

*Final - For signature*

**Agreement**

between

**African Rainbow Life Limited**

**(“ARL”)**

and

**Safrican Insurance Company Limited**

**(“SAFRICAN”)**

regarding

the transfer of the Insurance Business

carried on by ARL to SAFRICAN

## Introductory provisions

### 1. Parties

#### 1.1. ARL

Company name and registration number: <b>African Rainbow Life Limited – 2018/329171/06</b>	
Prudential Authority Insurer Number:	
FSCA Insurer Registered Number:	
Street address: <b>1 Sturdee Avenue Rosebank 2198</b>	Postal address: <b>PO Box 686 Johannesburg 2000</b>
Vat number:	
E-mail address:	<b>NeoL@africanrainbowlife.co.za</b>

## 1.2. SAFRICAN

Company name and registration number: <b>Safrican Insurance Company Limited – 1935/007463/06</b>	
Prudential Authority Insurer Number: I062	
FSCA Insurer Registered Number: 10/10/1/062	
Street address: <b>SAFRICAN House 21 9<sup>th</sup> Street Houghton Estate 2198</b>	Postal address: <b>PO Box 686 Johannesburg 2000</b>
Vat number:	<b>Not applicable</b>
E-mail address:	<b>devch@SAFRICAN.co.za</b>

## 2. Definitions

The following terms have the meanings assigned to them, and derivative expressions have similar meanings:

- 2.1. **Acts** : the Insurance Act and the Long-term Insurance Act, No 52 of 1998;
- 2.2. **AFSA** : Arbitration Foundation of Southern Africa;
- 2.3. **Assets** : all and any of ARL's assets and property of every kind related to the Insurance Business, including all of ARL's claims and receivables and all rights, benefits, advantages and powers of ARL under or by virtue of the Contracts and which are owned by ARL as at the Effective Date, but excluding all assets held in the CF of ARL and excluding the name "ARL" and all rights attaching thereto;

- 2.4. **Business Day** : any day other than a Saturday, Sunday or statutory public holiday in the Republic of South Africa;
- 2.5. **ARL** : African Rainbow Life Insurance Limited (Company Registration No. 2018/329171/06), a company duly established in accordance with the company laws of South Africa;
- 2.6. **Contracts** : all contracts concluded or acquired by ARL in the ordinary course of the Insurance Business (including all Policies, policy loans and related security arrangements, if any, and Reinsurance Contracts) which are in force or in respect of which any right or obligation of ARL exists as at the Effective Date;
- 2.7. **Contract Records** : all records, data and other information relating to the Contracts in ARL's possession;
- 2.8. **CF** : the corporate fund as contemplated in section 29A4(d) of the Income Tax Act;
- 2.9. **CPF** : the company policyholder fund as contemplated in section 29A4(c) of the Income Tax Act;
- 2.10. **Effective Date** : 30 June 2021;
- 2.11. **FSCA** : has the meaning ascribed thereto in the Financial Sector Regulation Act, No. 9 of 2017;
- 2.12. **Implementation Date** : notwithstanding the Signature Date, the first Business Day of the calendar month following the date on which the last of the Suspensive Conditions is fulfilled or waived (or such other date following the date on which the last of the Suspensive Conditions is fulfilled or waived as the parties may agree in writing);
- 2.13. **Income Tax Act** : the Income Tax Act, No. 58 of 1962, as amended;
- 2.14. **Insurance Act** : the Insurance Act, No. 18 of 2017, as amended;

- 2.15. **Insurance Business** : the insurance business carried on by ARL as at the Effective Date, comprising the Assets and the Liabilities, the Contracts, the Policies, and all related goodwill (if any), business information, policyholder information and data;
- 2.16. **IPF** : the individual policyholder fund as contemplated in section 29A(4)(b) of the Income Tax Act;
- 2.17. **Law** : legislation, including the Acts; and applicable regulations, notices, prudential standards, directives, authorisations, codes of conduct, permits, licences issued, or conditions that have binding force, issued under any legislation and/or as amended from time to time; and the common law;
- 2.18. **Liabilities** : all and any of the liabilities related to the Insurance Business, as at the Effective Date, owing by ARL to its creditors, including liabilities under the Contracts and any liabilities (whether contractual, extra-contractual, statutory or otherwise howsoever arising) associated with the administration of the Policies (whether such administration was carried out directly by ARL or by its employees, agents or officers or by brokers or other intermediaries) and all other liabilities (whether contingent or actual) of whatsoever nature as at the Effective Date, but excluding ARL's liabilities for taxation of whatsoever nature (which taxation liabilities are retained by ARL and remain its sole responsibility) and excluding all liabilities allocated to the CF of ARL, if any;
- 2.19. **Policies** : all insurance policies concluded by, or transferred to, ARL which are in force or in respect of which any right or obligation of ARL exists as at the Effective Date;
- 2.20. **Prudential Authority** : has the meaning ascribed thereto in the Financial Sector Regulation Act, No. 9 of 2017;

- 2.21. **Reinsurance Contracts** : all reinsurance treaties concluded by, or transferred to, ARL which are in force or in respect of which any right or obligation of ARL exists as at the Effective Date;
- 2.22. **RPF** : the risk policy fund as contemplated in section 29A(4)(e) of the Income Tax Act;
- 2.23. **Sanlam Life** : Sanlam Life Insurance Limited (Company Registration No. 1998/021121/06), a company duly established in accordance with the company laws of South Africa;
- 2.24. **SAFRICAN** : Safrican Insurance Company Limited (Company Registration No. 1935/007463/06), a company duly established in accordance with the company laws of South Africa;
- 2.25. **Signature Date** : the date on which this agreement is signed by the party thereto who signs last;
- 2.26. **Suspensive Conditions** : the suspensive conditions listed in clause 5.1;
- 2.27. **Transfer** : the sale and transfer of the Insurance Business by ARL to SAFRICAN under this agreement; and
- 2.28. **UPF** : the untaxed policyholder fund as contemplated in section 29A(4)(a) of the Income Tax Act.

### 3. Interpretation

- 3.1. Words importing –
  - 3.1.1. one gender include the other gender and the neuter, and the other way round;
  - 3.1.2. the singular include the plural, and the other way round;
  - 3.1.3. natural persons include created entities (corporate or non-corporate), and the other way round.
- 3.2. A reference to a Law is to that Law as it applies on the Signature Date of this agreement, and as amended or replaced from time to time after that. Any reference to a particular section in a Law is to that section as at the Signature Date, and as amended or re-enacted from time to time and/or an equivalent measure in a Law, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this agreement are changed, the relevant provision of this agreement shall be read also as if it had been amended as necessary, without the necessity for an actual amendment.
- 3.3. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.
- 3.4. When any number of days is prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or statutory public holiday in the Republic of South Africa, in which case the last day shall be the next succeeding day which is a Business Day.
- 3.5. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply.
- 3.6. The words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s.
- 3.7. Any reference in this agreement to any other agreement or document shall be construed as a reference to such other agreement or document as same may

have been, or may from time to time be, amended, varied, novated or supplemented.

- 3.8. The words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.
- 3.9. This agreement is governed by and must be interpreted and enforced according to South African law.

#### 4. **Recordal**

- 4.1. As at the Signature Date:
  - 4.1.1. ARL carries on the Insurance Business in the Republic of South Africa as permitted under the Acts.
  - 4.1.2. ARL and SAFRICAN are wholly-owned subsidiaries of Sanlam Life and, as such, form part of the same "group of companies" as that term is defined in section 41 of the Income Tax Act and as envisaged for purposes of paragraph (a) of the definition of "intra-group transaction" in section 45(1) of the Income Tax Act. As such, insofar as the Transfer comprise of a transfer of Assets, such transfer will constitute an "intra-group transaction" as envisaged in this definition in section 45(1)(a) of the Income Tax Act, notwithstanding that such Assets may, following such transfer, be held in the UPF of SAFRICAN and that the relief provided for in section 45 of the Income Tax Act may not apply in respect of such Assets so held in the UPF of SAFRICAN.
  - 4.1.3. SAFRICAN administers the Insurance Business.
- 4.2. ARL wishes to sell and transfer the Insurance Business and SAFRICAN wishes to accept such Transfer, following which the agreement between SAFRICAN and ARL according to which SAFRICAN administers the Insurance Business will terminate.
- 4.3. The rationale for the Transfer is a rationalisation of the life insurance subsidiaries of Sanlam Life to avoid unnecessary duplication of costs, to reduce complexity, to comply with regulatory requirements and to align to the amended regulatory environment for insurance companies.



- 4.4. The parties wish to conclude this agreement in order to provide for the Transfer and certain incidental matters.

### **Transfer**

#### **5. Suspensive Conditions**

- 5.1. This agreement, save for the provisions of clauses 1, 2, this clause 5 and clauses 16 to 29 (inclusive) which shall be of immediate force and effect, is subject to the fulfilment or waiver of the following Suspensive Conditions, namely:
- 5.1.1. the Transfer is approved by the Prudential Authority, as contemplated in terms of section 50 of the Insurance Act (provided that if such approval is made subject to conditions, each party confirms in writing to the other that all of such conditions are acceptable to it, and provided further that the Transfer shall only be regarded as having been approved if all such conditions that are required to be fulfilled prior to the implementation of the Transfer have indeed been fulfilled);
  - 5.1.2. each of the board of directors of SAFRICAN and ARL approves the terms and implementation of this agreement; and
  - 5.1.3. the shareholder of each of SAFRICAN and ARL, Sanlam Life, approves the terms and implementation of this agreement.
- 5.2. Each party undertakes to use its reasonable endeavours to procure the fulfilment of the Suspensive Conditions as soon as practicable following the Signature Date and to co-operate with the other party in good faith in order to procure such fulfilment.
- 5.3. The Suspensive Conditions may, subject to relevant provisions of Law, be waived on or before the date contemplated in clause 5.4 by way of agreement between the parties, provided that the Suspensive Conditions in clauses 5.1.2 and 5.1.3 may only be waived prior to the fulfilment of the Suspensive Condition in clause 5.1.1.
- 5.4. Unless the Suspensive Conditions are fulfilled or waived in writing on or before 1 July 2020 (or such later date/s as may, before then, be agreed upon by the parties), the provisions of clauses 1, 2, this clause 5 and clauses 16 to 29

(inclusive) shall continue to be of force and effect but the remainder of this agreement shall never become effective.

## 6. Terms Governing the Sale and Transfer

- 6.1. Notwithstanding the Signature Date, ARL hereby sells, transfers, cedes and delegates the Insurance Business on a no recourse basis to SAFRICAN with effect from the Effective Date (from which date the property and ownership of and the risk in and benefit of the Insurance Business shall vest in SAFRICAN pursuant to the transfer and/or cession thereof to SAFRICAN and SAFRICAN shall be liable for the Liabilities pursuant to the transfer and delegation thereof) and SAFRICAN hereby accepts such transfer, cession and delegation with effect from the Effective Date.
- 6.2. SAFRICAN shall continue to administer the Insurance Business during each stage of the Transfer.
- 6.3. The Transfer shall be implemented in accordance with clause 15.1.2 and clause 15.2.
- 6.4. The purchase price of the Assets forming part of the Insurance Business shall be an amount equal to the value of the Assets (as determined in accordance with clause 7).
- 6.5. The purchase price shall be discharged:
  - 6.5.1. by SAFRICAN receiving delegation of (and otherwise assuming liability to discharge) all of the Liabilities; and
  - 6.5.2. SAFRICAN shall be indebted on loan account to ARL as to the balance of the purchase price, being an amount equal to the difference between the value of the Assets and the value of the Liabilities (as respectively determined in accordance with clause 7).
- 6.6. In amplification of clause 6.1, but without derogating from the provisions of section 50(6) of the Insurance Act:
  - 6.6.1. subject only to the fulfilment (or, where appropriate, waiver) of the Suspensive Conditions, between the Effective Date and the Implementation Date ARL shall manage the Insurance Business as agent for an on behalf of SAFRICAN. Forthwith after the Implementation Date, ARL shall account to SAFRICAN for its activities as agent of SAFRICAN during such period, including all

transactions carried out by it during such period, all assets and revenue received by it during such period and all Liabilities discharged by it during such period, as agent of SAFRICAN.

- 6.6.2. the parties shall, if required, use their reasonable commercial endeavours to obtain as soon as practicable following the Signature Date from each of the counterparties to the Contracts (other than the Policies) the consent of such counterparty to the cession by ARL of all of its rights and the delegation of all of its obligations under the Contracts to SAFRICAN on the Effective Date.
- 6.6.3. in respect of the Assets and with effect from the Effective Date -
  - 6.6.3.1. each party agrees to do such further acts and enter into such further deeds or documents as may be necessary effectively to vest title in the Assets in SAFRICAN in accordance with the terms of this agreement;
  - 6.6.3.2. in the event that ARL possesses Assets and the Assets are such that title does not pass by delivery or otherwise at the Effective Date, such Assets shall, following the Effective Date, be held by ARL on trust absolutely for SAFRICAN pending the formal transfer of title thereto;
  - 6.6.3.3. in the event that the transfer is not recognised by the laws of any jurisdiction governing any asset, ARL shall hold such asset as trustee for SAFRICAN; and
  - 6.6.3.4. the parties hereby agree to take all reasonable steps, and execute such documents as may be necessary to effect the transfer and the vesting of the Assets in SAFRICAN.
- 6.6.4. in respect of the Liabilities and with effect from the Effective Date –
  - 6.6.4.1. to the extent that there are Liabilities in existence at the Effective Date, all the Liabilities shall be delegated and transferred to and become liabilities of SAFRICAN and shall cease to be liabilities of ARL;
  - 6.6.4.2. SAFRICAN shall carry out, perform and complete all of the Liabilities. To the extent necessary, SAFRICAN shall be obliged to discharge the Liabilities on behalf of ARL on

the respective due dates therefore and indemnifies ARL against any claims of whatsoever nature that may be made against ARL in respect of the Liabilities or SAFRICAN's failure to comply with its obligations in terms hereof;

6.6.4.3. if any of the Liabilities shall not be fully discharged by SAFRICAN, ARL shall be entitled to discharge any of the Liabilities, whereupon SAFRICAN shall immediately upon demand indemnify ARL by payment of a sum equal to the amount paid by ARL in effecting such discharge.

6.6.5. in respect of the Contracts and with effect from the Effective Date –

6.6.5.1. ARL cedes all of its rights and delegates all of its obligations, whenever arising, in respect of the Contracts with the effect that SAFRICAN shall from and after the Effective Date be entitled to the benefit of all of the Contracts and shall carry out, perform and complete all of the Liabilities arising in terms of the Contracts;

6.6.5.2. to the extent necessary –

6.6.5.2.1. SAFRICAN shall be entitled as between it and ARL to the benefit of and shall bear the risk of all such Contracts from the Effective Date and ARL shall bear the risk and be entitled to the benefit of such contracts prior to the Effective Date;

6.6.5.2.2. ARL shall be obliged to discharge any obligations under the Contracts in respect of the period prior to the Effective Date;

6.6.5.2.3. SAFRICAN shall be obliged to discharge all obligations under the Contracts from and after the Effective Date;

6.6.5.2.4. the parties respectively indemnify each other against any loss of any nature which may arise as a result of the other of them

failing to comply with its obligations in this clause 6.6.5.2.

- 6.7. ARL and SAFRICAN each undertake to do all such acts and sign all such documents as they are able to in order to implement the transaction contemplated in the agreement and to effect the transfer of the Contracts from ARL to SAFRICAN fully and expeditiously.
- 6.8. SAFRICAN hereby indemnifies ARL against all claims made in any jurisdiction against ARL on or after the Effective Date in respect of the Insurance Business and in respect of any costs incurred by ARL on or after the Effective Date in respect of the Insurance Business of whatsoever nature.
- 6.9. ARL shall hand over to SAFRICAN, on or as soon as practicable following the Implementation Date, the Contract Records and all of ARL's documents, books, records, documents of title and all information relating to the Insurance Business which are in the possession of ARL. SAFRICAN shall give the auditors of ARL such access to those documents, books, records and information relating to the Insurance Business as is necessary for the auditors of ARL to conduct the subsequent audit of ARL.
- 6.10. On, or as soon as possible after, the Implementation Date each of ARL and SAFRICAN shall deliver to each other a duly completed securities transfer tax affidavit as contemplated in section 8(1) of the Securities Transfer Tax Act, No. 25 of 2007.
- 6.11. In the event that there is any uncertainty as to:
  - 6.11.1. whether a particular asset, contract or liability forms part of the Transfer; or
  - 6.11.2. whether or not any asset or liability is held in the CF, CPF, IPF, RPF or UPF of ARL,

then a certificate dealing with the matter issued by the chief financial officer of ARL shall constitute *prima facie* proof of such matter.

## 7. Valuation basis of Assets and Liabilities

- 7.1. The parties agree to use the basis as described in the ARL annual financial statements immediately preceding the Effective Date for valuing the Assets and the Liabilities as at the Effective Date, in accordance with the International Financial Reporting Standards.

7.2. Subject to clause 17, in the event of any dispute between the parties as to the valuation of any Asset or Liability, the parties shall appoint a chartered accountant or other expert to determine the dispute, acting as expert and not as arbitrator. The expert shall be entitled to determine the process to be followed in determining the dispute, provided that the expert shall provide to each party an opportunity to present written or oral submissions. The determination of the expert shall, save in the case of manifest error, be final and binding on the parties. In the event that the parties fail to appoint the expert within 10 Business Days of either party calling for such appointment, then SAFRICAN shall be entitled to appoint the expert. The fees and costs of the expert shall be borne equally between the parties.

8. **Value-added tax**

The parties agree that the Transfer will be exempt from value-added tax under section 12(a) read with sections 2(1)(c), (d) and/or (i) of the Value-Added Tax Act, No. 89 of 1991.

9. **Section 34 Advertisement**

The parties agree that the transaction shall not be advertised as contemplated in section 34 of the Insolvency Act, No. 24 of 1936.

10. **Competition Act, 1998**

The Parties record that they do not regard the transaction as being a merger requiring notification under the Competition Act, No. 89 of 1998, since both parties are wholly-owned subsidiaries of Sanlam Life.

11. **Employees**

The parties record that a separate agreement, as contemplated in section 197(7) of the Labour Relations Act, 1995, will be entered into in relation to any employees of ARL.

12. **Cancellation of insurance licence**

ARL undertakes to take all steps necessary to have its insurance licence cancelled as soon as possible after the Implementation Date.

### 13. **Policies**

The terms and conditions of the Policies shall not be amended by the Transfer contemplated in this agreement, save that the relevant insurer shall from the Effective Date be SAFRICAN and not ARL.

### 14. **Warranties**

ARL warrants to SAFRICAN that –

14.1. in the period between the Signature Date and the Implementation Date –

14.1.1. no capital expenditure or material liabilities or commitments will be incurred by ARL in the conduct of the Insurance Business, other than in the ordinary course of business;

14.1.2. no disposals of the Assets will be brought about by ARL, other than in the ordinary course of business;

14.1.3. ARL will comply in all material respects with all Laws which are material to the carrying on of the Insurance Business;

14.2. as at the Signature Date, to the best of ARL's knowledge, SAFRICAN has been informed of all material legal proceedings current or pending in connection with the Insurance Business, other than those which arose in the ordinary course of conducting the Insurance Business;

14.3. on the Implementation Date –

14.3.1. ARL shall have the authority, power and capacity to implement the Transfer to SAFRICAN; and

14.3.2. the Assets forming part of the Insurance Business shall be free of any pledge or similar encumbrance in favour of a third person.

### 15. **Intra-group transaction**

15.1. ARL and SAFRICAN acknowledge and agree that the provisions of section 45 of the Income Tax Act dealing with corporate roll over relief in the case where any asset is disposed of by one company to another company that is a “resident” (as defined in section 1 of the Income Tax Act) and both companies form part of the same “group of companies” (as defined in section 41 of the Income Tax Act and as envisaged in section 45(1)(a)(i) of the Income Tax Act for purposes of section 45 of the Income Tax Act) as at the end of the day of

that transaction, shall automatically apply to this agreement, excluding Assets and Liabilities that will be allocated to and held in the UPF of SAFRICAN. In particular, it is recorded that:

- 15.1.1. ARL held the Assets as capital assets and that SAFRICAN shall acquire and hold the aforementioned Assets as capital assets;
- 15.1.2. the Transfer will be implemented in such a manner that:
  - 15.1.2.1. Assets and Liabilities previously allocated to the UPF of ARL will be allocated to the UPF of SAFRICAN and such Transfer will not qualify for the relief envisaged in section 45 of the Income Tax Act;
  - 15.1.2.2. Assets and Liabilities previously allocated to the RPF of ARL will be allocated to the RPF of SAFRICAN and such Transfer of Assets will qualify for the relief in section 45 of the Income Tax Act;
  - 15.1.2.3. Assets and Liabilities previously allocated to the CPF of ARL will be allocated to the CPF of SAFRICAN and such Transfer of Assets will qualify for the relief in section 45 of the Income Tax Act; and
  - 15.1.2.4. Assets and Liabilities previously allocated to the IPF of ARL will be allocated to the IPF of SAFRICAN and such Transfer of Assets will qualify for the relief in section 45 of the Income Tax Act.
- 15.2. The parties note that the Assets and Liabilities previously allocated to the CF of ARL will not be transferred to SAFRICAN and as such will remain in the CF of ARL after the Effective Date.
- 15.3. ARL and SAFRICAN shall abide by the terms of section 45 of the Income Tax Act in the implementation of this agreement, to the extent that the Assets are transferred from the CPF and the IPF, and the parties confirm that they have not agreed in writing that the provisions of section 45 of the Income Tax Act shall not apply to the disposal of these Assets as envisaged in section 45(6)(g) of the Income Tax Act.
- 15.4. The parties further agree that in respect of the transfer of the Assets, no securities transfer tax shall be payable by virtue of the exemption granted



under and in terms of section 8(1)(a)(iii) of the Securities Transfer Tax Act, No. 25 of 2007 as the Assets (including those envisaged in clause 15.1.2.1) are transferred in terms of an “intra-group transaction” as defined in section 45(1)(a) of the Income Tax Act.

### **Resolution of disputes**

#### **16. Basis for resolving a dispute**

16.1. Except for those provisions that provide for their own remedies that would be incompatible with this Part, a dispute arising from this agreement must be dealt with as set out in this Part.

16.2. Each party irrevocably consents to the procedures set out in this Part, and may not withdraw from it, or claim at such proceedings that it is not bound by it.

#### **17. By negotiation**

17.1. The parties agree—

17.1.1. that the provisions of this agreement will be performed in the spirit of mutual co-operation, trust, and confidence; and

17.1.2. to use their best efforts and endeavours to resolve any dispute through consultation and without involving any third party.

17.2. Either party may declare a dispute by notice to the other. The notice must identify the subject matter of the dispute, and must propose an outcome.

17.3. The disputing parties must meet within 10 Business Days of receipt of the notice. There, and at any postponements, they must negotiate in good faith with the aim of resolving the dispute by agreement. The negotiations must be conducted by executives of the parties who have authority to settle the dispute.

#### **18. By arbitration**

18.1. Subject to clause 7.2, if a party fails to attend a meeting in clause 17.3, or the dispute cannot be resolved within 10 Business Days from the date of the first meeting, either party may refer the dispute for determination by arbitration.

18.2. The dispute must be finally resolved in accordance with the AFSA rules for commercial arbitrations, as amended from time to time.

- 18.3. Each party agrees that the arbitration will be held in Cape Town by 1 (one) arbitrator appointed by agreement between the parties.
- 18.4. The award of the arbitrator (including any award as to costs) may be made an order of court.
- 18.5. The arbitration must as far as practicable take place in private and be kept confidential.
- 18.6. This clause 18:
- 18.6.1. is severable from the rest of this Agreement and shall, notwithstanding the termination or cancellation of this Agreement, remain in full force and effect; and
  - 18.6.2. constitutes an irrevocable consent by the parties to any proceedings in terms of this clause 18.

19. **Urgent relief**

- 19.1. This Part on the resolution of disputes does not preclude a party from obtaining urgent relief from a competent court during the negotiations under clause 17 or arbitration under clause 18.
- 19.2. In such case the costs that the unsuccessful party may have to pay to the other include legal costs as between attorney and own attorney and value-added tax thereon.

## **Communications**

20. **Validity of communications**

- 20.1. To be valid a notice, authorisation, approval, consent, or the like which is required to be given under this agreement must be given in writing.
- 20.2. No authorisation, approval, or consent, or the like that is required to be given under this agreement may be unreasonably delayed or withheld.

21. **Where the parties may communicate with each other**

- 21.1. Each party's street address specified in clause 1, or in a notice under clause 21.2, is the place where any legal process may be served on that party,

or where a written communication for that party may be delivered. The postal address, fax number, and e-mail address specified are the locations to which any communications may be posted, faxed, or e-mailed.

- 21.2. Each party may change its specified addresses or numbers to an address or number in the Republic of South Africa by notice to the other party.

### **General provisions**

#### **22. Cancellation in the event of breach**

22.1. Should any party (“defaulting party”) commit a breach of this agreement, then the other party (“aggrieved party”) must give the defaulting party no less than 14 Business Days’ notice to remedy the breach (if capable of remedy).

22.2. If the defaulting party fails to comply with such notice or the breach is not capable of remedy, the aggrieved party will be entitled to cancel this agreement, or to claim immediate payment and/or specific performance, in either event without prejudice to the aggrieved party’s rights to claim damages.

#### **23. Good faith**

23.1. The parties shall at all times act in good faith to each other, and shall not bring any of the other parties into disrepute.

23.2. All communications pertaining to this transaction shall be performed subject to shareholder consultation.

23.3. Any and/or all information, documents and agreements pertaining to this transaction are deemed to be confidential and shall not be disclosed to any third party unless compelled to by law to do so.

#### **24. If an obligation is not enforced**

If a party grants a concession or postponement to the other party in respect of an obligation, that other party does not acquire any rights because of it. In particular –

24.1. the indulging party may not be prevented from again enforcing the obligation;

24.2. the concession or postponement does not restrict or alter the obligation;

24.3. the concession or postponement does not create a new obligation for the indulging party;

24.4. the concession or postponement will not be an abandonment of the indulging party's right.

25. **Amendment and consensual termination of this agreement**

An amendment (including any novation or concession or postponement under clause 24) or consensual termination of this agreement is valid only if it is in writing and signed by both parties – which signatures need not be contained in one document.

26. **Provisions are divisible**

Each provision of this agreement is severable from the other provisions. If a provision is or becomes unenforceable, the enforceability of the other provisions will not be affected.

27. **Extent of this agreement**

27.1. This document constitutes the entire agreement between the parties in relation to its subject matter. It cancels and replaces all existing agreements, whether written or oral, in relation to the Transfer.

27.2. Each party confirms that it does not enter into this agreement based upon any warranty, promise, representation, disclosure, expression of opinion, or the like that is not recorded in this document, and no party will be liable to the other based upon any such unrecorded provision.

28. **Transfer of rights and obligations**

Neither party to this agreement may wholly or partially transfer its rights or obligations arising from this agreement to anyone else without the others party's prior written consent.

29. **Costs**

SAFRICAN agrees to bear the costs relating to the negotiation, drafting and implementation of this agreement, save if agreed otherwise in writing between the parties.

Signature for ARL		
Signature	Date	Place
who warrants that s/he is authorised thereto		
Signatory's first name(s) and surname ( <i>in print</i> )		Capacity

Signature for SAFRICAN		
Signature	Date	Place
who warrants that s/he is authorised thereto		
Signatory's first name(s) and surname ( <i>in print</i> )		Capacity