# **Offer to Purchase**

AGREEMENT OF SALE

Between:

(‘the Seller’)

and

(‘the Purchaser’)

## A. SCHEDULE OF INFORMATION AND DEFINITIONS

1. **DETAILS OF SELLER**

**2. DETAILS OF PURCHASER**

**3.** **PROPERTY**

**DEFINITIONS**

* 1. ‘Conveyancer’ shall mean:
  2. ‘VAT’ shall mean value added tax as determined by the Value Added Tax Act, as amended from time to time.

**PREAMBLE:**

**WHEREAS:**

1. The Seller has agreed to sell to the Purchaser the property as part of a going concern
2. The Seller and Purchaser are both registered VAT vendors
3. The enterprise is a COMMERCIAL office block which is rented out and will be a VAT enterprise now and at date of registration and is separately operated.
4. The parties agree that the supply is a going concern on date of signature of this agreement and after registration.
5. The parties agree that the enterprise is an income-earning activity on date of transfer.
6. The assets necessary for carrying on the enterprise will be disposed of to the Purchaser.
7. The parties agree that the consideration for the supply includes VAT at the zero rate

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. TERMS AND CONDITIONS
2. **SALE OF THE PROPERTY**
   1. The Seller hereby sells and the Purchaser hereby purchases the property at the purchase price subject to and upon the terms and conditions contained in this agreement.
3. **PAYMENT OF THE PURCHASE PRICE**
   1. The purchase price shall be paid to the Seller as follows:
4. **TRANSFER OF THE PROPERTY**
   1. Transfer of the property shall be effected by the conveyancer as soon as possible after the purchaser has delivered all the game specified in annexure A.
   2. The Purchaser must sign all documents when called upon to do so by the conveyancer.
   3. All transfer costs and cost of drafting this agreement will be paid by the purchaser on request.
5. **POSSESSION AND RISK**
   1. The Seller shall give the Purchaser possession and occupation on registration.
   2. All risk and benefit in the property shall pass to the Purchaser on date of occupation.
   3. In the event of the Seller giving the Purchaser possession of the property prior to registration of transfer, all risk in the property shall pass to the Purchaser on possession and the Purchaser shall carry out any building work or other improvements thereon at its own risk and shall have no claim whatsoever against the Seller for any compensation in respect thereof.
6. **PROPRIETARY CHARGES**
   1. The Purchaser shall be liable for a pro rata share of levies, rates, taxes and other proprietary charges payable in respect of the property with effect from registration of transfer or date of possession of the property, whichever is the earlier.
   2. The Purchaser shall upon request of the Seller’s conveyancer pay such pro rata share of levies, rates, taxes and other proprietary charges.
7. **VOETSTOOTS, EXTENT AND TITLE CONDITIONS**
   1. The property is sold ‘voetstoots’ and the Seller gives no warranties, express or implied, as to patent or latent defects.
   2. The extent of the property as set out in the schedule of information is approximate and the final extent of the property will be shown in the general plan to be approved by the Surveyor-General.
   3. The Seller renounces all claims to any excess and will not be answerable for any deficiency in the declared extent of the property and no warranties are given in respect of the boundaries of the property.
   4. The property is sold subject to all such conditions as are mentioned and/or referred to in the title deed/s relating to the property and to such conditions as are or may hereafter be imposed by any relevant authority.
   5. The Purchaser acknowledges and agrees that he/she has satisfied himself/herself as to the condition of the property and it is agreed that the Seller shall not be required to level the property or to carry out any earthworks or landscaping in respect thereof.
8. **BREACH BY PURCHASER**
   1. If the Purchaser commits a breach of this agreement and/or fails to comply with any of the provisions hereof, then the Seller shall be entitled to give the Purchaser not less than 7 (seven) days’ notice in writing to remedy such breach and/or failure and if the Purchaser fails to comply with such notice, then the Seller shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Seller may have in law, including the right to claim damages:
      1. To cancel this agreement (in which event the Purchaser shall forfeit all monies paid to the Seller or its attorneys or agent/s in terms of this agreement and all interest thereon); and any game already delivered
      2. To claim immediate performance of all the Purchaser’s obligations in terms of this agreement; and/or
      3. The purchaser shall immediately vacate the property and return it in the same state in which he received it.
   2. Should the Seller take steps against the Purchaser pursuant to a breach by the Purchaser of this agreement, then without prejudice to any other rights which the Seller may have, the Seller shall be entitled to recover from the Purchaser all legal costs incurred by it including attorney/client charges, tracing fees and such collection commission as the Seller is obliged to pay to its attorneys.
   3. Should transfer be delayed by the Purchaser for whatever reason and the Seller elects not to cancel this agreement, then the Purchaser shall pay to the Seller interest on the full purchase price at the prime overdraft rate charged by the Seller’s bankers from time to time calculated from the date that the Seller’s attorneys (acting as experts) certify in writing that in their opinion the transfer ought reasonably to have been registered, but for such delay.

**9. DOMICILIA AND NOTICES**

9.1 For the purposes of this agreement, including the giving of notices and the serving of legal process, the parties choose *domicilium citandi et executandi* (‘*domicilium’*) as follows:

9.1.1 The Seller:

9.1.2 The Purchaser:

9.2 A party may at any time change his *domicilium* by notice in writing, provided that the new *domicilium* is in the Republic of South Africa and consists of, or includes a physical address at which process can be served or notices given.

9.3 All notices shall be in writing and sent by prepaid registered post or delivered by hand or faxed, together with proof thereof, to the *domicilium* chosen by the party concerned and shall, if posted, be deemed to have been duly delivered 7 (seven) days after the day on which such notice was posted.

**10. WARRANTIES**

10.1 The Purchaser acknowledges that the Seller has made no representations and given no warranties in respect of the property or in respect of anything relating thereto, whether express or implied, not expressly contained herein, and he/she has not been influenced by any representation made by or on behalf of the Seller to enter into this Deed of Sale, save as set out herein.

10.2 Subject to clause 17.1, the property is sold voetstoots to the extent as it now lies and the Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, or their family, agents and/or invitees may directly or indirectly suffer by reason of any latent or patent defects in the property or by reason of the property and/or the unit and/or any part thereof being in a defective condition or state of disrepair or any particular repair not being effected by the Seller timeously or at all.

**11. GOING CONCERN**

The property is sold as part of a going concern and therefore will be ZERO RATED.

If the receiver of revenue decides that this is not a zero rated transaction the purchase price will exclude vat and the purchaser shall be liable to pay it to the conveyancer on request

**12. JOINT AND SEVERAL LIABILITY**

Should there be more than one Purchaser, the Purchasers shall be liable jointly and severally and *in solidum* for the payment of all monies hereunder and for the carrying out of all the terms of this Deed of Sale.

**13. GENERAL**

13.1 This agreement constitutes the whole agreement between the parties.

13.2 No variation of this agreement will influence the terms of this agreement, unless such variations are put in writing and signed by both parties.

13.3 The parties acknowledge that they have not been pursued to sign this agreement by any promises, presentations or guarantees of any sort.

13.4 The Purchaser will not be entitled to sell his/her property prior to registration of transfer, without the written consent of the Seller.

13.5 The agreement is subject to the Seller obtaining all the necessary consents from all government departments and relative authorities to develop the property.

**14. CONCESSIONS**

No extension of time, allowances or concessions allowed and no temporary variation of the terms of this Deed of Sale for any party will be regarded as a waiver of his/her rights hereunder. The Seller may furthermore at any time and without prior notice expect the Purchaser to strictly and timeously comply with each and every term and condition.

**15. JURISDICTION**

For the purposes of the proceedings arising from this agreement, the parties hereby consent to the jurisdiction of the Magistrate’s Court having jurisdiction over the person of the defendant in terms of section 28 of the Magistrate’s Court Act of 1944, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the Court pursuant to section 45 of the Magistrate’s Court Act of 1944, or any amendment thereof, provided that the Seller shall have the right at its sole option and discretion to institute proceedings in any other competent Court in respect of any claim which, but for the aforegoing, would exceed the jurisdiction of the Magistrate’s Court.

SIGNED at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_on this \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_2019.

AS WITNESSES:

1. …………………………….. for and on behalf of

2. …………………………….. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Seller

SIGNED at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_2019

AS WITNESSES:

1. ……………………………..

2. …………………………….. ………………………………………

PURCHASER or duly authorised representative who warrants that he/she is duly authorised