REDACTED] [REDACTED];
  - 13.4.2 claims notified to the [REDACTED] [REDACTED]  
[REDACTED].

## 14. Publicity / Announcements

- 14.1. No public or press announcement shall be made [REDACTED]  
[REDACTED], [REDACTED].

OR



## **15. Miscellaneous matters**

It shall be deemed to have been delivered:

15.12. So far as the law permits, [REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED].

15.13. In the event of any conflict between any term of this agreement and the  
[REDACTED]  
[REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].

15.14. This agreement may be executed in multiple counterparts each [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

15.15. The validity, construction and performance of this agreement shall be  
governed [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

**Signed by** [personal name] on behalf of [named Seller] as its / his representative  
who personally accepts liability for the proper authorisation by [named Seller] to enter  
into this agreement.]

**Signed by** [personal name] on behalf of [named Buyer] as its / his representative  
who personally accepts liability for the proper authorisation by [named Buyer] to  
enter into this agreement.

**Signed by** [personal name] on behalf of] [REDACTED] / [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED].

*OR*

**Signed by** [Seller name in full]

AND

**Signed by [ █ / █ ]**

## Schedule 1: Part 1 Shareholdings

Name	Address	Number of Shares	Signature

## **Schedule 1: Part 2 Details of the Group**

## **1. The Company (Holding Company)**

Company number: [ █ █ █ █ ]      █ █ █ █ █ █ █ █ █ █ █ █ █ █ : [ █ █ █ █ ]

Registered office: [address]

Directors: [list all names in full]

Secretary: [name in full]

## **2. The Subsidiaries**

Name:[name] [REDACTED] : [REDACTED] [REDACTED] : [REDACTED]

Share capital:      ■ ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ]      ■ ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ]

Registered office: [address]

Directors: [ █ ]

Secretary: [name in full]

Name:[name] [REDACTED] : [REDACTED] [REDACTED] : [REDACTED]

Share capital:            ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ]            ■ ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ]  
■ ]

Registered office: [address]

Directors: [ █ ]

Secretary: [name in full]

## **Schedule 1: Part 3 Press release**

## Schedule 2: Part 1 Properties

[Please  ]

- Freehold Properties
  - Leasehold Properties
  - Any other particulars

## Schedule 2: Part 2 Assets

## Schedule 3: The Warranties

## General

## **Group Company structure and operation**

11. Full details are set out in the [REDACTED]  
[REDACTED]
12. Since the Last Year End, no change has been made in the structure, [REDACTED]  
[REDACTED], [REDACTED], [REDACTED].  
[REDACTED]
13. None of the Sellers has any interest, directly or indirectly, in any business  
(other than those of any Group [REDACTED])  
[REDACTED]  
[REDACTED]  
[REDACTED] [5] %  
[REDACTED] ( [REDACTED] ).
14. No Group Company has entered into any contract by which [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
15. Every Group Company [REDACTED]  
[REDACTED].
16. Each Group Company has [REDACTED]  
[REDACTED]:
  - 16.1. all documents of title relating to its Assets;
  - 16.2. an original copy [REDACTED]  
[REDACTED];
  - 16.3. [REDACTED]  
[REDACTED].
17. [REDACTED]  
[REDACTED].
18. [REDACTED] [REDACTED]  
[REDACTED] / [REDACTED].
19. [REDACTED], [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED].

## Accounts

## 25. The Accounts:

its purchase price;

its production cost;

its net realisable value.

28. Since the Last Year End:

28.1. [REDACTED]  
[REDACTED].

28.2. [REDACTED]  
[REDACTED], [REDACTED].

28.3. [REDACTED], [REDACTED]  
[REDACTED].

29. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

### **Cash flow**

30. [REDACTED]:

30.1 [REDACTED]  
[REDACTED].

30.2 [REDACTED], [REDACTED]  
[REDACTED].

30.3 [REDACTED]  
[REDACTED].

31. [REDACTED]  
[REDACTED]  
[REDACTED].

32. [REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED].

### **Taxation**

33. [REDACTED]  
[REDACTED], [REDACTED], [REDACTED].

34. [REDACTED]  
[REDACTED]

### **Guarantees and borrowing**

41. The Disclosure Letter discloses:

## Assets

## Trading and contracts

- 48.3. [REDACTED]  
[REDACTED].
- 48.4. [REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED] [REDACTED].
49. [REDACTED], [REDACTED]  
[REDACTED]:
- 49.1. [REDACTED]
- 49.2. [REDACTED]
- 49.3. all contracts comply with the relevant law.
- 49.4. [REDACTED]  
[REDACTED].
50. No existing contract is for work which:
- 50.1. is beyond the normal course of business.
- 50.2. [REDACTED]  
[REDACTED].
- 50.3. is likely to result in a loss.
- 50.4. is priced in a currency other than Rand.
- 50.5. [REDACTED] [10] %  
[REDACTED].
51. [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].
52. [REDACTED]
53. [REDACTED] [REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED].
54. [REDACTED] [25]  
[REDACTED]

[ 25 ] .

55. .

56. .

### **Litigation and regulation**

57. .

58. .

59. .

60. .  
, 1998.

61. .

62. .

63. .

### **Properties - all**

64. .

65. .

70.3. there are no rent reviews in progress.

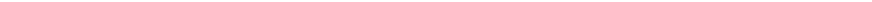
## **Properties let by Group Companies**

**81.1 the name and address of the tenant**

81.2. the name and address of any quarantor.

### 81.3. the address of the Property.

#### 81.5. the rent.

01.0. 

- 81.7. [REDACTED]  
[REDACTED].
- 81.8. [REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED],  
[REDACTED].
- 81.9. [REDACTED]  
[REDACTED]  
[REDACTED].
- 81.10. any unusual provisions.

82. [REDACTED]  
[REDACTED]  
[REDACTED].

## **Employees**

83. The Disclosure Letter contains for each employee:
- 83.1. an employment history;
  - 83.2. a curriculum vitae;
  - 83.3. terms of employment;
  - 83.4. non-contractual matters and informal arrangements.

84. [REDACTED]  
[REDACTED].
85. [REDACTED].
86. [REDACTED] [REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED] % [REDACTED]  
[REDACTED].
87. [REDACTED]  
[REDACTED] [REDACTED].
88. [REDACTED] [REDACTED]  
[REDACTED].
89. [REDACTED].

Insurance

# Intellectual Property

## **Information technology (“IT”)**

103.1. the name;

103.2. name and contact information of registrant;

103.3. tag holder name, land address and website;

103.4. date to which the name is registered.

#### **109.2. technical, customer and client support services:**

#### 109.4. an email service provider.

111.2. what password he uses;

## Explanatory notes:

## **Company purchase agreement: Group of companies**

## General matters

## **1. The parties**

## **2. Complete when agreement dated or later?**

## Paragraph-specific notes

Notes numbering refers to paragraph numbers.

## 1. Definitions

Please read the general notes sent along with ■ ■ ■ ■ ■ ■ ■ .

## 2. Interpretation

### **3. Entire agreement**

#### **4. The Purchase Price**

## **5. Buyer's acknowledgement of inspection**

## **6. Agreement for Sale**

This is a simple cash deal. We suggest leave it █ █ █ █ █ █ █ █ █ █ █ █ █ █ .

## **7. Completion and delivery of documents**

statement ■■■■■ . ■■■■■ “ ■■■■■ ■■■■■ ” .

- This provides for any key people to remain as employees. Their new contracts would be dated the same date as the agreement and would take ■■■■■ .
- Of course, the sellers will already have satisfied themselves that the beneficiary of a guarantee (like a bank) ■■■■■ ■■■■■ ■■■■■ .

## **8. Warranties applicability and limitation**

Do not edit without very good reason and full understanding ■■■■■ ■■■■■ .

## **9. Warranties by Sellers**

"Joint and several liability" means that all the sellers are jointly liable. No one of them can avoid liability to the buyer by saying he was personally not to be blamed. This means that the buyer can (and would) claim against the wealthier sellers if ■■■■■ ■■■■■ , ■■■■■ ■■■■■ .

To avoid this situation, the sellers should prepare a simple shareholders agreement setting out exactly which of them is responsible for what areas and who pays what to whom in the event of a claim. Such an agreement cannot prejudice the buyer, who still may sue whom he wishes. It serves only to sort the position between the shareholders themselves. One of the ■■■■■ ■■■■■ ■■■■■ ■■■■■ ■■■■■ .

A company may sign up to a deal, by the hand of its directors, but if its memorandum of incorporation prevents such a contract being made (for one of any number of reasons), then it can wash its hands of ■■■■■ ■■■■■ .

The warranties are so fundamental to the transaction that it is reasonable that ■■■■■ ■■■■■ .

## **10. Trustees Warranties**

Provision has been made for the proposition that one or more people may hold shares as trustees. The buyer should make certain that any such person is a disinterested trustee. It could be that a major shareholder has placed

## 11. Restrictive agreement

## **12. Sellers' protection**

This paragraph is most important to the sellers as it caps their liability. How this is done is a matter for negotiation. This proposal is fair, subject of course to [REDACTED] . [REDACTED] . [REDACTED] .

### **13. The Guarantee**

In that case, your guarantors will be the directors of the holding company seller. If [REDACTED], [REDACTED]  
[REDACTED] - [REDACTED]

A judge will usually treat a guarantee as a matter only of money. We have worded this one clearly so that there is . . .

.....

## **14. Publicity / announcements**

This may not be important to ..... .

## **15. Miscellaneous matters**

A number of special points. We have identified each of these as important to protect you. Some are relevant to particular paragraphs in the document, some apply more broadly, some apply to the entire document, and some apply to specific sections or parts of the document.

## The Schedules

We have no comment.

## Notes on Warranties

For maximum protection

## Explanation of warranties

## How to use warranties?

If you are seller

## If you are the buyer

As a buyer you need warranties:



## Warranties: drafting notes continued

It is good practice to delete irrelevant warranties, but by all means do not add new ones.

## General

## **Group structure and operation**

With reference to licences and consents: in any business which has been operating for more than a few years, [REDACTED]  
[REDACTED] . [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].

## **Accounts, Cash flow and Taxation**

The basis of valuation of the company is likely to have been the last audited annual accounts, [REDACTED]  
[REDACTED] . [REDACTED] . [REDACTED]  
[REDACTED] . [REDACTED] .  
[REDACTED] , [REDACTED] , [REDACTED]  
[REDACTED].

## **Guarantees and borrowing**

A list of creditors should be readily available.

## Assets

## Trading and contracts

## Litigation and regulation

## Properties - all

## **Properties let by Group Companies**

If none, delete.

# Employees

We have no comment. Set the warranties ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ . ■ ■ ■ ■

“ ”

# Insurance

We have no comment.

# **Intellectual Property**

All companies acquire some intellectual property. Even a quite small ■ ■ ■ ■ ■ ■ ■ ■

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## **Information technology (“IT”)**

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**ANSWER** The answer is 1000. The first 1000 digits of  $\pi$  are 3.141592653589793238462643383279502884197169399375105820974944592388165495853211345014174603170608261573934340008134971692813450679189376.

## End of notes