AGREEMENT OF SALE

brokered by

PARK VILLAGE AUCTIONS & PROPERTY SALES (PTY) LTD
UNIT NUMBER 10, FERNDALE MEWS NORTH
355 OAK AVENUE
FERNDALE, RANDBURG
(the "Agent")

Entered into by and between
THE DIRECTORS

SENETT COURT (PTY) LTD
REGISTRATION NUMBER:
VAT NUMBER:

(the "SELLER")

And

(the "Purchaser")

("Identity Number")

In respect of the property more fully described as:

ERF 244
SITUATED AT NUMBER 244 FOURTH AVENUE,
LAMBTON EXTENSION 1, GERMISTON,
DITRICT OF THE EKHURHULENI METROPOLITAN MUNICIPALITY
GAUTENG PROVINCE

("the Property")

Erf measuring approximately: 2 411m2 (Two Thousand Four Hundred and Eleven Square Meters) in extent

PURCHASE PRICE:

1.1 The purchase price payable for the property is R_____
_____
_____
excluding value added tax (if applicable) and is payable as set out hereunder:

1.2 A deposit equal to **10% (fifteen percent)** of the purchase price ("the deposit") is payable to the Agent on signature hereof by the Purchaser, which amount will be held by the Agent (in a non-interest bearing account) pending acceptance of the offer by the Seller. Thereafter, the Agent shall pay over to the Seller or the Seller's conveyancer (at the election of the Seller or the Agent) the said deposit amount (hereinafter referred to as "the trust amount"), after deducting agreed costs, disbursements and expenses.

1.3 The balance of the purchase price will be paid over to the Seller or the Seller's conveyancer (at the election of either the Seller or its Agent) by the Purchaser within 30 (thirty) calendar days of written acceptance of this agreement by the Seller, or shall be secured by a bank guarantee, or guarantees, as required by and on terms acceptable to the Seller and the conveyancer, within the same 30 (thirty) calendar days aforesaid from date of acceptance of this agreement, which guarantees shall be payable against registration of transfer of the property into the name of the Purchaser.

1.4 The Purchaser hereby authorises the Agent, upon written acceptance of this agreement by the Seller, to pay over the trust amount to either the Seller or the Seller's conveyancer (as nominated by the Seller or its Agent) and the conveyancer to utilise such portion of the trust amount as may be required for the purpose of obtaining clearance figures. The Seller and the Purchaser hereby irrevocably instruct and authorise the recipient to invest the trust amount in an interest bearing trust account, such as contemplated in terms of Section 86(4) of the Legal Practice Act No 28 of 2014 where the interest accrues for the benefit of the Seller.

1.5 It is agreed that Value Added Tax or Transfer Duty (as may be applicable) and all costs, expenses, fees and disbursements occasioned by the transfer process (as determined by the conveyancer), will be paid by the Purchaser in addition to the purchase price, as set out herein.

2. **ACCEPTANCE:**

2.1 This document constitutes an Offer to Purchase by the Purchaser, which is subject to written acceptance by the Seller within **21 (twenty-one)** business days (hereinafter referred to as "the offer period") from date hereof and shall remain irrevocable and open for acceptance by the Seller at any time during the offer period. For the sake of clarity, the Purchaser's offer is open for acceptance until 17h00 on the **21st (twenty-first)** business day after the signature hereof by the Purchaser, the counting of the **21 (twenty-one)** business days to commence on the **1st (first)** business day after date of signature hereof and shall endure until 17h00 on the **21st (twenty-first)** business day thereafter

2.2 The date of sale of the property shall, for purposes of this agreement, be the date of written acceptance of this offer by the Seller, which acceptance will be evidenced by the signature of the Seller or its authorised representative hereto. The Agent may within its own and sole discretion thereafter notify the Purchaser in writing of such acceptance by hand delivery or by e-mail transmission. Such notification is however not a precondition to the conception of the agreement.

2.3 The Seller reserves the right to decline the Purchaser's offer. The Seller shall have no obligation to accept the offer and shall not be obliged to furnish a reason for the rejecting of an offer. If the Seller rejects the Purchaser's offer, the Seller shall be entitled to accept any other offer that may be received in respect of the Property.

2.4 Should the Seller not accept the Purchaser's offer, the Agent shall immediately refund the Purchaser any deposit and buyer's commission plus VAT thereon paid in respect hereof.

2.5 In the event of the Seller requiring the consent of the Master of the High Court to effect transfer, then the transfer of the property will be subject to such consent being obtained in writing as soon as possible and in the normal course of the conveyancing process. If such consent is refused or not obtained for whatever reason within a reasonable period (solely within the discretion of the Seller) then this offer will be voidable at the instance of the Seller and neither party shall have a claim against the other arising here from and both will reasonably be restored to their prior position.

2.6 Insofar as the Purchaser is a Company or Close Corporation and such Company or Close Corporation is not yet formed and the person signing as Purchaser acts or purports to act as agent or representative for such Company or Close Corporation to be formed: -

2.6.1 such person undertakes in his/her personal capacity that the company or close corporation for which he/she is acting as agent or representative will be formed within 30 (thirty) days of conclusion of this agreement and will, within 14 (fourteen) days of being incorporated or formed, adopt or ratify this agreement without modification;

2.6.2 if the said company or close corporation is not incorporated or formed within the period prescribed in 2.6.1, or having been incorporated or formed does not adopt or ratify this agreement within the period of 14 (fourteen) days, then such person shall, in his personal capacity, be deemed to be the Purchaser in terms of this agreement;

2.6.3 if the said company or close corporation is incorporated or formed and does adopt or ratify this agreement as contemplated in 2.6.1 and 2.6.2, then such person by his/her/their signature binds himself/herself/themselves in favour of the Seller as surety for and co-principle debtor in solidum with such company or close corporation, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company or close corporation in terms of or arising out of this agreement.

2.6.4 If the Purchaser purports to be a legal entity which it subsequently transpires is not properly constituted or incorporated, the natural person signing this document shall be deemed to be the Purchaser and shall assume all of the liabilities and obligations of the Offeror/Purchaser in terms hereof.

3. SALE OF A PROPERTY AS PART OF A GOING CONCERN

3.1 The Seller and the Purchaser hereby agree that –

3.1.1 should the property be an enterprise or part of an enterprise which is capable of separate operation as defined in Section 1 of the Value Added Tax Act, Act 89 of 1991 (hereinafter referred to as the "VAT Act"); and

3.1.2 such enterprise is being disposed of (in terms of this agreement and by the prior advices of the Agent) as a “going concern” within the meaning of Section 11(1)(e)(i) of the VAT Act; and

3.1.3 such enterprise is, on the signature date, and will, on the transfer date, be “an income earning activity” within the meaning of Section 11(1)(e)(i)(aa) of the VAT Act; and

3.1.4 the property together with all assets necessary for the carrying on of the enterprise will be transferred to the Purchaser on the transfer date, and
the purchase price referred to in 1.1 shall be inclusive of value-added tax (hereinafter referred to as "VAT") as defined in the VAT Act, at the rate of zero percent. Notwithstanding the aforegoing, should VAT, for whatever reason, be levied upon this transaction (or any portion hereof) at a rate higher than zero percent, such VAT shall be paid by the Purchaser against delivery to it by the Seller of an original tax invoice in respect thereof and shall be calculated on the basis that the purchase price is exclusive of VAT.

3.2 The Seller warrants to the Purchaser that, as at the time of supply of the enterprise to the Purchaser (as defined in section 9(1) of the VAT Act) it shall be registered as a VAT vendor, as defined in the VAT Act.

3.3 The Purchaser warrants to the Seller that, as at the time of supply of the enterprise to the Purchaser (as defined in section 9(1) of the VAT Act) it shall be registered as a VAT vendor, as defined in the VAT Act.

4. **AGENT'S COMMISSION AND ENTITLEMENT:**

4.1 The Purchaser shall in addition to the purchase price of the property, pay the Auctioneer's commission at the rate of 10**% (ten percent)** plus VAT, calculated on the purchase price of the Property.

4.2 It is specifically agreed that the commission is earned on acceptance and will be immediately payable to the Agent on signature hereof. The commission shall be paid by the Purchaser simultaneously with the deposit set-out in 1.2 above and shall be in addition to the said deposit.

4.3 The parties agree that payment of any portion of the purchase price and the commission (even if made in separate payments) is deemed to be one indivisible transaction and payment of both are required in order for the Purchaser to discharge its duties arising from this agreement and the Seller may refuse to effect transfer if the Agent's commission is not paid in terms hereof.

4.4 The Seller and the Purchaser acknowledge that the Agent is the sole effective cause of the sale of the property to the Purchaser.

5. **RISK, CONTROL & INSURANCE:**

5.1 The sole risk and control and benefit in and to the property shall, unless otherwise agreed in writing and signed by both parties, passes to the Purchaser on **date of registration of transfer of the property into the Purchaser's name** and from that date, the Purchaser shall be liable for all imposts or charges levied on the property, inclusive of and without limiting the generality hereof, all municipal rates and taxes, levies and other official, Body Corporate, Homeowners and/or municipal and consumable charges. *All arrear municipal and/or levy charges prior to the date of registration of transfer of the property into the Purchaser's name will be paid by the Seller.*

5.2 Neither the Seller nor the Agent shall be liable to the Purchaser for any damage caused, losses suffered, or inconvenience experienced by the Purchaser caused by any pests, insects or vermin, irrespective of when or how the damage, loss or inconvenience was caused, nothing whatsoever excepted, neither will the Seller or the Agent be liable to effect any repairs in respect of such damages.

5.3 From the date upon which the sole risk vests in the Purchaser, the Purchaser shall at its own expense insure the property and all improvements thereon against all general risks, losses or damages from any cause whatsoever, including public liability.

5.4 The Purchaser shall inform the insurer and/or the underwriter of the Seller's insurable interest in and to the property and shall insist that the Seller's interest is recorded in the insurance policy or schedule. The Seller's interest shall persist until date of registration of transfer in the Deeds Office of the property into the Purchaser's name.

5.5 Should an event occur which gives rise to a claim covered by the terms of the insurance policy, then the Purchaser shall immediately commence the correct procedure to lodge a claim against the insurer arising from this policy.

5.6 The parties acknowledge that the happening of an insurable event shall not in any manner detract from the validity of this agreement, nor shall it be a cause for the delay of the transfer of the property or frustrate full consummation of this agreement in any manner.

5.7 The Purchaser shall remain fully liable to indemnify the Seller against any and all losses in and upon the property, notwithstanding the above requirements and notwithstanding whether or not the Purchaser complied with same, it being recorded that the above does not detract from or negate the Purchaser's liability towards the Seller in any form or manner in respect of any losses or damages suffered by the Seller arising herefrom, the intention being to always the restore the Seller to its pre-event condition, either by the insurer through the policy or the Purchaser itself, or a combination of them.

6. **OCCUPATION:**

6.1 The date of occupation for purposes of this agreement, is the date **of registration of transfer of the property into the purchaser's name.**

6.2 This date does not refer to the actual date of the Purchaser moving into the property or receiving the keys thereto. The Seller cannot give any warranty or guarantee that the Purchaser will obtain vacant occupation of the property on that date, and the Purchaser shall have no claim of whatsoever nature against the Seller should vacant occupation not be obtained on the said date or at all.

6.3 From the date of occupation of the property and pending transfer, the Purchaser shall not sell, let or in any other manner dispose of, or alienate or encumber (whether temporarily or otherwise) the property or cede and assign any of its rights

or obligations relating to the occupation thereof, except with the express written consent of the Seller.

6.4 If the property is leased, this agreement is entered into subject to the rights of the tenants under any existing lease agreement, as well as the Rental Housing Act, if applicable and from the date of occupation, the Purchaser accepts all pre-existing obligations and liabilities arising from any lease agreement with the tenants, notwithstanding any omission by either the Seller or Agent to point out such obligations or liabilities.

6.5 The Seller does not guarantee vacant occupation of the Property.

7. **CONDITION OF PROPERTY:**

7.1 The Seller and the Agent point out to the Purchaser that the property sold herewith contains improvements which could possibly have been constructed some time ago and will accordingly not have the same characteristics as a newly constructed building.

7.2 The Purchaser therefore acknowledges and accepts that the condition of the improvements will not be equivalent to that of a newly constructed building and that due to the effluxion of time or as a result of wear and tear, certain latent (concealed and not known to the Seller or Agent), and also patent (obvious and apparent upon inspection) defects will have developed in the property or its accessories, fixtures and fittings, particularly with regards to the condition of the roof, roof trusses, ceiling, electrical-, plumbing- and sewerage reticulations, walls, glazing, windows and skylight fittings, floors, fixtures and fittings, gates, pool or pond motors, garden installations and similar items.

7.3 The Purchaser agrees to have particular regard to potential problems including but not limited to roof leaks, rising damp, patently broken fixtures and fittings and appurtenances, possible swimming pool and pond leaks, possible broken electrical- and water instillations such as swimming pool motors and pumps, irrigation systems, pond reticulations, electric gate motors, electrical garage doors, alarm systems, defective electric fencing and alarm systems and the like.

7.4 By its signature hereto, the Purchaser therefore accepts the condition of the property as it is and to the extent as it now lies and furthermore acknowledges that neither the Seller nor the Agent hold themselves out to be experts in immovable property and that their failure to specifically point out each and every defect in the property cannot be ascribed to any misrepresentation on their part.

7.5 Neither the Seller nor the Agent are therefore liable to the Purchaser for any defects, shortcomings, missing keys or movables, lost fixtures and fittings or any flaw otherwise in and to the property, nor for any damages suffered by the Purchaser by reason of such defects.

7.6 The Purchaser agrees to inspect the property to its satisfaction and accepts that neither the Seller nor the Agent provide any guarantees or warranties, or make any representations concerning the nature of the property or regarding the condition or

quality of the property or any of the improvements thereon, nor regarding any of the accessories thereto or in regard to any of the zoning or other town planning matters.

7.7 The property is therefore sold in the condition as it lies, which include all the conditions and the servitudes currently registered against the property and evidenced in the existing title deed thereto. Neither the Seller nor the Agent are therefore accountable or liable for any deficiency in the extent of the property and the Purchaser agrees that it has fully acquainted itself with the situation, nature, condition, beacons, extent and locality of the property as well as all conditions of title and servitudes prior to entering into this agreement and accepts that neither the Seller nor the Agent give any warranties in respect thereof and will therefore not accept any liability in respect thereof.

7.8 The Purchaser acknowledges that the Seller and the Agent provided it with the opportunity to fully acquaint itself with the aforementioned clauses and the condition and status of the property, and that neither of them accepts any liability to the Purchaser in respect of same.

7.9 The Purchaser therefore willingly enters into this transaction, being fully aware of the condition of the property and improvements and without having been induced or influenced to enter into same by any warranties or representations or statements made or information given by either the Seller or the Agent prior to the signature hereof, other than as set out in this agreement.

8. TRANSFER, VALUE ADDED TAX AND COSTS THEREOF:

8.1 The Purchaser and the Seller hereby undertake to sign all documents and fulfil all obligations as contained herein in order to give effect to this agreement and the completion thereof both timeously and in full on the basis that time is of the essence to effect registration of transfer of the property into the Purchaser's name. Transfer of the property will be effected by the conveyancer within a reasonable time after the Purchaser has complied with the terms and conditions of this agreement and paid to the conveyancer Transfer Duty or Value-Added Tax ("VAT") whichever is applicable, costs of transfer, transfer fees, disbursements and any other amounts required in the transfer process or due hereunder, such as commission payable by the Purchaser.

8.2 If the South African Revenue Services regard this sale as a VAT transaction, then the Purchaser shall, in addition to the purchase price, pay the Seller the amount of VAT calculated at the standard rate, it being specifically recorded that the purchase price as stipulated excludes VAT. Such payment shall be made or secured at the time the balance of the purchase price is paid or secured in terms hereof.

8.3 The Purchaser and/or the individuals signing this document and acting in a representative capacity, warrant that their tax affairs with the South African Revenue Services (hereinafter referred to as "SARS") are in order and up to date or, in the event of this not being the case, that agreement has been reached and that the necessary arrangements have been made with SARS in respect thereof.

8.4 The Seller shall, after registration of transfer of the property, furnish notice to the Local Authority and/or Eskom terminating any consumer agreements in respect of the supply of water, electricity or other services to the property. The Seller shall under no circumstances be liable for any loss or damage whatsoever arising as a result of the Seller terminating any consumer supply agreements after the registration of transfer; and

8.5 The Purchaser shall forthwith after date of transfer; substitute himself with respect to the deposits and/or guarantees in respect of the property paid to the local Authority and/or Eskom by the Seller, if any. The Purchaser shall notify the Seller that such substitution has been effected and the Seller shall be responsible for obtaining the return of any guarantees or refunds of any deposits from the local authority and/or Eskom.

9. **FINANCIAL INTELLIGENCE CENTRE ACT ("FICA")**

9.1 The Seller and the Purchaser acknowledge that the Agent and the conveyancer are designated as “accountable institutions” in terms of FICA.

9.2 The Seller and the Purchaser hereby agree to comply with all the FICA requirements of the Agent and the conveyancer and to supply the Agent and the conveyancer with all their respective FICA requirements within three days of demand made therefore.

9.3 The Seller and the Purchaser hereby acknowledge that the conveyancer is not permitted in terms of FICA to invest and administer any deposits or any other monies paid in terms of this agreement, unless the Seller and the Purchaser have provided the conveyancer with the documentation and information the conveyancer requires in terms of FICA.

9.4 The Seller and the Purchaser hereby agree that neither the Agent nor the conveyancer shall be liable for any loss or damage suffered by either of them, as a result of either Seller or the Purchaser failing to comply with the provisions of this clause.

10. **INTEREST ENTITLEMENT:**

In the event that any payment is not paid in full on the due date, interest will be payable by the defaulting party thereon and calculated at the prime overdraft rate, as determined by the main bankers of the Agent, plus 2 % per annum calculated from the date of default until the date that the default is remedied, both days being included.

11. **COMPANY TO BE FORMED:**

11.1 In the event of the Purchaser signing this offer in a capacity as agent for a Company to be formed, and the Purchaser fails within 20 (twenty) days from date of acceptance of this offer, to register the Company having as one of its objects the ratification and adoption of this agreement, or such Company, if formed fails to adopt or ratify this agreement within 7 (seven) days after the date of its incorporation, then, and in such event, the Purchaser shall be deemed, as from the date of acceptance hereof, to have entered into this agreement in his personal

capacity, and to have acquired and accepted all the rights and obligations of the Purchaser under this agreement, subject to the condition that all parties may in writing agree otherwise.

11.2 **In the event of such Company being registered and duly adopting or ratifying this agreement, the signatory to this agreement or of Schedule 1 hereto, shall be deemed to be bound to the Seller as surety and co-principal debtor *in solidum* with such Company for the due performance by it as Purchaser of all the terms, conditions and other obligations arising from this agreement, subject to the terms and conditions as set out in Schedule 1 hereto. (See Schedule 1).**

12. **ASSOCIATIONS OR TRUSTS:**

If any person purports to represents another person, association or a trust and sign this agreement in that capacity, then the individual so signing shall be **personally** liable to procure the signatures of the other relevant individuals mandated to sign documents and agreements of this nature, in terms of that association's constitution or the trust's Deed of Trust. If the other designated persons either do not exist at the time of signing this document or if their signatures are not procured by the individual signing this agreement within two weeks from date of signature hereof, then and in that event, such person signing shall be **personally liable** and bound by the terms hereof and shall in all respects be considered to be the Purchaser in terms of this agreement.

13. **AGENT / NOMINEE & PROHIBITION ON FURTHER SALE**

13.1 Where the Purchaser is acting as an agent or nominee for a principal, the Purchaser shall by notice in writing to that effect addressed to the Seller or the Agent, nominate its principal in its place as purchaser, upon the following terms and conditions:

13.1.1 notice of such nomination shall be handed to the Seller or the Agent by not later than close of business on the day of acceptance of this offer by the Seller, accompanied by a copy of this agreement, *inter alia*, so appointing the principal as purchaser;

13.1.2 the notice shall set out the name and address of the principal so nominated as purchaser;

13.1.3 the notice shall be accompanied by the principal's written acknowledgement:

13.1.3.1 that it is fully aware of all the terms and conditions of this agreement; and

13.1.3.2 that it is bound by the provisions of this agreement as the purchaser;

13.2 Should the agent or nominee nominate a purchaser terms of this clause, then:

13.2.1 all reference to the Purchaser in this agreement shall be deemed to be a reference to its principal so nominated; and

13.2.2 the Purchaser, by its signature hereto, hereby interposes and binds itself jointly and severally as **surety** and **co-principal debtor** in solidum to the Seller and the Agent for all the obligations of the nominee and/or nominated principal in terms of this agreement, including damages and losses and consequential damages as may arise.

13.3 Should the Purchaser fail to nominate a principal by close of business on the date of acceptance by the Seller, then it shall be bound to perform all his obligations as Purchaser in terms of this agreement.

13.4 Other than set out above in respect of nominee agreements, the Purchaser shall not without the express written consent of the Seller on-sell the property, or alienate, cede and/or assign any of its rights and responsibilities under this agreement to any third party prior to registration of transfer of the property into its name. Any transaction entered into by the Purchaser in contradiction of this prohibition may be ignored as *pro non scripto* by the Seller.

14. **CANCELLATION:**

14.1 Should the Purchaser fail to comply with any of the terms or conditions of this agreement within 7 (seven) days of dispatch of written demand, the Seller and/or the Agent on behalf of the Seller (acting on the written instructions of the Seller) shall, on such breach, be entitled without further written notice to either:

14.1.1 cancel this agreement, take occupation of the property and have the property resold by auction or private treaty, in its sole discretion. The Purchaser shall then be liable for all costs of such re-sale, any deficiency in price which results therefrom, advertising costs and other damages and losses including consequential damages as may arise. All payments made by the Purchaser to the Seller and/or the Agent shall forthwith be paid to the Seller, after deduction and payment to the Agent of all amounts due to the Agent in terms of this agreement, all of which as agreed liquidated damages, and the Purchaser agrees that such sum is a reasonable pre-estimate of the loss sustained by the Seller, alternatively, at the election of the Seller, as pledged security for such damages as may be ascertained according to law; or

14.1.2 hold the Purchaser bound by this agreement and to claim forthwith payment of the entire purchase price and other benefits and entitlements and any other costs, losses and damages caused as a result of such breach; and in either instance

14.1.3 hold the Purchaser liable in terms of the agreement to pay all commissions,

VAT and charges, expenses and costs as incurred or as contemplated in this agreement.

14.2 The Purchaser will be liable for all legal costs incurred by the Seller and/or the Agent arising out of its breach of this agreement, on the attorney and own client scale of costs, including the collection costs relating to the payment of the purchase price and/or commission, as the case may be.

15. **REPAIRS AND IMPROVEMENTS AND VACATION ON CANCELLATION:**

15.1 The Purchaser will not be entitled to effect any alterations to the property without the prior written consent of the Seller. The Seller shall not be obliged to compensate the Purchaser for any alterations or improvements effected to the property, whether same were authorised or not, in the event of this transaction being cancelled.

15.2 The Purchaser shall not have a builder's lien, improvement lien or creditor's lien over the property or any portion thereof, regardless of whether any building works were effected with the Seller's consent or not.

15.3 The Purchaser shall be liable to the Seller upon cancellation for any damages suffered by the Seller as a result of any unauthorised alterations, demolition or improvements effected by the Purchaser to the property.

15.4 The Purchaser and/or any persons occupying the property through or under the authority of the Purchaser shall be obliged to immediately vacate the property upon cancellation of this agreement for any reason whatsoever, it being agreed that no tenancy shall be created by any occupation of the Purchaser or any one through him, prior to registration of transfer. Should the Seller take any steps to procure vacant possession of the property in such an instance, the Purchaser shall be liable for all costs, fees and expenses incurred by the Seller pertaining to same, including legal costs on the attorney and own client scale of costs..

16. **ELECTRICAL / GAS / PLUMBING COMPLIANCE CERTIFICATES:**

16.1 The Seller shall not be liable to provide any Certificates of Compliance in regard to any of the electrical, electric fences, gas or plumbing installations in and to the property in terms of any relevant legislation, regulations or ordinances, including but not limited to the Electrical Installation Regulations of the Occupational Health and Safety Act No 85 of 1993, the Pressure Equipment Regulations of 2009, or the Water By-Law of the City of Cape Town 2010 or the applicable Water By-Laws of the Metropolitan and/or Local Municipality. The Purchaser shall be obliged to obtain such certificate/s at its own cost including the cost of any work required to any installation before such Certificate of Compliance can be issued.

16.2 Should an Entomologist's Certificate be required by any person or institution, the Purchaser shall, at his/its own expense obtain such certificate, and neither the Seller nor the Agent shall be liable for any costs relating to such certificate being obtained.

17. **FIXTURES AND FITTINGS:**

17.1 The property is sold together with any buildings or other improvements thereon and to the extent as it lies, upon the same terms and conditions ventilated in 7 above (which terms are incorporated herein by reference, but appropriately adapted to what is pertinently described herein), neither the Seller nor the Agent assume any liability in respect of the condition, usability, serviceability or possible state of disrepair of any of the buildings or improvements thereon, nor in respect of any of the fixtures and fittings therein, including stoves and whatever assets are sold in terms of this agreement, all of it in the condition as it currently lies.

17.2 Neither the Seller nor the Agent will therefore be liable for any claims of whatsoever nature made by the Purchaser should the aforesaid improvements or fixtures and fittings either become unaccounted for, or are not be in the same condition upon the date of occupation as it might have been on the date of signature hereof.

17.3 The parties record that **not all assets upon the property are included in the sale agreement** and that all cranes, gantries, cold rooms, spray booths, compressors, generators, production line equipment and household furniture and effects are specifically excluded from the sale and remain the property of the Seller, unless otherwise agreed upon in writing.

18. **MAGISTRATE'S COURT JURISDICTION:**

For the purposes of all or any proceedings arising out of this agreement, the parties hereby consent to the jurisdiction of the Magistrate's Court and the Regional Court, otherwise having jurisdiction under Section 28 of the Magistrates' Court Act 32 of 1944, as amended; notwithstanding that the proceedings would otherwise be beyond the monetary jurisdiction of the Magistrate's or Regional Court. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Courts, pursuant to the Magistrates' Court Act of 1944, as amended. Notwithstanding the aforegoing, this shall not preclude either party from approaching the High Court of South Africa for any relief sought.

19. **JOINT AND SEVERAL LIABILITY:**

Should there be more than one Purchaser, all Purchasers shall all be individually, jointly and severally liable for all the obligations in terms hereof, as well as for the payment of all obligations and benefits assumed hereunder and for complying with all the terms and conditions of this agreement of whatever nature.

20. **COSTS**

In the event of a breach of this agreement, the defaulting party shall be liable for all legal costs incurred by the Seller or the Agent in enforcing any of their rights arising herefrom, on the attorney and own client scale of costs, including collection commission.

21. **WHOLE AGREEMENT (NO AMENDMENT):**

21.1 This agreement constitutes the whole agreement between the parties relating to the subject matter hereof.

21.2 No amendment of this agreement or any provision or term of the agreement, or any other document issued or executed pursuant to or in terms of this agreement and no settlement of any disputes arising under this agreement and no extension of time, waiver or relaxation or suspension or consensual cancellation of any of the provisions or terms of this agreement or of any agreement or other document issued pursuant to or in terms of this agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver, relaxation, suspension or the like which is so provided or made will be strictly construed as relating strictly to the matter in respect whereof it was made or provided.

21.3 No extension of time, or waiver, or relaxation of any of the provisions or terms of this agreement or any agreement or other document issued or executed pursuant to, or in terms of this agreement, will operate as an estoppel against the Seller and/or the Agent in respect of any rights under this agreement, nor shall it operate so as to preclude the Seller and/or the Agent thereafter from exercising any rights strictly in accordance with this agreement.

21.4 This agreement may be executed by the parties in one or more counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement. This agreement may also be executed by any one of the parties signing an original and emailing the original for signature to another party. Signature of an emailed copy shall be deemed to be the signature of an original.

22. **INTERPRETATION:**

22.1 The headings of the clauses in this agreement are for the purpose of convenience and reference only, and shall not be used in the interpretation of, nor modification or amplification of the terms of this agreement or any clause thereof. Unless the contrary intention appears, words importing:-

22.1.1 any one gender include the other gender;

22.1.2 singular include the plural and vice versa; and

22.1.2 any reference to persons includes natural persons, corporate or unincorporated entities and the state and for purposes of this agreement, also refers to trusts as represented by their trustees.

22.2 In the event that the Purchaser is a consumer, this agreement will be read subject to the Consumer Protection Act, 68 of 2008 and should any clause or time period

referred to in the clauses be in conflict with any of the rights of the Purchaser in terms of the Act, then such a clause or time period shall be substituted with any rights afforded by the Act to such Purchaser.

23. DOMICILIUM ADDRESS FOR ALL NOTICES

23.1 The Purchaser hereby chooses as its service address (*domicilium citandi et executandi)* for all purposes under this agreement, whether in respect of Court process, notices, demands or other documents or communications of whatever nature, the following address:

Residential / Business Address:	
Postal Address:	
Telephone Number:	
Cell Number:	
Email:	

23.2 The Seller hereby chooses as *domicilium citandi et executandi* for all purposes under this agreement, whether in respect of Court process, notices or other documents or communications of whatever nature, the following address:

Physical Address:	Unit Number 10, Ferndale Mews North 355 Oak Avenue, Ferndale, Randburg
Postal Address:	P O Box 2871, Randburg, 2125
Telephone Number:	011 789 4375
Email:	**auctions@parkvillage.co.za**

23.3 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing, but it will be competent to give notice by email.

23.4 Any notice by any party:-

23.4.1 delivered by hand to a person apparently not less than 16 years of age and apparently residing or employed there during ordinary business hours at the physical address chosen as the other party's *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; and

23.4.2 sent by email to the other party's chosen email address shall be deemed to have been received on the date of transmission thereof, unless the contrary is proven.

23.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by the Purchaser shall be an adequate written notice or communication to the Purchaser notwithstanding that it was not sent or delivered to the other party's *domicilium citandi et executandi*.

24. MATRIMONIAL PROPERTY ACT CONSEQUENCES:

To the extent necessary, the Purchaser hereby warrants that all written consents required by the Matrimonial Property Act No 88 of 1984 in respect of this agreement or any matters arising therefrom or in terms hereof have been duly given.

25. SEVERABILITY:

Should any clause herein be ruled to be unenforceable, the offending clause shall be severed from this agreement and the residual clauses shall survive and remain fully binding on the Purchaser and Seller.

26. APPROVAL FOR CERTAIN FUNDAMENTAL TRANSACTIONS (THIS CLAUSE IS NOT APPLICABLE TO INSOLVENT SELLERS)

26.1 The parties declare that they are aware of the provisions of Section 112 (as read with Section 115) of the Companies Act, which states that if the Seller is a company and the property constitutes either the whole or the greater part of the undertaking of the Seller, then the shareholders of the Seller need to pass this transaction by way of a special resolution in terms of Sections 112 and 115 of the Companies Act.

26.2 Accordingly, the Seller declares that the provisions of Section 112 are/are not (delete whichever is not applicable) applicable to the sale of this property.

26.3 To the extent that Section 112 applies, this entire agreement is strictly conditional and subject to the Seller procuring within 14 (fourteen) days from date of acceptance of this agreement, a special resolution of its shareholders in terms of Section 112 and 115 of the Companies Act. The Seller warrants that it will procure the said special resolution within the time frame set out herein.

27. BUILDING PLANS

The Seller does not warrant that all plans are in order and have been approved by the relevant municipality concerned. The Purchaser satisfies himself prior to entering into a sale agreement that the improvements on the property are built in accordance with approved plans and according to municipal regulations. Should the purchaser neglect to ascertain the status of the improvements prior to transfer, he will have to accept the property with the prevailing defects. The Purchaser confirms he has investigated the plans and acquires the property as is, and any outstanding plans will be for the cost of the Purchaser.

28. **SECURITY OF TENURE**

Purchaser acknowledges that it is acquainted with the provisions of the Extension of Security of Tenure Act No.62 of 1997 and the factual position regarding the occupants of the property. The Purchaser also acknowledges that it is aware that the provisions of the said Act are binding on the Purchaser as successor in title of the Seller and the property is sold subject to the said provisions and any alleged occupancy rights.

29. **RESTITUTION OF LAND RIGHTS**

29.1 The property is sold subject to the provisions of the Restitution of Land Rights Act No. 22 of 1994.

29.2 The sale is subject to any land claim registered in terms of the Restitution of Land Rights Act 1998 on the relevant property. In the event that a claim has been noted against the property by the Land Claims Commissioner, the Seller shall give 30 (thirty) days' notice to the Land Claims Commissioner in respect of this sale agreement;

29.3 The Seller does not warrant or guarantee that there is no land claim against the property and the Purchaser purchases the property subject to any land claims being instituted or to be instituted in terms of the restitution of Land Rights Act 1998;

30. MANDATORY DISCLOSURE DOCUMENT / IMMOVABLE PROPERTY CONDITION REPORT IN COMPLIANCE WITH SECTION 67 OF THE PROPERTY PRACTITIONERS ACT, ACT 22 OF 2019

In compliance with Section 67 of the Property Practitioners Act, Act No 22 of 2019, as read with Regulation 36 thereof, the parties to this agreement have completed and signed the **MANDATORY DISCLOSURE DOCUMENT / IMMOVABLE PROPERTY CONDITION REPORT** annexed hereto marked **Annexure "A"**.

31. FORCE MAJEURE

Should an event of *force majeure* occur neither the Seller nor the Agent will be liable for any loss, damages or costs incurred by the Purchaser as a result of the Purchaser's inability to exercise its rights in terms of this agreement.

32. DISCLOSURE OF TERMS AND RIGHTS TO MATCH

32.1 The Purchaser acknowledges that the property is or maybe subject to a pre-existing right of first refusal or a conditional prior agreement of sale in favour of a third party (the "original purchaser"). The Purchaser hereby explicitly authorises and grants permission to the Seller or its Agent to disclose the existence of this competing or counter-offer and any material terms herein, to the original purchaser. This disclosure shall be solely for the purpose of triggering the original purchaser's contractual time line to either match or increase the purchase price or forfeit the right of preference to purchase the property.

32.2 The Purchaser agrees that the above disclosure shall not constitute a breach of confidentiality or privacy regulations or a breach of the Protection of Personal Information Act and this clause constitutes the Purchaser's consent as required under Section 11(1)(a) of the said Act.

33. SPECIAL CONDITIONS

OFFER AND ACCEPTANCE BY PARTIES:
PURCHASER:

I/We, the undersigned, _____,
being the Purchaser, (full names)

Identity/Registration Number _____

hereby offer to purchase the property from the Seller for the Purchase Price recorded in this agreement, being R_____ (Words) _____
(purchase price) **excluding value added tax (if applicable)**

SIGNED at on this the day of
As witnesses:

1. _____

2. _____ _____

PURCHASER
Duly authorised

_____
Signature of Purchaser's Spouse (If applicable)

SIGNED at on this the day of
As witnesses:

1. _____

2. _____

_____
AGENT
(as represented by and as accepts all benefits as conferred)

SIGNED at on this the day of
As witness:

1. _____

2. _____ _____

SELLER
(who signs personally or warrants authority to sign this agreement)

Schedule 1
SURETYSHIP

I/we, the undersigned _____
_____ do hereby bind myself/ourselves jointly and severally as Surety/ies for and co-principal debtor/s in *solidum* with the Purchaser _____ (as defined in the Terms and Conditions of Sale to which this suretyship is attached) to and in favour of the Seller SENETT COURT (PTY) LTD (as defined) for the due and punctual payment and performance by the Purchaser of all obligations assumed in terms of the Terms and Conditions of Sale with which I/we acknowledge myself/ourselves to be fully acquainted.

I/we hereby renounce all benefits of the legal exceptions of division, excussion, cession of action, error and the like and hereby confirm my/our understanding thereof as well as my/our understanding of the effect of the renunciation.

Surety No. 1

Signature _____

Consent of Spouse (if applicable) _____
Full name _____
Marital status _____
Street address _____
_____
_____
Postal address _____
_____
_____
Place of signature _____
Date of signature _____

Witnesses

1. Signature _____ 2. Signature _____
Full name _____ Full name _____
Occupation _____ Occupation _____
Street address _____ Street address _____

Surety No. 2

Signature _____

Consent of Spouse (if applicable) _____
Full name _____
Marital status _____
Street address _____
_____
_____
Postal address _____
_____
_____
Place of signature _____
Date of signature _____

Witnesses

1. Signature _____ 2. Signature _____
Full name _____ Full name _____
Occupation _____ Occupation _____
Street address _____ Street address_____

Signed and Accepted by the Seller at _____on this the _____ day of _____

As witness:

1. _____

2. _____ _____

SELLER

PARK VILLAGE AUCTIONS
Trusted by banks, respected by buyers

Annexure A
MANDATORY DISCLOSURE AGREEMENT
IMMOVABLE PROPERTY CONDITION REPORT

1 DISCLAIMER

This condition report concerns the immovable property situated at: ERF 244 LAMBTON EXT 1, GERMISTON, GAUTENG PROVINCE (the "Property"). This report does not constitute a guarantee or warranty of any kind 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.

2 DEFINITIONS

In this form -

2.1 "to be aware" means to have actual notice or knowledge of a certain fact or state of affairs; and

2.2 "defect" means any condition, whether latent or patent, that would or could have a significant deleterious or adverse impact on, or affect, the value of the property, that would or could significantly impair or impact upon the health or safety of any future occupants of the property or that, if not repaired, removed or replaced, would or could significantly shorten or adversely affect the expected normal lifespan of the Property.

3 DISCLOSURE OF INFORMATION

The owner of the Property discloses the information hereunder in the full knowledge that, even though this is not to be construed as a warranty, prospective purchasers of the Property may rely on such information when deciding whether, and on what terms, to purchase the Property. The owner hereby authorises the appointed property practitioner marketing the Property for sale to provide a copy of this statement, and to disclose any information contained in this statement, to any person in connection with any actual or anticipated sale of the Property.

4 PROVISION OF ADDITIONAL INFORMATION

The owner represents that to the best of his or her knowledge the responses to the statements in respect of the Property contained herein have been accurately noted as "**yes", "no" or "not applicable".** Should the owner have responded to any of the statements with a "yes", the owner shall be obliged to provide, in the additional information area of this form, a full explanation as to the response to the statement concerned.

5 STATEMENTS IN CONNECTION WITH PROPERTY

	YES	NO	N / A
I am aware of the defects in the roof			**X**
I am aware of the defects in the electrical systems			**X**
I am aware of the defects in the plumbing system, including in the swimming pool (if any)			**X**
I am aware of the defects in the heating and air conditioning systems, including the air filters and humidifiers			**X**
I am aware of the defects in the septic or other sanitary disposal systems			**X**
I am aware of any defects to the property and/or in the basement or foundations of the property, including cracks, seepage and bulges. Other such defects include, but are not limited to, flooding, dampness or wet walls and unsafe concentrations of mould or defects in drain tiling or sump pumps			**X**
I am aware of structural defects in the Property			**X**
I am aware of boundary line dispute, encroachments or encumbrances in connection with the Property			**X**
I am aware that remodelling and refurbishment have affected the structure of the Property			**X**
I am aware that any additions or improvements made to or any erections made on the property, have been done or were made, only after the required consents, permissions and permits to do so were properly obtained.			**X**
I am aware that a structure on the Property has been earmarked as a historic structure or heritage site			**X**

ADDITIONAL INFORMATION
Park Village Auctions has been instructed on behalf of the Directors to auction the Property and Park Village Auctions and/or the Directors has/have no knowledge of any latent defects in the Property and makes no representations regarding the condition of the Property. The Purchaser acknowledges that he/she/it has been informed that

professional expertise and /or technical skill and knowledge may be required to detect defects and/or deficiencies in the Property and non-compliance aspects concerning the Property.
The Purchaser is to obtain his/her/its own professional advice and/or undertake a professional inspection of the Property. The Purchaser waives any claims again Park Village Auctions and/or the Directors he/she/it may otherwise have had, and as may have otherwise arise from its/their failure to respond to the Statements referred to in 5. above

6 OWNER'S CERTIFICATION

The owner hereby certifies that the information provided in this report is, to the best of the owner's knowledge and belief, true and correct as at the date when the owner signs this report.

7. CERTIFICATION BY PERSON SUPPLYING INFORMATION

If a person other than the owner of the property provides the required information that person must certify that he/she is duly authorised by the owner to supply the information and that he/she has supplied the correct information on which the owner relied for the purposes of this report and, in addition, that the information contained herein is, to the best of that person's knowledge and belief, true and correct as at the date on which that person signs this report.

8. NOTICE REGARDING ADVICE OR INSPECTIONS

Both the owner as well as the potential Purchasers of the property may wish to obtain professional advice and/or to undertake a professional inspection of the property. Under such circumstances adequate provisions must be contained in any agreement of sale to be concluded between the parties pertaining to the obtaining of any such professional advice and/or the conducting of required inspections and/or the disclosure of defects and/or the making of required warranties.

9. BUYER'S ACKNOWLEDGEMENT

The prospective Purchaser acknowledges that he/she has been informed that professional expertise and/or technical skill and knowledge may be required to detect defects in, and non-compliant aspects concerning the, the property.

10. SIGNATURES

Signed at _____ on _____

Signature of Owner(s): _____

Signature of Purchaser: _____

Signature of Property Practitioner(s) _____