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**AGREEMENT FOR SALE**

in respect of

**FARM NO. 5/2, L.O. NO. 249790, SITUATED IN DAKAWA AREA, MVOMERO DISTRICT, MOROGORO REGION,  
TANZANIA**

**HELD UNDER CERTIFICATE OF OCCUPANCY WITH TITLE NO. 79498**

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between

**TANZANIA COMMERCIAL BANK PLC**

as Seller

and

**CAPWELL INDUSTRIES (TANZANIA) LIMITED**

as Buyer

**BOWMANS TANZANIA LIMITED**

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This Agreement is entered into and made this 17 day of September 2025 between:

- (1) **TANZANIA COMMERCIAL BANK PLC**, a private company limited by shares duly incorporated in Mainland Tanzania under the Companies Act whose registered office address is located at 10<sup>th</sup> Floor, LAPF Towers, Bagamoyo Road, Opp Makumbusho Village, Kijitonyama, P.O. Box 9300, Dar es Salaam, Tanzania (hereafter referred to as the Seller which expression, unless the context does not so permit, shall include the Seller's successors in title and permitted assigns); and
- (2) **CAPWELL INDUSTRIES (TANZANIA) LIMITED**, a private company limited by shares duly incorporated in Mainland Tanzania under the Companies Act with registered company number 186118316 of Plot No.574 2<sup>nd</sup> Floor, the Luminary Cnr Haile Selassie and Chole Roads Masaki, P.O. Box 78552, Dar Es Salaam, Tanzania (hereafter referred to as the **Buyer** which expression, unless the context does not so permit, shall include the Buyer's successors in title and permitted assigns).

hereafter referred to as **Parties**, and **Party** shall refer to any of them as the context may require.

#### WHEREAS:

- A. The Seller is exercising its statutory right/ power of sale as mortgagee pursuant to Section 142 of the Land Act over the land comprising a rice mill factory with Certificate of Occupancy Number 79498, located at Farm No. 5/2, L.O. No. 249790, Dakawa Area, Mvomero District, Morogoro Region, Tanzania, with a size of 14.48 hectares (the **Property**), which is registered in the name of the Mortgagor.
- B. The Seller has agreed to sell, and the Buyer has agreed to purchase the Property on the terms and conditions set out in this Agreement and in particular on the basis of the representations, warranties, undertakings, agreements and indemnities set out in this Agreement.
- C. The Buyer is a foreign owned company and, consequently, it is the understanding of the Parties that the transfer of legal ownership of the Property shall be implemented by way of surrender of Certificate of Title Number 79498 to the Government and the subsequent grant to the Buyer of a derivative right of occupancy by TISEZA, the indicative steps for which are set out in the Schedule to this Agreement.

#### IT IS AGREED:

##### 1. DEFINITIONS AND INTERPRETATION

###### 1.1 Definitions

For the purposes of this Agreement and the preamble above, unless the context requires otherwise:

###### 1.1.1 **Affiliate** means:

1.1.1.1 in respect of a company: a subsidiary or a holding company of that company or any other subsidiary of that holding company as such terms are defined in the Companies Act; and

1.1.1.2 in respect of an individual:

1.1.1.2.1 the specified person's spouse, widow or widower and any parent or other ancestor or any child or other lineal descendants or siblings, cousins, uncles or aunts or other close family members of that person or of that person's spouse, widow or widower or family in law

including brother-in-law, sister-in-law, mother-in-law or father-in-law (each a **Direct Family Member**);

- 1.1.1.2.2 the spouse, widow or widower and any parent or other ancestor or any child or other lineal descendants or siblings, cousins, uncles or aunts or other close family members of a Direct Family Member or of a Direct Family Member's spouse, widow or widower or family in law including brother-in-law, sister-in-law, mother-in-law or father-in-law (each an Indirect Family Member); and
- 1.1.1.2.3 any other person (including a company or other entity) directly or indirectly owned or controlled by the specified person or any such Direct Family Member or Indirect Family Member;
- 1.1.2 **Agreement** means this Agreement the sale and purchase of a land comprising of a rice mill factory situated at Farm No. 5/2, L.O. No. 249790, Dakawa Area, Mvomero District, Morogoro Region, Tanzania, held under Certificate of Title Number 79498;
- 1.1.3 **Balance of the Purchase Price** means Tanzania Shillings Nine hundred eight million, six hundred thousand (TZS 908,600,000), comprising: (i) 70% of the Purchase Price being TZS 770,000,000 (Tanzania Shillings Seven hundred seventy million); and (ii) VAT thereon at 18%, being TZS 138,600,000 (Tanzania Shillings one hundred thirty-eight million, six hundred thousand);
- 1.1.4 **Borrower** means Tanrice Grain and Pulse Limited a limited liability company incorporated in Tanzania, an Affiliate of the Mortgagor;
- 1.1.5 **Business Day** means a day other than a Saturday, Sunday or public holiday in Mainland Tanzania;
- 1.1.6 **Buyer's Advocates** means Bowmans Tanzania Limited of 2<sup>nd</sup> Floor, the Luminary, Cnr Haile Selassie and Chole Roads, Masaki, Dar es Salaam, P.O. Box 78552, Dar es Salaam, Tanzania;
- 1.1.7. **Capital Gains Amount** means the amount assessed by the TRA on account of all capital gains and income tax liability of the Seller which may arise by virtue of the sale and/or surrender of the Property under this Agreement;
- 1.1.8 **Claim** means a claim under the Warranties and/or Indemnities, including a claim for damages;
- 1.1.9 **Commissioner** means the Commissioner for Lands appointed by the Ministry;
- 1.1.10 **Companies Act** means the Companies Act (Act No. 12 of 2002, Cap. 212 [R.E 2023] laws of Tanzania);
- 1.1.11 **Completion** means the steps and matters to be undertaken set out in Clause 10;
- 1.1.12 **Completion Date** has the meaning given to that term in Clause 10.1;
- 1.1.13 **Confidential Information** has the meaning given to that term in Clause 22.1;
- 1.1.14 **Conditions Precedent to Pre-Surrender** has the meaning given to that term in Clause 5.1;

- 1.1.15 **Deposit** means the refundable deposit of TZS 389,400,000 (Tanzania Shillings three hundred eighty-nine million, four hundred thousand), comprising: (i) 30% of the Purchase Price being TZS 330,000,000 (Tanzania Shillings three hundred thirty million); and (ii) VAT thereon at 18%, being TZS 59,400,000 (Tanzania Shillings fifty-nine million, four hundred thousand);
- 1.1.16 **Derivative Grant** means the issue by TISEZA to the Buyer of a derivative title in the name of the Buyer in respect of the Property by way of Registrar of Titles at the Land Registry registering the derivative right at the Land Registry;
- 1.1.17 **Environmental Laws** means all conditions, limitations, obligations, prohibitions and requirements in relation to the environment contained in any environmental legislation or regulations, by-laws or ordinances, including the Environmental Management Act, 2004 (Act No. 20 of 2004, Laws of Tanzania);
- 1.1.18 **Encumbrance** means any mortgage, charge, pledge, lien, hypothecation, guarantee, restricted covenant, caveat, trust, right of set-off or other third party right or interest including any assignment by way of security or other security interest of any kind;
- 1.1.19 **Escrow Account** has a meaning given to that term in Clause 11.5;
- 1.1.20 **Escrow Bank** has a meaning given to that term in Clause 11.5;
- 1.1.21 **Fair Competition Act** means the Tanzanian Fair Competition Act, 2003;
- 1.1.22 **Fair Competition Commission** means the Tanzanian Fair Competition Commission formed pursuant to the Fair Competition Act;
- 1.1.23 **Interest** means simple interest at the rate of ten per cent (10%) per annum;
- 1.1.24 **Indemnities** means an indemnity set out in clause 17 and **Indemnity** means any one of them;
- 1.1.25 **Land Act** means the Land Act, Cap. 113;
- 1.1.26 **Land Registry** means the land registry in Tanzania which is a government-maintained system responsible for recording and maintaining legal records relating to land ownership, interests, and transactions;
- 1.1.27 **Land-Related Costs** has a meaning given to that term in Clause 12.2.2.2;
- 1.1.28 **Land Search Report** has a meaning given to that term in Clause 2.1;
- 1.1.29 **Ministry** means the Ministry of Lands, Housing and Human Settlements Development of the United Republic of Tanzania;
- 1.1.30 **Mortgage** means a mortgage over the Property in favour of the Seller, securing a loan of TZS 4,000,000,000 created and registered on 28 December 2016;
- 1.1.31 **Mortgagor** means Quality Group Limited, a limited liability company incorporated in Tanzania with company incorporation number 35972, which issued a mortgage over the Property in favour of the Seller, securing a loan of TZS 4,000,000,000 created and registered on 28 December 2016;

- 1.1.32 **Outgoings** means land rent, land rates and property taxes, water and electricity charges relating to the occupation or use of the Property;
- 1.1.33 **Parties** mean the parties to this Agreement;
- 1.1.34 **Pre-Surrender Date** means the date selected by the Buyer pursuant to Clause 6.4;
- 1.1.35 **Property** has the meaning given to it in Recital A and references to the Property shall include the land comprising the Property together with the buildings, fixtures and improvements erected and maintained thereon where the context so allows;
- 1.1.36 **Purchase Price** means Tanzanian Shillings one billion, one hundred million (TZS 1,100,000,000) plus any applicable VAT;
- 1.1.37 **Review Date** means the date falling six (6) months after the Signature Date;
- 1.1.38 **Seller's Account** means the bank account held in the name of the Seller with:
- Bank Name: Tanzania Commercial Bank Plc  
 Account Name: Tanrice Grain and Pulse Limited  
 Account Number: 330 208 000 027  
 Swift code: **TAPBTZTZ**
- which bank account shall be confirmed to the Buyer in writing on a stamped bank confirmation letter dated no older than 3 months;
- 1.1.39 **Seller's Advocate** means the Legal Directorate of Tanzania Commercial Bank PLC situated at Millennium Tower, 10th Floor, Kijitonyama, opposite Makumbusho Village, P.O. Box 9300, Dar es Salaam, Tanzania;
- 1.1.40 **Signature Date** means the date of this Agreement;
- 1.1.41 **TBA Notice** has a meaning given to that term in Clause 8.1.4;
- 1.1.42 **TISEZA** means the Tanzania Investment and Special Economic Zones Authority, a government agency established under the Investment and Special Economic Zones Act No. 6 of 2025, incorporating the functions of the former Tanzania Investment Centre (TIC) and Export Processing Zones Authority (EPZA), responsible for promoting, facilitating, and coordinating investments, including those in special economic zones;
- 1.1.43 **TRA** means the Tanzania Revenue Authority, being the principal tax authority of the United Republic of Tanzania;
- 1.1.44 **Transaction** means the transactions contemplated by this Agreement or any part of this transaction;
- 1.1.45 **Treasury Registrar** means the officer appointed under the Treasury Registrar (Powers and Functions) Act, CAP 370 R.E 2023 or any other relevant law, who is responsible for managing the national treasury, maintaining records of public debt, securities, and loans, and overseeing the operations

related to the issuance, management, and redemption of government securities, as well as ensuring compliance with applicable financial regulations and policies;

1.1.46 **TZS** means the lawful currency of the United Republic of Tanzania;

1.1.47 **VAT** means value added tax pursuant to the Value Added Tax Act (Act No. 10 of 2014, Laws of Tanzania); and

1.1.48 **Warranties** means the covenants, representations and warranties from the Seller set out in clause 19 below and any other representations or warranties made by the Seller in this Agreement or which have become terms of this Agreement and **Warranty** shall be construed accordingly.

## 1.2 Interpretation

1.2.1 In this Agreement any reference to any document means that document as is supplemented, amended or varied from time to time between the parties thereto in accordance with the terms (if applicable) hereof and thereof.

1.2.2 In addition to the definitions in clause 1.1, in this Agreement unless the context requires otherwise:

1.2.2.1 the singular shall include the plural and vice versa;

1.2.2.2 if figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail;

1.2.2.3 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;

1.2.2.4 a reference to a clause is, subject to any contrary indication, construed as a reference to a clause of this Agreement and a reference to the Schedule is construed as a reference to the schedule to this Agreement;

1.2.2.5 a reference to a person is construed as a reference to any natural or juristic person, firm, company, corporation, government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality);

1.2.2.6 the *ejusdem generis* principle of construction shall not apply to this Agreement. Accordingly, general words shall not be given a restrictive meaning by reason of their being preceded or followed by words indicating a particular class of acts, matters or things or by examples falling within the general words. Any phrase introduced by the terms **including**, **include** and **in particular** or any similar expression shall be construed as illustrative without limitation and shall not limit the sense of the words preceding those terms;

1.2.2.7 references to **indemnity** and **indemnifying** any person against any circumstances include indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage, and all payments, costs or expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;

1.2.2.8 any covenant by a Party not to do an act or thing shall be deemed to include an obligation

not to permit or suffer such act or thing to be done by another person so far as this is within the Party's power or control; and

- 1.2.2.9 reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that statute or statutory provision provided that, as between the Parties, no such amendment, modification or re-enactment made after the Signature Date shall apply for the purposes of this Agreement to the extent that it would impose any unreasonable new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, the Buyer.
- 1.2.3 All the headings and sub-headings in this Agreement are for convenience only and are not to be taken into account for the purposes of interpreting it.
- 1.2.4 Any reference to a **day** in this Agreement shall mean a period of twenty-four (24) hours running from midnight to midnight and when any number of days (or Business Days) is prescribed in this Agreement, the same shall exclude the first and include the last day or Business Day and any relevant action or notice may be validly done or given on the last day.
- 1.2.5 The Parties agree that this Agreement is a complex commercial contract that has been negotiated and drafted jointly by sophisticated parties who have been given the opportunity to instruct Advocates of the High Court of Tanzania and no rule of contract, construction or interpretation pursuant to which ambiguities are construed against the party who drafted the contract shall be applied to the construction or interpretation of this Agreement.

## 2. EXECUTION OF THE AGREEMENT

- 2.1 The Parties hereby acknowledge and agree that the execution of this Agreement is strictly contingent upon the procurement and satisfactory review by the Buyer of a land search report from the Land Registry concerning the Property (**Land Search Report**).
- 2.2 No Party shall sign, execute, or otherwise be bound by this Agreement, nor shall any obligations arise hereunder, until the Land Search Report has been obtained, examined, and confirmed to be acceptable in all respects to the satisfaction of the Buyer. If the Land Search Report contains any adverse entries, such as liens, defects, or encumbrances (other than the Mortgage) considered material by the Buyer, the Buyer in its absolute discretion may elect not to proceed with the finalisation of this Agreement.

## 3. AGREEMENT FOR SALE AND PURCHASE

- 3.1 Subject to the satisfaction or waiver of the Conditions Precedent, the Seller hereby agrees to sell, and the Buyer agrees to purchase:
- 3.1.1 the Property, inclusive of all buildings, improvements, fittings, fixtures, plant, machinery and equipment thereon for the Purchase Price; and
- 3.1.2 all of the Seller's rights against third parties relating to the Property, including rights under any warranties, conditions, guarantees or indemnities.

3.2 The Seller agrees to sell the Property as the legal and beneficial owner of the Property and free from any Encumbrances and the Property shall be sold with vacant possession.

3.3 The Property will be finally sold at Completion following the Derivative Grant taking place.

#### 4. DOCUMENTS TO BE PROVIDED BY SELLER

4.1 On or before the Signature Date, the Seller shall deliver to the Buyer a record, resolution, or equivalent documentation of the Seller's board of directors authorising the execution of this Agreement, the sale of the Property, and the appointment of authorised signatories, in form and substance satisfactory to the Buyer.

4.2 Upon signing of this Agreement and receipt of the Deposit by the Seller, the Seller shall deliver to the Buyer the following documents:

4.2.1 a certified copy of the certificate of incorporation of the Seller;

4.2.2 a certified copy of the Memorandum and Articles of Association of the Seller;

4.2.3 a certified copy of the tax payer identification number (TIN) registration certificate and the tax clearance certificate for the year 2025 of the Seller;

4.2.4 a certificate from the Seller's company secretary or the board chairman certifying that document referred to in clause 4.1 is true and accurate record and that the authorities therein remain valid as of the Signature Date.

4.3 If the Seller shall fail to comply with clauses 4.1 and 4.2, the Buyer may rescind this Agreement without prejudice to any other rights or remedies available to the Buyer.

4.4 Within three (3) Business Days of (i) the Signature Date; (ii) delivery of a valid invoice from the Seller to the Buyer for the Deposit; and (iii) delivery to the Buyer of a bank confirmation letter confirming the Seller's Account, the Buyer shall pay the Deposit to the Seller's Account. The Seller shall confirm receipt of the Deposit to the Buyer in writing immediately after it has reflected in the Seller's Account.

4.5 The Seller acknowledges that the Deposit shall be applied towards the discharge of the Buyer's obligation to pay the Purchase Price at Completion, and irrevocably and unconditionally agrees to immediately refund the Deposit to the Buyer if this Agreement is terminated prior to Completion or otherwise for any reason whatsoever.

4.6 The Seller agrees and acknowledges that, immediately upon receipt of the Deposit, the Buyer shall be granted occupation of the Property on an interim basis without the payment of rent, continuing until the Pre-Surrender Date.

4.7 Within twenty (20) Business Days of the Signature Date, the Buyer shall deposit the Balance of the Purchase Price into the Escrow Account and the Balance of the Purchase Price shall be held in the Escrow Account pending Completion.

#### 5. CONDITIONS PRECEDENT TO PRE-SURRENDER

- 5.1 The actions in clause 5.3 are predicated upon each of the following conditions (the **Conditions Precedent to Pre-Surrender**) being satisfied (or being waived by the Buyer in accordance with Clause 5.3):
- 5.1.1 delivery by the Seller to the Buyer a valuation report (in form and substance satisfactory to the Buyer acting in its absolute discretion) in respect of the Property undertaken by an independent valuer selected by the Buyer from a panel of the existing valuers;
  - 5.1.2 a survey and inspection by a qualified surveyor (if required), confirming the actual size and boundaries of the land comprising the Property (excluding buildings erected thereon), and the results being in form and substance satisfactory to the Buyer acting in its absolute discretion;
  - 5.1.3 the Buyer applying to TISEZA for a certificate of incentives in respect of the Property, and receiving confirmation from TISEZA (in form and substance satisfactory to the Buyer) that such certificate will be issued, that TISEZA will obtain title to the Property and grant the Buyer the Derivative Grant, being a renewable derivative title over the Property, and that the Buyer will be entitled to occupy the Property upon issuance of the Derivative Grant, subject to payment of all relevant statutory fees;
  - 5.1.4 all statutory forms and other documents required for the transfer of the Property (including those prescribed under the Land Act being duly completed and executed by the Seller in favour of the Buyer and provided by the Seller to the Buyer, including:
    - 5.1.4.1 Land Form No. 29 (Notification of Disposition) executed in triplicate; and
    - 5.1.4.2 Certificate of sale executed by the Seller and Buyer in tripartite.
  - 5.1.5 original land rent and rates payment receipts for the Property for the three (3) years immediately prior to the Pre-Surrender Date;
  - 5.1.6 either:
    - 5.1.6.1 the Seller providing the tax payment receipt issued by the TRA confirming that it has duly and punctually paid the Capital Gains Amount to the TRA which amount shall be reflected in the respective tax computations, filings and payments of the Seller; or
    - 5.1.6.2 evidence of payment of such applicable registration fee estimated to be 3% of the Purchase Price which shall be paid by the Buyer;
  - 5.1.7 delivery by the Seller, in strict compliance with section 142(4) of the Land Act of a notice of sale of the Property to the Mortgagor and the Borrower at least ten (10) days prior to the Pre-Surrender Date, together with satisfactory evidence that such notice was duly delivered;
  - 5.1.8 the Seller obtaining a written approval or notice of no objection from the Treasury Registrar, confirming that the Property may be sold by way of private sale;
  - 5.1.9 the Seller providing any other documents that may be required to effect registration of the transfer of the Property in favour of the Buyer and any other documents that are, in the reasonable opinion of the Buyer, necessary for obtaining the Ministry's approval to the Surrender.

- 5.2 The Buyer and the Seller shall use their respective best endeavours to procure that the Conditions Precedent to Pre-Surrender set out in Clause 5.1 are satisfied as expeditiously as possible.
- 5.3 The Buyer may, to such extent as it thinks fit, waive in whole or in part any of the Conditions Precedent to Pre-Surrender set out in clause 5.1 by written notice to the Seller.
- 5.4 In the event that the Seller is unable to complete or avail any of the documents or actions required from it to satisfy the Conditions Precedent to Pre-Surrender before the Review Date, the Buyer may give the Seller at least thirty (30) Business Days' notice in writing confirming the Buyer's readiness to continue with the sale in all respects and requiring the Seller to satisfy the Conditions Precedent to Pre-Surrender to the extent within the Seller's control, before the expiration of such notice AND if the Seller shall fail to comply with such notice the Buyer may terminate this Agreement without prejudice to any other rights or remedies available to the Buyer.
- 5.5 Without prejudice to Clause 5.4, in the event that the Conditions Precedent to Pre-Surrender are not satisfied or waived at least thirty (30) Business Days prior to the Review Date, or such later date as the Seller and the Buyer may agree in writing, the Buyer may terminate this Agreement by notice with immediate effect.
- 5.6 The Seller's Advocates shall confirm to the Buyer's Advocates in writing when they have all the documents required from the Seller for the Conditions Precedent to Pre-Surrender (which must be at least fifteen (15) Business Days before the Review Date) and thereafter the Buyer's Advocates shall have a right to inspect and obtain originals or certified copies of all such documents.

## 6. **PRE-SURRENDER DATE**

- 6.1 Within five (5) Business Days of the Conditions Precedent to Pre-Surrender being satisfied or waived by the Buyer, the completed Land Form No. 29 (if required), certificate of sale and any other applicable statutory forms shall be submitted to the Land Registry by the Seller together with a letter from the Seller (in form and substance satisfactory to the Buyer) notifying the Land Registry of the Buyer's intention to create a derivative title and any other documents necessary to facilitate the disposition from the Seller to the Buyer.
- 6.2 Upon any Party becoming aware that the Land Registry has approved the disposition by way of transfer of the Property from the Seller to the Buyer, it shall give written notice to the other Party forthwith, following which the Seller shall promptly procure and provide to the Buyer a certified copy of the document issued by the Land Registry evidencing the transfer of the Property from the Seller to the Buyer.
- 6.3 For the avoidance of doubt, in the event that the Land Registry refuse to accept the transfer of the Property and register the transfer in accordance with the clauses above, the Buyer may, at its discretion, continue to nominate the Pre-Surrender Date in accordance with Clause 6.4, without prejudice to its other rights in the Agreement.
- 6.4 Within five (5) Business Days of the Buyer's receipt of the copy of the document evidencing the transfer of the Property to the Buyer (or such other date as the Buyer may elect), the Buyer shall notify the Seller of the **Pre-Surrender Date**, being a date selected by the Buyer.

6.5 On the Pre-Surrender Date the Seller shall deliver vacant possession of the Property to the Buyer and the Buyer shall take occupation of the Property rent-free.

## 7. SURRENDER

7.1 Within ten (10) Business Days of the Pre-Surrender Date, the Parties shall procure that the Surrender shall take place by way of a surrender deed, prepared by the Ministry and signed by all necessary signatories, to surrender the Property being lodged with the Ministry or office of the Commissioner.

7.2 Upon any Party becoming aware that the Commissioner or Ministry has accepted the Surrender, it shall give written notice to the other Party forthwith with evidence of the Surrender Date.

## 8. CONDITIONS PRECEDENT TO COMPLETION

8.1 Completion is predicated upon each of the following conditions (the **Conditions Precedent to Completion**) being satisfied (or being waived by the Buyer in accordance with Clause 8.3):

8.1.1 the satisfaction or waiver by the Buyer of the Conditions Precedent to Pre-Surrender;

8.1.2 the taking place of the Surrender;

8.1.3 to the extent that the Mortgagor still exists and has assets or turnovers required to meet the Fair Competition Commission notification threshold, either:

8.1.3.1 the Fair Competition Commission issuing a merger clearance certificate confirming that the Transaction will not result in a merger that creates or strengthens a position of dominance in a market and that the Transaction is therefore not prohibited; or

8.1.3.2 the granting by the Fair Competition Commission of an exemption to the Transaction pursuant to section 13 of the Fair Competition Act, 2003;

8.1.4 the publication of a notice under the Transfer of Business (Protection of Creditors) Act, 1958 in the Tanzanian gazette and a widely circulating newspaper (the **TBA Notice**) and the TBA Notice having expired without any objections having been made, and no proceedings having been threatened or instituted against the Seller in respect of the Property;

8.1.5 all third-party consents, if any, which are necessary to vest in the Buyer the full benefit of the Property being obtained and that the same remain in full force and effect at Completion;

8.1.6 all remaining deeds, licenses, resolutions, registrations, governmental authorisations and other approvals, clearances and consents necessary for the consummation of the transactions under this Agreement being obtained, and that the same remain in full force and effect at Completion;

8.1.7 no foreign ownership or other restrictions have been introduced under applicable law before or after the date hereof which could result in the Buyer being unable to obtain the Derivative Grant;

8.1.8 there being no proceedings instituted by any person who has or purports to have any claim in respect of the Property or which may negatively affect the ownership or value of the Property; and

8.1.9 there being no material adverse change in the condition or value of the Property.

8.2 The Buyer and the Seller shall use their respective best endeavours to procure that the Conditions Precedent to Completion set out in Clause 8.1 are satisfied as expeditiously as possible.

8.3 The Buyer may, to such extent as it thinks fit waive in whole or in part any of the Conditions Precedent to Completion in Clause 8.1 by written notice to the Seller.

## 9. FAILURE TO COMPLETE

9.1 This sale of the Property pursuant to this Agreement shall, at the election of the Buyer, terminate immediately upon written notice from the Buyer to the Seller if:

9.1.1 the Surrender does not take place within thirty (30) Business Days of the Pre-Surrender Date;

9.1.2 the Land Registry refuses to transfer the Property to the Buyer;

9.1.3 TISEZA is not allocated the Property for investment purposes within two (2) months from the Surrender Date, or the National Land Allocation Committee refuses to approve the allocation of land to the Buyer through TISEZA;

9.1.4 the Buyer is notified that TISEZA will not issue it a derivative title over the Property to the Buyer; or

9.1.5 the Conditions Precedent to Completion are not satisfied or waived within three (3) months of the Pre-Surrender Date (or such later date as the Seller and the Buyer may jointly agree in writing).

9.2 Upon such termination:

9.2.1 the Buyer will make best endeavours to procure that the Seller acquires title to the Property and the Buyer shall make reasonable endeavours to co-operate with the Seller to approach the Ministry to procure that the Seller acquires title to the Property;

9.2.2 the Seller shall promptly (and in any event within twenty (20) Business Days of the Buyer's termination notice transfer into the Escrow Account in full any portion of the Purchase Price (including, without limitation, the Deposit), plus VAT amounts thereon, which may have been paid to it or to the TRA or any other person on the Seller's behalf (if any);

9.2.3 if the Balance of the Purchase Price has been paid into the Escrow Account, the Seller and the Buyer shall take such steps as are necessary to effect the immediate release of the Balance of the Purchase Price to the Buyer together with all interest accrued thereon in the Escrow Account not later than five (5) Business Days from the date the written notice from the Buyer is issued under Clause 9.1;

9.2.4 and completion of the re-transfer of the Property to the Seller, the Seller and Buyer shall take such steps as are necessary to effect the immediate release to the Buyer of the amount kept in the Escrow Account in accordance with clause 9.2.2 together with all interest accrued thereon; and

9.2.5 any developments made by the Buyer on the Property shall remain part of the Property.

## 10. COMPLETION

10.1 Promptly upon the Buyer becoming aware of the Derivative Grant and being given an original

certificate of derivate title, the Buyer shall nominate a date for Completion falling no more than five (5) Business Days after becoming so aware (or at such other date as agreed to in writing by the Buyer and the Seller) (the **Completion Date**) and the Buyer shall notify the Seller of the Completion Date.

10.2 Completion shall take place on the Completion Date at the office of the Buyer's Advocates or at any other place agreed to in writing by the Seller and Buyer.

10.3 At Completion:

10.3.1 the Buyer shall deliver to the Seller a photocopy of its derivative title over the Property; and

10.3.2 the Escrow Agent shall release the Balance of the Purchase Price, together with all accrued interest, from the Escrow Account by electronic or telegraphic transfer to the Seller's Account.

10.4 Any obligations or conditions under this Agreement which are capable of performance after Completion, but remain unperformed on the Completion Date, shall continue in full force and effect notwithstanding Completion occurring.

## 11. PAYMENT OF PURCHASE PRICE

11.1 The Seller hereby acknowledges and agrees that subject to the terms of this Agreement, the Purchase Price shall be paid to the Seller by depositing the same into the Seller's Account by electronic or telegraphic funds transfer. The Seller further agrees that payment in accordance with this clause shall be a good and valid discharge of the Buyer's obligations to pay the sum in question.

11.2 The Purchase Price shall be paid by the Buyer in TZS unless otherwise agreed in writing between the Seller and the Buyer.

11.3 No portion of the Purchase Price shall be required to be paid except as stated in this Clause 11.

11.4 The Deposit shall be paid to the Seller in accordance with Clause 4.4. If this Agreement is terminated prior to Completion or otherwise, the Seller shall refund the Deposit to the Buyer in accordance with Clause 9.2.2.

11.5 An interest-bearing deposit account (the **Escrow Account**) shall be opened with ABSA Bank Tanzania Limited (the **Escrow Bank**) for the purposes of the sale and purchase of the Property. The Escrow Account set up costs (if any) shall be shared between the Seller and the Buyer.

11.6 The Balance of the Purchase Price (to the extent this is not a negative sum) shall be held in the Escrow Account by the Escrow Bank in accordance with the terms of this Agreement, and the terms and conditions of the Escrow Bank applicable to the Escrow Account.

11.7 The Purchase Price (and consequently the Balance of the Purchase Price) shall be deemed to be reduced by the amount of: (i) any Land-Related Costs; (ii) Capital Gains Amount; and (iii) any payment made to the Buyer for breach of any Warranty or any Indemnity and if such breach remains unremedied for a period of ninety (90) days following the Buyer's notice of breach.

11.8 Monies in the Escrow Account shall be released from the Escrow Account by written instructions signed by the Seller and the Buyer (such instructions not to be unreasonably withheld or delayed), and

whenever required to give effect to the provisions of this Agreement including:

- 11.8.1 if paid to the Seller on the Completion Date in accordance with Clause 10.3.2;
  - 11.8.2 upon termination before Completion, with such monies to be returned to the Buyer in accordance with Clause 9.2.3 and 9.2.4; or
  - 11.8.3 to the extent that claims are made and paid from the Balance of the Purchase Price pursuant to Clause 19.11, with such monies being paid to the Buyer.
- 11.9 Any interest accruing on the monies in the Escrow Account shall be paid to the person(s) receiving the principal amounts on which the interest accrued. Such person(s) will also be responsible for the withholding tax or any other tax payable in relation to the interest accrued.

## 12. COSTS AND RESPONSIBILITY FOR SALE STEPS

### 12.1 Costs Relating to Transfer of Title:

- 12.1.1 Subject to the remaining provisions of this Clause 12 and any other provision of this Agreement to the contrary (or unless agreed otherwise in writing by all Parties), each Party shall bear and be responsible for all fees, costs, and expenses of its own legal advisers, consultants, agents, and any other advisers incurred in connection with this Agreement, the Transaction, and the preparation, negotiation, and execution of all related documents;
- 12.1.2 Each Party shall also bear its own costs and expenses incurred in connection with the implementation and completion of this Agreement and the Transaction.
- 12.1.3 As soon as reasonably practicable (in any event within three (3) Business Days following the Signature Date), the Seller shall make an application to the TRA for extension of time to pay the CGT Amount. In the event that an extension of time is not granted by the TRA, the Seller shall pay the CGT Amount directly to the TRA, if applicable.

### 12.2 Costs for Transfer of Title:

- 12.2.1 The Seller shall be responsible for processing the application for the "in principle" transfer of Certificate of Title No. 79498 (Farm No. 5/2, L.O. No. 249790) from the Seller to the Buyer as referred in the Schedule and clauses 6.2 to 6.4 (inclusive) of this Agreement), and for paying all associated fees and charges, except for those costs expressly stated in Clause 12.2.7 below as payable by the Buyer.
- 12.2.2 Without limiting Clause 12.2.1 and subject to Clause 12.2.7, the Seller shall bear the following costs relating to the transfer of Certificate of Title No. 79498 from the Seller to the Buyer:
  - 12.2.2.1 the Capital Gains Amount; and
  - 12.2.2.2 any outstanding land rent or related charges payable on the Property as at the date of the transfer of the Property by the Land Registry, including the annual land rent of Tanzania Shilling five hundred thirty-nine thousand and four hundred (TZS 539,400) or any other accrued amounts (**Land-Related Costs**).

- 12.2.3** Immediately after the Land Registry accepting the disposition, the Seller shall procure the assessment of the Capital Gains Amount from the TRA, if applicable.
- 12.2.4** Subject to Clause 12.1.3, the Capital Gains Amount shall be released and paid to the TRA from the Balance of the Purchase Price held in the Escrow Account upon the Seller presenting to the Buyer the Capital Gains Amount assessment issued by the TRA, if applicable.
- 12.2.5** Within seven (7) Business Days of the payment of the Capital Gains Amount to the TRA, the Seller shall obtain a tax clearance certificate from the TRA in respect of the sale of the Property.
- 12.2.6** Within seven (7) Business Days of the payment of the Capital Gains Amount to the TRA, the Seller shall provide to the Buyer: (i) a certified copy of the tax clearance certificate obtained under Clause 12.2.5; and (ii) the original tax payment receipt issued by the TRA, confirming that it has duly and punctually paid the Capital Gains Amount to the TRA.
- 12.2.7** The Buyer shall be responsible for payment of the following costs related to the transfer of Certificate of Title No. 79498:
- 12.2.7.1** stamp duty, as reasonably assessed and payable to the TRA; and
- 12.2.7.2** all approval, registration, and other administrative fees payable to the Ministry or other relevant authorities.
- 12.3** Costs for Surrender of Title:
- 12.3.1** The Seller and Buyer shall jointly cooperate and be responsible for the preparation and processing of the application for surrender of Certificate of Title No. 79498, including obtaining approval from the Ministry responsible for lands in respect of the Surrender (as detailed in the Schedule). However, the Buyer shall bear all costs directly incurred in connection with the surrender process.
- 12.3.2** Without limiting Clause 12.4.1, the Buyer shall be responsible for payment of:
- 12.3.2.1** fees for the application for surrender of the right of occupancy;
- 12.3.2.2** fees for registration of the surrender; and
- 12.3.2.3** any related stamp duty payable in connection with the surrender.
- 12.4** Costs for Allocation of Land to TISEZA and Derivative Grant:
- 12.4.1** The Buyer shall bear all costs and expenses associated with:
- 12.4.1.1** the application to the National Land Allocation Committee for approval;
- 12.4.1.2** the grant of title to the Property to TISEZA; and
- 12.4.1.3** the issuance of the Derivative Grant in respect of the Property, including any fees reasonably requested or payable to TISEZA or any other relevant authority.
- 12.4.2** The Buyer shall be responsible for payment of all VAT on the Purchase Price.

**13. OUTGOINGS & POSSESSION**

13.1 The Property is sold with vacant possession as at the Pre-Surrender Date and the Buyer shall be entitled to possession of the Property from the Pre-Surrender Date.

13.2 All Outgoings of the Property (if any) shall be:

13.2.1 for the account of the Seller before and including the Pre-Surrender Date; and

13.2.2 for the account of the Buyer from the Pre-Surrender Date, for such time as the Buyer is in occupation of the Property,

and such Outgoings that are paid for periods longer than a day shall apportioned accordingly at the Pre-Surrender Date.

**14. MATTERS AFFECTING THE PROPERTY**

14.1 The Property is sold (so far as the same relate to and affect the Property and are still subsisting and capable of being enforced and taking effect) subject to and with the benefit of:

14.1.1 all existing easements, rights of way, and other similar rights (if any), whether public or private, affecting the Property; and

14.1.2 all exceptions, reservations, stipulations, statutory notices, environmental obligations, planning restrictions, and conditions imposed by or under any law, regulation, or by any competent authority.

14.2 Except as otherwise stated in this Agreement, the Property is sold free from any Encumbrance, including any Encumbrance securing the repayment of monies, or other obligation or liability of the Seller or any other person.

**15. RISK AND INSURANCE**

15.1 The Seller shall continue to hold the Property (including all buildings erected thereon) at its own risk up to and including the Pre-Surrender Date. Subject to the other provisions of this Agreement, the Property shall be at the insurance risk of the Buyer from and excluding the Pre-Surrender Date for such time as the Buyer is in occupation of the Property, provided that risk will revert to the Seller if this Agreement is terminated prior to Completion.

15.2 The Seller shall maintain in force, up to and including the Pre-Surrender Date, all the policies of insurance in respect of the Property. If the Property (including any buildings erected thereon) or part thereof is destroyed or damaged on or prior to the Pre-Surrender Date, the Buyer at its option may either:

15.2.1 proceed to the Pre-Surrender Date and later to the Surrender and require that the insurance monies (if any) recoverable in respect thereof shall be paid to the Buyer and the Seller shall direct the insurance company accordingly, and in such event any such insurance monies received by the Seller shall be held by it on trust for the Buyer absolutely; or

15.2.2 terminate this Agreement, in which case the insurance monies (if any) recoverable in respect thereof shall be paid to the Seller.

15.2.3 The Parties further agree that if this Agreement is terminated under any provision herein, any insurance proceeds recoverable for insurable loss shall be paid to the Seller.

## 16. NON-TRANSFER & NON-DISSOLUTION UNDERTAKINGS

16.1 The Seller hereby expressly and irrevocably undertakes not to carry out, and not to permit, procure, or participate in the carrying out of, any step to wind up, strike off, place into administration, receivership, or otherwise liquidate the Seller, whether voluntary:

16.1.1 between the Signature Date and Completion (or earlier termination of this Agreement); and

16.1.2 in the event that:

16.1.2.1 Completion takes place, for a period of at least two (2) years from Completion; or

16.1.2.2 termination of this Agreement takes place prior to Completion, for a period equal to the longer of at least three (3) years from such termination.

16.2 Without prejudice to Clause 16.1, the Seller undertakes that, in the event of any reorganisation, amalgamation, merger, demerger, or transfer of its business, any successor, assignee, or transferee shall be bound by and shall duly perform, observe, and discharge all obligations of the Seller under this Agreement as if such successor were an original party hereto.

16.3 From the Signature Date until Completion (or earlier termination of this Agreement), the Seller expressly and irrevocably undertakes not to transfer, assign, charge, or otherwise dispose of its title, rights, or interests in the Property, except where such transfer or assignment is to the Buyer or any of its Affiliates.

## 17. INDEMNITIES

17.1 The Seller hereby irrevocably and unconditionally undertakes to indemnify and keep indemnified the Buyer against any and all losses, liabilities, costs (including legal and professional fees on a full indemnity basis), claims, demands, actions, proceedings or damages suffered or incurred by the Buyer arising out of or in connection with:

17.1.1 any claim, demand or assertion by any person (including governmental authorities, creditors, or Affiliates of the Seller or Mortgagor) purporting to have any legal or beneficial interest in, or any lien, charge, encumbrance, equity or other right or claim against, the Property (including the land, buildings, or any part thereof), which:

17.1.1.1 arose or accrued prior to Completion; and

17.1.1.2 was not fully and fairly disclosed in writing by the Seller to the Buyer and acknowledged in writing by the Buyer prior to the Signature Date.

17.2 The Seller shall further indemnify and hold harmless the Buyer from and against all losses, damages, liabilities, actions, claims, proceedings, costs and expenses (including legal and professional costs) arising from or in connection with any breach of the warranties, representations or covenants given

by the Seller under this Agreement.

17.3 This indemnity shall be without prejudice to any other rights or remedies available to the Buyer at law or in equity and shall survive Completion.

## 18. BUYER WARRANTIES

18.1 The Buyer warrants to the Seller that:

18.1.1 the Buyer's details set out in the Parties clause are true and correct;

18.1.2 the Buyer has the capacity and power to enter into and perform, and has taken all necessary action to authorise the entry into and performance and delivery of, this Agreement, including that:

18.1.2.1 it has the power under its Memorandum of Association, to purchase the Property; and

18.1.2.2 it has obtained internal corporate approval to enter into the purchase of the Property by way of the board resolutions;

18.1.3 the entry into and performance by the Buyer of its obligations under this Agreement do not and will not conflict with:

18.1.3.1 any existing law or regulation or judicial or official order to which it is subject;

18.1.3.2 its constitutional documents; or

18.1.3.3 any contractual obligation of the Buyer or any document which is binding upon the Buyer.

18.2 The Buyer's warranties in Clause 18.1 are, unless otherwise disclosed in writing to the Seller after the date hereof in relation to facts and circumstances occurring after the date hereof, deemed to be repeated on each day from the Signature Date up to and including the Completion Date, by reference to the facts then existing.

18.3 The Buyer shall, so far as within its lawful control, ensure that nothing is done or omitted to be done which would, at any time before or at the Completion Date, be materially inconsistent with any of the Buyer's warranties in Clause 18.1, breach any such warranty, or make any such warranty untrue or misleading; provided that nothing in this clause shall oblige the Buyer to do or procure the doing of anything so far as any such inconsistency, breach, or untruth results from a change in law after the Signature Date.

18.4 The Buyer will immediately disclose in writing to the Seller any events or circumstances which may arise or become known to it after the Signature Date which are inconsistent with any of the Buyer's warranties in Clause 18.1 or which, had they occurred on or before the last date that such warranty is deemed repeated under Clause 18.2, would have constituted a breach of such warranties.

18.5 The Buyer shall not be liable for a claim by the Seller for damages in respect of the Buyer's warranties in Clause 18.1 unless notice in writing of the claim, summarising the nature of the claim and the amount claimed, has been given by the Seller to the Buyer and the breach of the Buyer's warranties is proved.

## 19. SELLER 'S WARRANTIES

- 19.1 The Buyer enters into this Agreement on the basis of, and in reliance on, the Warranties set out in Clauses 19.2 and 19.3.
- 19.2 The Seller hereby covenant, represents and warrants to the Buyer that:
- 19.2.1 the Seller's details set out in the Parties clause are true and correct;
  - 19.2.2 the Seller has the statutory right/ power of sale as mortgagee pursuant to Section 142 of the Land Act;
  - 19.2.3 the Mortgagor is the legal owner of the Property and has always held it in compliance with the Land Act and other applicable laws;
  - 19.2.4 all statutory procedures and notices related to the enforcement of the mortgage by the Seller and the Transaction have been properly served to the authorised officers of Mortgagor and the Borrower;
  - 19.2.5 the Seller has the capacity and power to enter into and perform this Agreement;
  - 19.2.6 the entry into and performance by the Seller of its obligations under this Agreement do not and will not conflict with:
    - 19.2.6.1 any existing law or regulation or judicial or official order, decree or similar enactment to which it is subject; or
    - 19.2.6.2 any contractual obligation of the Seller or in respect of the Property or any document which is binding upon the Seller or the Property;
  - 19.2.7 the Property is not on a buffer zone, riparian reserve, road reserve or sewage area;
  - 19.2.8 the Property is not public (reserved) or village land and the Property was not and is not used for any public purpose and has not been set aside for any public purpose or to provide any public utilities;
  - 19.2.9 the Property was not illegally or irregularly acquired by the Seller and the Seller has the right to own and develop and sell landed property;
  - 19.2.10 no person has raised any claim or regulatory investigation or disputed the validity of the transfer of the Property to the Seller or its predecessors in title or alleged that required consents for such transfer were not obtained;
  - 19.2.11 the Seller is not aware of any ground or circumstance by virtue of which the sale of the Property by the Seller to the Buyer can be revoked or cancelled;
  - 19.2.12 the Seller has not received any adverse report from any engineer, surveyor or other professional relating to the Property and the Seller is not aware of any predecessor in title having done so;
  - 19.2.13 other than what has been specifically stated in this Agreement, there is no Encumbrance over the Property and the Seller has not agreed to create any Encumbrances over the Property and the Property is sold free of any Encumbrance;

- 19.2.14 the Seller is not involved in any litigation, arbitration, succession or administrative proceedings (whether or not relating to or affecting the Property), nor to the best of their respective knowledge (after due and careful inquiry) are there any such proceedings pending or threatened against any of them;
- 19.2.15 the Property is not subject to any attachment order of any court or tribunal;
- 19.2.16 no person other than the Seller has any right or title to the Property, save for the Buyer pursuant to the terms of this Agreement, and the Property has not been and will not be allocated to any other person save for the Buyer (or TISEZA in connection with the Buyer);
- 19.2.17 the Seller is not, and will not be, in default of any obligations under any agreement entered into by it prior to the Surrender Date which will entitle any person to claim any of the Property or cause the rights in the Property to be forfeited;
- 19.2.18 there exists no dispute whatsoever in respect of the Property and there is no adverse claim or dispute against the Property regarding ownership, access, boundary, easement, rights of way or any other matter;
- 19.2.19 there exists no dispute between the Seller and the owner or occupier of any other premises adjacent to or neighbouring the Property and the Seller does not expect, and is not aware of any circumstances that may give rise to, any such dispute;
- 19.2.20 the Property is not subject to any right of way, easement, overriding interests or other interest or equities in favour of any person which grants that person any non-registrable interest or right (whether of ownership, occupation, access or use) in the Property;
- 19.2.21 all the Buildings on the Property have been properly constructed and a fit for the purposes for which they were built and are structurally sound;
- 19.2.22 there are no defects in any of the buildings in the Property;
- 19.2.23 all approvals required for the construction of the buildings on the Property have been obtained and are valid;
- 19.2.24 the Seller has not received any notices from the Government or any local authority or from owners of adjoining properties and the Seller has disclosed to the Buyer all such notices (if any) that they have received;
- 19.2.25 the Seller has disclosed to the Buyer all material information relating to the Property; and
- 19.2.26 each Warranty is true, accurate and not misleading.
- 19.3 The Seller hereby further covenants, represents and warrants to the Buyer that:
- 19.3.1 the Seller has statutory right/ power of sale as mortgagee pursuant to Section 142 of the Land Act and has a good and marketable title to the Property;
- 19.3.2 the Seller has authority to sell the Property and no judgment, decision or order of any court, arbitration tribunal, regulatory authority or governmental body having jurisdiction over the Property,

- the Seller is in force or outstanding against the Property the Seller or any of such Affiliates, restraining, preventing or affecting in any material respect the purchase and sale of the Property or any part thereof;
- 19.3.3 no person has raised any claim or disputed the right of any person to occupy and develop the Property;
- 19.3.4 the Property is in the Seller's ownership, possession and control;
- 19.3.5 the terms and conditions affecting the Property (including in its certificate of occupancy) have been complied with and neither the Seller nor any other person has breached any of the said terms and conditions affecting the Property and the Seller will continue to comply with all the said terms and conditions affecting the Property until the Pre-Surrender Date;
- 19.3.6 the Property shall remain in its current state of repair and condition from the Signature Date until the Pre-Surrender Date;
- 19.3.7 all land rent and property tax in respect of the Property has been fully paid and there are no outstanding charges, taxes or rents payable on the Property;
- 19.3.8 the Seller and/or the Mortgagor has complied with all applicable laws and government and local authority regulations and requirements in respect of the Property and water rights associated with the Property, including (without limitation) the Seller has at all applicable times complied with:
- 19.3.8.1 the requirements of the Water Resources Management Act, 2009 (Act No. 11 of 2009, Laws of Tanzania); and
- 19.3.8.2 all Environmental Laws;
- 19.3.9 there are no environmental claims, nor are there any environmental disputes, investigations or other proceedings under or in terms of any applicable Environmental Laws pending or threatened regarding the use of the Property, operations or the release or discharge of any substances or articles from or on the Property;
- 19.3.10 all planning permissions, orders and regulations issued under the Land Use Planning Act 2007 (Act No. 6 of 2007, Laws of Tanzania), and all building regulations, consents and regulations for the time being in force, have been obtained both in relation to the current use of the Property and any alteration and improvements to it and have been fully complied with in relation to the Property;
- 19.3.11 the current use of the Property is the permitted use for the purposes of the Land Act and the Land Use Planning Act, 2007;
- 19.3.12 no claim or liability (contingent or otherwise) under the Land Use Planning Act 2007, or its predecessor law, in respect of the Property, or any statutory agreement affecting the Property, is outstanding, nor is the Property the subject of a notice of entry and no notice, order, resolution or proposal has been published for the compulsory acquisition, closing, demolition or clearance of the Property or any part of it, and the Seller is not aware of any matter or circumstances which would lead to any such notice, order, resolution or proposal;

- 19.3.13 the Seller's ownership of and title to the Property is not subject to any challenge whatsoever from the Government of the United Republic of Tanzania or any ministry, parastatal, regulator, agency, local authority or any third party;
- 19.3.14 there are no disputes regarding boundaries, servitudes, rights of access or other matters relating to the Property or its use; and
- 19.3.15 no notices, complaints or requirements have been issued or made (whether formally or informally) by any competent authority or undertaking exercising statutory or delegated powers in relation to the Property or the current use of the Property, and neither the Seller is not aware of any matter which could lead to any such notice, complaint or requirement being issued or made.
- 19.4 Each of the Warranties is separate and, unless expressly provided to the contrary, is not limited by reference to any other Warranty or anything in this Agreement.
- 19.5 The Warranties are, except to the extent otherwise disclosed in writing to the Buyer pursuant to clause 19.8 after the date hereof in relation to facts and circumstances occurring after the date hereof where such writing is acknowledged as received by the Buyer, deemed to be repeated:
- 19.5.1 in respect of the Warranties in clause 19.2, on each day as from the Signature Date up to and including the Completion Date, by reference to the facts then existing; and
- 19.5.2 in respect of the Warranties in clause 19.3, on each day as from the Signature Date up to and including the Pre-Surrender Date, by reference to the facts then existing.
- 19.6 The Seller shall, so far as the same is within their lawful control, ensure that nothing is done or omitted to be done which would, at any time before or at Completion, be materially inconsistent with any of the Warranties, breach any Warranty or make any Warranty untrue or misleading, save that nothing in this clause shall oblige the Seller to do or procure the doing of anything so far as any such inconsistency, breach or untruth results from a change in law after the Signature Date.
- 19.7 Without prejudice to any of the Buyer's other rights under this Agreement, if at any time before or at Completion it comes to the knowledge of the Buyer (including as a result of a disclosure made by the Seller under clause 19.8) that a Warranty is untrue or misleading or has been breached (or would have been untrue or breached but for a disclosure made by the Seller under clause 19.8), or that any fact is inconsistent with a Warranty or may cause a Warranty to be untrue, misleading or breached, or that the Seller has breached any other term of this Agreement (that, in either case, is material to the sale of the Property or affects the Property's value) the Buyer may (without prejudice to any other rights it may have in relation to the breach) terminate this Agreement by notice to the Seller and such termination will take effect as of the date specified in the notice.
- 19.8 The Seller will immediately disclose in writing to the Buyer any events or circumstances which may arise or become known to them after the Signature Date which are inconsistent with any of the Warranties or which, had they occurred on or before the last date that the Warranty is deemed repeated under clause 19.5, would have constituted a breach of the Warranties or which are material to be known by the Buyer for value of the Property.

- 19.9 Other than the actual knowledge of the Buyer as at the Signature Date, no information of which the Buyer and/or its agents and/or advisers has constructive knowledge or which could have been discovered (whether by investigation made by the Buyer or made on its behalf), shall prejudice or prevent any Claim or reduce any amount recoverable thereunder.
- 19.10 The Seller shall not be liable for a Claim unless notice in writing of the Claim, summarising the nature of the Claim (in so far as it is known to the Buyer) and, as far as is reasonably practicable, the amount claimed, has been given by the Buyer to the Seller and the breach of the Seller's warranties is proved.
- 19.11 The Seller undertakes to the Buyer that the Seller shall, on first written demand by the Buyer in accordance with clause 19.10, indemnify the Buyer for breach of any Warranty or Indemnity and pay to the Buyer:
- 19.11.1 an amount equal to any losses, claims and damages suffered or incurred by the Buyer as a result of or in relation to any act, thing or circumstance constituting a breach of any Warranty or Indemnity; and
- 19.11.2 all costs, expenses and disbursements suffered or incurred by the Buyer as a result of or in relation to any breach of any Warranty or Indemnity,

and should a Claim arise prior to the Completion Date, the amount payable by the Seller for the Claim may, at the Buyer's election, be deducted from or paid out of the Seller Rental Share (on demand) or the Balance of the Purchase Price (whether or not this is held in the Escrow Account).

- 19.12 The Seller irrevocably and unconditionally agree that it shall not be entitled to claim any right of set-off, or apply any form of stay of proceedings brought by the Buyer against the Seller arising out of or in connection with this Agreement, in respect of any Claim provided however that nothing in this clause shall prevent the Seller from effecting any set-off of the amount of any debt owed to that Party by the Buyer for which the Seller (as applicable) has judgement of a court or arbitrator of competent jurisdiction.

## 20. TERMINATION

- 20.1 This Agreement shall terminate:
- 20.1.1 as elsewhere set out in this Agreement; or
- 20.1.2 upon written agreement by all Parties at any time.
- 20.2 On termination of this Agreement before Completion, the provisions of clause 9.2 shall apply.
- 20.3 Termination of this Agreement shall be without prejudice to any rights, liabilities or remedies arising under this Agreement prior to such termination.
- 20.4 The following clauses of this Agreement (the **Continuing Provisions**) shall continue to have effect, notwithstanding termination of this Agreement by any means (or rescission under clause 4.3): clauses 1 (Definitions), 9 (Failure to complete), 12 (Costs), 19.1 (Termination), 21 (Good Faith and Mutual Co-Operation), 22 (Confidentiality), 25 (Miscellaneous), 26 (Notices), 27 (Governing Law & Disputes). The termination of this Agreement also does not affect those of its provisions which expressly provide that

they will operate after termination, or which must continue to have effect after termination, or which must by implication continue to have effect after termination.

## 21. GOOD FAITH AND MUTUAL CO-OPERATION

21.1 Each of the Parties agree that this Agreement is entered into between them and will be performed by each of them in a spirit of mutual co-operation, trust and confidence and that each will act in good faith and will use all means reasonably available to it in relation to the sale and purchase of the Property to give effect to the objectives of this Agreement and to ensure compliance by the Parties with its obligations.

21.2 Without prejudice to Clause 21.1, the Seller undertakes, at its own expense to:

21.2.1 promptly cooperate as necessary to effect the transfer of the Property and obtain the Derivative Grant, including executing any additional documents required by the Buyer; and

21.2.2 promptly execute and deliver any documents and take any actions reasonably requested by the Buyer after Completion to give full effect to this Agreement

## 22. CONFIDENTIALITY

22.1 Subject to clause 22.3, each Party shall treat as confidential all communications between the Parties and all information and other materials supplied to a Party or received by any of them from or on behalf of another Party which is disclosed to it in connection with or as a result of being a Party to this Agreement and which is either marked confidential or is by its nature confidential or intended to be for the knowledge of the recipient(s) alone, and all information concerning the business, transactions and the financial arrangements of the other Part(y/ies) of a confidential nature (**Confidential Information**) and shall not disclose or permit the disclosure of any Confidential Information of any other Party to any third party. The restrictions contained in this clause shall continue to apply for six (6) years after termination of this Agreement.

22.2 All Confidential Information of each other Party shall be used by a Party or its representatives solely for the purpose of exercising its rights or performing its obligations under this Agreement and shall not be used for any other purpose.

22.3 A Party may disclose any Confidential Information of another Party to the extent:

22.3.1 required by law or requested by any court of competent jurisdiction for the purpose of any judicial proceedings;

22.3.2 required by any securities exchange or regulatory or governmental body or any taxation authority to which that Party is subject;

22.3.3 required for the purpose of any arbitration pursuant to clause 27;

22.3.4 required to vest the full benefit of this Agreement in that Party;

22.3.5 that disclosure is to its professional advisers, auditors or bankers provided they need to know this Confidential Information and have a professional duty to keep such information confidential or are

otherwise bound by a duty of confidentiality substantially equivalent to that set out in this clause 22;

- 22.3.6 that the information has come into the public domain through no fault or breach of any Party;
- 22.3.7 that disclosure is to TISEZA or a person to whom the Property or rights in this Agreement is bona fide proposed to be transferred, provided that transfer would be permitted under this Agreement;
- 22.3.8 that disclosure is by a Party to its shareholders or shareholders of any holding company of the Party, or any Affiliate of such shareholders, in each case who are bound by a duty of confidentiality substantially equivalent to that set out in this clause 22; or
- 22.3.9 that the relevant other Party whose Confidential Information it is has given prior written consent to the disclosure, such consent not to be unreasonably withheld or delayed.

22.4 The Parties acknowledge that information provided electronically, including via e-mail, may not be kept confidential due to the nature of internet systems but this shall not reduce the obligations of confidentiality in this clause 22.

22.5 Each Party shall by notice in writing to the other Parties be entitled to demand the prompt return of the whole or part of any Confidential Information supplied by it or on its behalf to or on behalf of another Party, other than Confidential Information to which such Party is entitled to in terms of this Agreement, and each Party hereby undertakes to comply promptly with any such demand.

## 23. ASSIGNMENT

23.1 Except as otherwise provided in this Agreement, the Seller may not assign, or grant any Encumbrance over, any of its rights under this Agreement without the prior written consent of the Buyer.

23.2 The Buyer may assign, or grant any Encumbrance over, any of its rights under this Agreement or any document referred to in it and may fully novate and transfer its rights and liabilities under this Agreement or any document referred to in it to any person. The Buyer shall give notice to the Seller of any such assignment and agrees to procure that the assignee shall assume all obligations under this Agreement and develop the Property in accordance with terms and conditions of this Agreement. The Seller shall make reasonable endeavours to assist with such assignment, novation or transfer.

23.3 Except as otherwise provided in this Agreement, no Warrantor may assign, or grant any Encumbrance over, any of its rights under this Agreement without the prior written consent of the Buyer.

23.4 The rights and obligations of the Parties shall continue for the benefit of, and shall be binding on, their respective permitted assignees and successors in title.

## 24. ENTIRE AGREEMENT

This Agreement, and any documents referred to in it, constitute the whole agreement between the Parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. Each Party acknowledges that in entering into this Agreement and any documents referred to in it, it is not relying on and shall have no right or remedy in respect of any statement, misrepresentation, assurance or warranty (whether of fact or of law and whether made

innocently or negligently) of any person other than as expressly set out in this Agreement or those documents or as made fraudulently.

## 25. MISCELLANEOUS

- 25.1 Any waiver of any right under this Agreement is only effective if it is in writing and signed by the waiving or consenting Party and it applies only in the circumstances for which it is given and shall not prevent the Party who has given the waiver or consent from subsequently relying on the provision it has waived.
- 25.2 No failure or delay to exercise any power, right or remedy by any Party under this Agreement or by law shall operate as a waiver of that right, power or remedy or shall prevent any future exercise in whole or in part thereof and no single or partial exercise by any Party of any right, power or remedy shall preclude or restrict its further exercise or the exercise of any other right, power or remedy.
- 25.3 The provisions of this Agreement shall not merge on the sale and purchase of the Property (including on Surrender and the Derivative Grant) so far as they remain to be observed or performed.
- 25.4 Except to the extent specifically provided otherwise, rights and remedies of the Parties provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 25.5 Each of the provisions of this Agreement is severable and distinct from the others and, if at any time one or more of these provisions (or part provisions) is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or part provision) shall not in any way be affected or impaired and shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.
- 25.6 No amendment or variation to this Agreement shall be effectual or binding on the Parties unless it is in writing and duly executed by or on behalf of each Party.
- 25.7 This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original and such counterparts or duplicates shall together constitute one and the same agreement.

## 26. NOTICES

- 26.1 All notices to be given under this Agreement to any Party shall be made in writing and may be served by sending it by hand delivery (including registered courier) to the address and for the attention of the relevant other Part(y/ies) as set out in the first page of this Agreement (or, for notices to the Buyer or Seller, to their respective advocates at their respective addresses from time to time) or to such other address as may be otherwise notified from time to time by the Party in accordance with the provisions of this clause.
- 26.2 Any notice and/or any document relating to any action or legal proceedings so served by hand delivery (including registered courier) shall be deemed to have been received at the time of delivery provided that the delivery has been acknowledged by or on behalf of the recipient or proof of delivery is otherwise provided by the registered courier delivering the notice.

## 27. GOVERNING LAW & DISPUTES

- 27.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual dispute or claim) is governed by and construed in accordance with the laws of Mainland Tanzania.
- 27.2 Any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation shall first be attempted to be settled amicably through good faith negotiations between the Parties.
- 27.3 If the Parties are unable to resolve the dispute amicably within thirty (30) days of one Party notifying the other of a dispute, then the dispute shall be referred to and finally resolved by arbitration under the Rules of Arbitration of the Tanzania Institute of Arbitrators then in force, which rules are deemed to be incorporated by reference into this clause. The seat of the arbitration shall be Dar es Salaam, Tanzania, the language of the arbitration shall be English. The number of arbitrators shall be one (1) mutually agreed by the Parties, and in default of such agreement, to be appointed by the Chairperson of the Tanzania Institute of Arbitrators.

**IN WITNESS WHEREOF** this Agreement has been duly entered into on the day and year first hereinbefore written.


**BUYER:**

EXECUTED by  
**CAPWELL INDUSTRIES (TANZANIA) LIMITED**  
by affixing its common seal  
in our presence

} \_\_\_\_\_  
SEAL

Name: RAJAN DALICHAND SHAH

Designation: DIRECTOR

Signature: 

Name: CHEVAN DALICHAND SHAH

Designation: DIRECTOR

Signature: 

**SELLER:**

EXECUTED by  
TANZANIA COMMERCIAL BANK PLC  
by affixing its common seal  
in our presence

SEAL

Name:

MUONDAKWELI KANIKI

Designation:

Director

Signature:



Name:

INNOCENT MWINA

Designation:

Director/ Secretary

Signature:



**SCHEDULE**  
**OVERVIEW OF SALE PROCESS**

**1. Overview of Pre-Steps**

- 1.1 The Buyer (referred to by TISEZA as the 'investor') will apply for a new certificate of incentives in respect of the Property from TISEZA. The Buyer applies for the land through TISEZA, stating the location of the Property and the nature of the 'project' (use of the Property) to be undertaken.
- 1.2 The new certificate of incentives may be issued by TISEZA without stating the Property's full address.

**2. Steps for Purported Transfer of Title**

A 'disposition' takes place through the 'in principle' transfer of Certificate of Title Number 23665 from the Seller to the Buyer, involving the following steps.

- 2.1 An application the disposition (transfer) of the Property (accompanied by the applicable fees) is made by the Seller in exercise of its power of sale, to the Land Registry, attaching: (a) the 'Sale Agreement' (this Agreement); (b) the Certificate of Sale; (c) the original title deed (Certificate of Occupancy for Title Number 23665); and (e) a letter from the Seller (and, if requested, Buyer) noting that the transfer of the property will ultimately lead to the surrender of the title and application by the Buyer for a derivative title from TISEZA.
- 2.2 If applicable, the taxes on the transfer of the Property will be paid, including: capital gains tax assessed on the Seller and stamp duty assessed on the Buyer. Once paid, a tax clearance certificate will be obtained by the Seller from the TRA.
- 2.3 The following will be delivered to the Land Registry: (a) proof of tax payment (tax clearance certificate), if applicable; or (b) proof of payment of the applicable registration fee, which is estimated to be 3% of the Purchase Price; and (c) a letter from the Buyer noting that it intends to surrender the title to the Property to TISEZA in order to obtain the Derivative Grant, enclosing a copy of its new certificate of incentives from TISEZA.
- 2.4 The Registrar of Lands may then stamp the Certificate of Occupancy for Title Number 23665 to show it has, in principle, been 'transferred' to the Buyer. Whilst the Registrar will retain the original Certificate of Occupancy, the Buyer may be given a copy of the Certificate of Occupancy showing the transfer stamp.

The Seller shall be responsible for processing the application for the 'in principle' transfer of the Property.

**3. Steps to Surrender Certificate of Title Number 23665**

- 3.1 Upon registration of the in-principle 'transfer' in paragraph 2.4 above, the Buyer will be given a surrender deed (a Ministry standard form document) by the Land Registry, to sign to surrender the right of occupancy over the Property evidenced by Certificate of Title Number 23665. The surrender deed should state that Title Number 23665 is being surrendered in order to convert title to the Property to be designated land for 'investment purposes' such that the Buyer can obtain the Derivative Grant.

- 3.2 The executed surrender deed will be delivered to the Land Registry, to receive on behalf of the Commissioner, together with payment of applicable surrender fees, including fees for: (a) application for surrender of a right of occupancy; (b) registration of surrender of a right of occupancy; and (c) nominal stamp duty.
- 3.3 The Ministry will notify the Buyer of its decision to accept surrender of the Title Number 23665 and provide the Buyer with a copy of the accepted surrender deed.

The above-mentioned steps in this paragraph 3 will be coordinated by the Buyer but will be the responsibility of the Seller and the Buyer jointly.

#### 4. Steps to Allocate the Property to TISEZA

##### 4.1 Fee Payments

- 4.1.1 Upon accepting surrender of the Title Number 23665, the Ministry will then write to TISEZA to notify them that the Ministry is aware of the Buyer's intention to obtain the Derivative Grant and that Title Number 23665 to the Property has therefore been surrendered, and the Ministry will include an invoice to TISEZA (the **Invoice**, formerly known as an 'offer') which constitutes the Ministry's offer to allot the land to TISEZA for investment purposes and sets out the amounts payable, which will include:

- (a) land rent;
- (b) a premium; and
- (c) stamp duty on the above.

In addition, TISEZA (through the Buyer) will have to pay for:

- (d) deed plan fees; and
- (e) preparation fees for preparation of the new Certificate of Occupancy in the name of TISEZA, payable to the Commissioner.

- 4.1.2 Upon receipt of the Ministry's Invoice, TISEZA writes to the Buyer to request payment of the Invoice amount directly to the Ministry, together with payment of TISEZA's facilitation fee (an additional 10% of the Ministry's Invoice amount) to TISEZA.

- 4.1.3 The Buyer must pay the Invoice amount and TISEZA's facilitation fee.

Technically, the above-mentioned Invoice and payments should follow Allocation of the Property to TISEZA in paragraph 4.3 below. However, recent practice is that the Form No. 1 will not be prepared until the above-mentioned fees have been paid.

- 4.1.4 The Buyer should submit to the Commissioner the proof of payment of these fees.

##### 4.2 Application for Conversion of Land for 'Investment Purposes'

- 4.2.1 Land Form No. 1 (Designation of Land for Investment Purposes) is prepared by the desk Land Officer at the Ministry on behalf of the Commissioner, then taken to the Commissioner for his signature then

taken to the Ministry's records officer for the computerisation process and finally delivered by the Ministry to the TIC for signing.

4.2.2 At the TIC, the Land Form No. 1 must be signed by the Executive Director of TISEZA

4.2.3 Once signed, the TIC will:

(a) forward the signed Land Form No. 1 to the authorised Land Officer for the District in which the land is situated; and

(b) deliver a copy of the Land Form No. 1 to the Government Printers for printing in the Government Gazette.

4.2.4 The Land Form No. 1 is 'Gazetted' (officially by the Commissioner) through a Government Notice (G.N.) which is printed in the Government Gazette, as notice to the public.

4.2.5 A set notice period of three months must then expire before the next steps take place.

The above-mentioned steps in this paragraph 4.2 will be coordinated by the TIC.

#### 4.3 Allocation of the Property to TISEZA

4.3.1 Allocation of the Property to the TIC for investment purposes under the Tanzania Investment Act (with the Buyer in mind as the proposed later recipient of the Derivative Grant) is subject to the approval of the National Land Allocation Committee. The National Land Allocation Committee is convened (usually every quarter) and will discuss the allocation of land to successful investors through TISEZA – and will approve or refuse allocation of the Property to TISEZA

4.3.2 Upon approval, the National Land Allocation Committee is meant to publish a general notice of its approval (including the name of the applicant and location of the land) for the benefit of the general public.

The above-mentioned steps in this paragraph 4.3 will be coordinated by the Ministry (with TISEZA).

#### 4.4 Post Allocation Planning

4.4.1 After the approval of the National Land Allocation Committee, the TISEZA is meant to make inquiry to the authorised Land Officer for the District in which the land is situated to verify the government fees payable for the issue of title (a certificate of occupancy) to the TIC and at this point the Commissioner's office is meant to issue the payment invoice to TISEZA. However, this is now usually timed as described in paragraph 4.1 above.

4.4.2 After the approval of the National Land Allocation Committee, the Buyer should request TISEZA to amend the Buyer's certificate of incentives in order to expressly include the title of the Property.

#### 4.5 Grant of Title of the Property to TISEZA

4.5.1 The title issued to the TIC will be a granted right of occupancy (GRO) in the name of TISEZA evidenced by a certificate of occupancy. To obtain this, the Buyer should have submitted to the Commissioner the proof of payment of relevant fees as described in paragraph 4.1 above. The

Ministry (stated to be the Commissioner) then prepares and issues to the TIC an 'Acknowledgement of Payments Form' for TISEZA's Executive Director to sign.

- 4.5.2 After signature, the TIC returns the original 'Acknowledgement of Payments Form' back to the Commissioner and the TIC prepares and sends a cover letter from TISEZA instructing the authorised Land Officer for the District in which the land is situated to prepare a title deed (a certificate of occupancy) in the name of TISEZA for the GRO, enclosing a copy of the 'Acknowledgement of Payments Form'.
- 4.5.3 The Land Officer (at the Land Registry) then prepares the certificate of occupancy (title deed) in the name of TISEZA and submits it to TISEZA for signature (there may also be intervening drafts until the TIC approve the final draft). Upon completion of the title deed (certificate of occupancy), it is submitted to the TIC for execution by the Executive Director of TISEZA.
- 4.5.4 After TISEZA signs, the title deed (certificate of occupancy) is submitted to the Ministry for execution by the Commissioner.
- 4.5.5 Once the Commissioner has signed the title deed (certificate of occupancy), his department submits it to the Registrar of Titles for registration at the Land Registry.
- 4.5.6 Upon registration of the certificate of occupancy at the Land Registry, the title deed (certificate of occupancy) will be issued to the TIC – i.e. the original certificate of occupancy will be given to TISEZA by the Land Registry.

The above-mentioned steps in this paragraph 4.5 will be coordinated by TISEZA.

## **5. Step to obtain Derivative Grant**

- 5.1 Once TISEZA holds the title deed (certificate of occupancy), TISEZA prepares:
  - 5.1.1 the derivative right (a leasehold title) document; and
  - 5.1.2 an application for leasehold title to the Land Registry.
- 5.2 Both TISEZA and the Seller execute these documents.
- 5.3 TISEZA then submits the derivative right document and application for leasehold title to the Registrar of Titles for registration at the Land Registry.
- 5.4 The Registrar of Titles then registers the derivative right. For the Seller's and the Buyer's purposes, this step would be issue of the derivative title to the Buyer.
- 5.5 Once ready, TISEZA collects the duly registered derivative right and leasehold title from the Registrar of Titles, and one copy is handed over to the Buyer.

The above-mentioned steps in this paragraph 5 will be coordinated by TISEZA.