

SALE AND CESSION OF BOOK DEBT

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SALE AND CESSION OF BOOK DEBTS

by and between

THE STANDARD BANK OF SOUTH AFRICA LIMITED

and

MBD LEGAL COLLECTIONS PROPRIETARY LIMITED



Reference

Proof of such payment must be faxed to [insert] or emailed to [insert].

In addition, please be advised that we hereby give notice of the change of the domicile address of Standard Bank in respect of your account, to the address 342 Jan Smuts Avenue, Hyde Park, 2196.

Thank you for your co-operation.

Yours faithfully


[Redacted]
10/04/2022 12:07 GMT+2:1

Head, Personal Lending, Credit

THE STANDARD BANK OF SOUTH AFRICA LIMITED











Sale of Book Debt Agreement MBD Legal Collections Sept 2022 Final

Final Audit Report

2022-10-07

Created:	2022-09-29
By:	[Redacted]
Status:	Signed
Transaction ID:	CBJCHBCAABANHwqjSly1Zs7e9nyxTtHppWwXkTOno

"Sale of Book Debt Agreement MBD Legal Collections Sept 2022 Final" History

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SIGNED AT JOHANNESBURG ON Oct 7, 2022

FORM OF LETTER OF CESSION

ANNEXURE A

for and on behalf of
THE STANDARD BANK OF SOUTH
AFRICA LIMITED

[Address line 1]
[Address line 2]
[Address line 3]
[Address line 4]


Duly Authorised: 
Capacity: Head, Personal Lending,
Credit

Dear [Debtors name]
Standard Bank Account Number- [SBSA account number]

[] [] 20

SIGNED AT JOHANNESBURG ON Oct 6, 2022

for and on behalf of
MBD LEGAL COLLECTIONS
PROPRIETARY LIMITED

Duly Authorised: 
Capacity: Executive, Capital Solutions

This letter serves to notify you that the claim against you for the outstanding balance of [] on your Standard Bank [Product Description] account, together with interest and costs, has been sold and ceded to MBD Legal Collections Proprietary Limited ("MBD") with effect from 29th September 2022 MBD is now entitled to collect your outstanding amounts for its own account. MBD will be in contact with you to arrange for settlement of your account.

If you have not made a payment arrangement with Standard Bank in respect of your account, or if you have any queries regarding your account, please contact _____ urgently to avoid further legal action. Tel: _____

Direct deposit payment on your account can be made to the following Standard Bank account-

Bank: **Standard Bank**

Account name:

Branch code:

Account number:



- 2.1.6 **Business Day** means any day in South Africa which is not a Saturday, Sunday or statutory public holiday.
- 2.1.7 **Completion Date** means the date upon which the last payment of funds which constitute the Purchase Price are cleared by Standard Bank but which date must be no later than 29th September 2022.
- 2.1.8 **Compliance Laws** means all Applicable Laws regarding compliance, tax evasion, money laundering, bribery, corruption, terrorism and Sanctions;
- 2.1.9 **Confidential Information** means all information (written, oral or electronic) disclosed by one Party (**disclosing Party**) to the other Party whether before or after the Effective Date and concerning the business affairs of the disclosing Party, any information relating to the disclosing Party's operations, processes, plans, intentions, product information, know-how, designs, trade secrets, software, market opportunities, customers, reports, records, the Data and shall include this Agreement;
- 2.1.10 **Data** means the individual Debtor accounts of the Debtors Book, namely book A and B, which Standard Bank is selling to the Purchaser, and the fields of data that describe these accounts, which are populated from Standard Bank's systems, excludes accounts with credit balances and accounts with zero balances and it includes Personal Information as at the Effective Date.
- 2.1.11 **Debt** means the indebtedness of a Debtor to Standard Bank;
- 2.1.12 **Debtor** means all natural persons and other entities that are indebted as principal or co-principal debtors to Standard Bank where such debt arose from monies lent and advanced by Standard Bank to the Debtor;
- 2.1.13 **Debtors Book** means the Debits that Standard Bank is selling to the Purchaser, as limited to, and described by the Data as book A and B;
- 2.1.14 **Documentation** means, to the extent that it is in the possession, direct control or operationally retrievable by Standard Bank, in relation to any Debtor's liability, the loan or card application form, statements of account,

- certificates of balance, applicable terms and conditions and/or other documentation concluded between Standard Bank and the relevant Debtor in respect of the credit extended by Standard Bank to such Debtor and where applicable, recording, *inter alia*, the indebtedness of such Debtor to Standard Bank or the Key Information;
- 2.1.15 **EDC** means an external debt collector that was appointed by Standard Bank to collect a Debt;
- 2.1.16 **Effective Date** means 7 July 2022, notwithstanding the date of signature hereof;
- 2.1.17 **Experian** means Experian South Africa Proprietary Limited;
- 2.1.18 **Group** means Standard Bank and any of its Affiliates, as constituted on the Signature Date and as amended or reconstituted from time to time, including Liberty Holdings Limited and its Affiliates;
- 2.1.19 **Intellectual Property** means works of copyright, trade marks (statutory and common law), patentable inventions, patents, protectable design subject matter, designs and domain names, including applications, registrations and unregistered forms of the foregoing and all other intellectual property rights (registered or unregistered) and the right to apply for the foregoing in any country;
- 2.1.20 **Key Information** means in respect of each Debtor, to the extent that this is in the possession, under the direct control of or operationally retrievable by Standard Bank, means any of the information listed below as provided individually or collectively (where possible):
- 2.1.20.1 the name, identity number (where available) and physical or postal address of such Debtor;
- 2.1.20.2 the claims;
- 2.1.20.3 the capital, interest and fees of such Debtor's liability outstanding as at the Effective Date;
- 2.1.20.4 the interest rate applicable to such Debtor's liability;

- 2.1.20.5 the date the last payment was received from the Debtor by Standard Bank in respect of the Debtor's liability;
- 2.1.20.6 the value of the last payment received from the Debtor by Standard Bank in respect of the Debtor's liability;
- 2.1.20.7 the date on which the Debtor's credit agreement was approved/opened;
- 2.1.20.8 the latest statement of account, including but not limited to, the latest statements and payment history of the relevant Debtor in respect of such Debtor's liability from inception of the Debt up to and including the Completion Date;
- 2.1.20.9 the administration charges (both initial and instalment-based charges) raised by Standard Bank in respect of such Debtor's liability;
- 2.1.20.10 all information relating to any credit-life insurance premiums payable by the Debtor under an insurance policy effected by or on behalf of such Debtor;
- 2.1.20.11 all information relating to any Debtor's debt review proceedings, all related documentation thereto, including but not limited to, debt review proposals and details of the debt counsellors;
- 2.1.21 **Losses** means any claim, penalty, demand, cause of action, right asserted, loss, damage and expense (including without limitation, reasonable legal fees);
- 2.1.22 **Parties** means Standard Bank and the Purchaser and each individual shall be referred to as the **Party**;
- 2.1.23 **Personal Information** includes information about an identifiable, natural person and where applicable, a juristic person, including to information about: race; gender; sex; pregnancy; marital status; nationality; ethnic or social origin; colour; sexual orientation; age; physical or mental health; well-being; disability; religion; conscience; belief; culture; language; birth; education; medical, financial, criminal or employment history; any identifying number, symbol, e-mail, postal or physical address, telephone number; location; any online identifier; any other particular assignment of the person; biometric information; personal opinions, views or preferences of the person

- or the views or opinions of another individual about the person; correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; and the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 2.1.24 **Process** means any operation or activity, automated or not, concerning Data, including: alteration, blocking, collation, collection, consultation, degradation, destruction, dissemination by means of transmission, distribution or making available in any other form, erasure, linking, merging, organisation, receipt, recording, retrieval, storage, updating, modification, or the use of information; Processing and Processed will have a similar meaning;
- Prohibited Activities** means:
- any terrorist activity or activity that is subject to Sanctions;
- any other illegal activity such as money laundering, bribery, tax evasion, corruption or fraud, including a payment that improperly advantages any person;
- any activity which does not comply with Compliance Laws;
- 2.1.25.1
- 2.1.25.2
- 2.1.25.3
- 2.1.25.4
- 2.1.26 **Purchaser** means MBD Legal Collections Proprietary Limited (Registration Number 2006/010805/07), a company duly incorporated with limited liability according to the company laws of the Republic of South Africa, and herein represented by [REDACTED] he being duly authorised thereto;
- 2.1.27 **Purchaser Group** means those companies which are Affiliates of MBD Legal Collections Proprietary Limited (Registration Number 2006/010805/07);
- 2.1.28 **Purchase Price** means the amount determined in accordance with clause 4 below, and is exclusive of VAT;

2.1.29	Regulatory Authority means any authority having jurisdiction over a Party or the activities covered by this Agreement, including:
2.1.29.1	any national, municipal, provincial, other local or administrative government, authority or department;
2.1.29.2	any agency, tribunal, commission, regulator, self-regulatory body or other similar body (including the South African Reserve Bank);
2.1.30	Sanctioning Body means the United Nations Security Council (UNSC), the Office of Foreign Assets Control of the Department of Treasury of the United States of America (OFAC), the European Union (EU), Her Majesty's Treasury (HMT), the Ministry of Economy, Finance and Industry (France) (MINEFI) and/or any other sanctioning body recognised by Standard Bank from time to time;
2.1.31	Sanctioned Entity means:
2.1.31.1	any natural or juristic person or country;
2.1.31.2	in the case of a juristic person, any person who (i) owns or controls it; or (ii) it owns or controls (and for these purposes, owns means holding any percentage of ownership or beneficial interest and controls means the ability, directly or indirectly and whether through the voting of shares, the appointment of directors or similar officers or through any other means, to control the business or policy of the relevant juristic person);
2.1.31.3	In the case of any country, its ministries, departments, agencies and/or any other governmental organisations,
	listed on any Sanctions List and/or who is subject to any Sanctions;
2.1.32	Sanctions means any measures imposed by a Sanctioning Body, including but not limited to diplomatic, travel, trade and/or financial sanctions or embargoes;

2.1.33	Sanctions List means any list of Sanctioned Entities published by a Sanctioning Body, as updated from time to time.
2.1.34	Standard Bank means The Standard Bank of South Africa Limited, (Registration Number 1962/000738/06), a public company duly incorporated with limited liability according to the company laws of the Republic of South Africa, and herein represented by [REDACTED] in her capacity as Head, Personal Lending, Credit, she being duly authorised;
2.1.35	VAT means Value Added Tax levied in terms of the VAT Act;
2.1.36	VAT Act means the Value Added Tax Act, 1991; and
2.1.37	Written Off means an account that is 180 (one hundred and eighty) days or more past due, which has been written off the Standard Bank balance sheet.
2.2	Any reference in this Agreement to legislation or subordinate legislation is to such legislation or subordinate legislation at the date of signature hereof and as amended and/or re-enacted from time to time.
2.3	Words importing the singular shall include the plural, and <i>vice versa</i> , words importing the masculine gender shall include the feminine and neuter genders, and <i>vice versa</i> , and words importing natural persons shall include legal persons, and <i>vice versa</i> .
2.4	The head notes to the clauses to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
2.5	If any provision in the definition clause is a substantive provision conferring rights or imposing obligations on a Party, then notwithstanding that such provision is contained in this clause, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
2.6	When any number of days is prescribed in this Agreement, these will be reckoned exclusively of the first and inclusively of the last day.

- 2.7 No provision herein shall be construed against or interpreted to the disadvantage of any Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 2.8 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
3. **SALE AND CESSION**
- 3.1 Standard Bank hereby sells the Debtors Book and cedes its rights and claims in terms of the Debtors Book to the Purchaser with effect from the Effective Date.
- 3.2 The cession of the Debtors Book includes:
- 3.2.1 all rights, title and interest in and pertaining to the claims held by Standard Bank against the Debtors, including the right to collect interest, whether contractual or mora, and the right to claim legal expenses and disbursements incurred by the Purchaser as a successor, which form part of the Debtors Book;
- 3.2.2 all rights of recourse against the Debtors for the recovery of amounts owing in respect of the Debtors Book;
- 3.2.3 all Debtors Book security;
- 3.2.4 all insurance claims which Standard Bank has, as at the Effective Date, against all insurers in respect of the Debts;
- 3.2.5 all judgments obtained and claims instituted in any court or other legal forum, in respect of the Debts, whether such debts, claims, securities or judgments are existing or future rights, and includes: -
- 3.2.5.1 any individual reference to any of the Debts, securities, or judgments as the context may require;

- 3.2.5.2 any right to institute any new litigation or prosecute any existing litigation (collectively referred to as the **litigation**), as well as any right in and to the litigation, the outcome of the litigation, the proceeds of the litigation and any other rights which attach to the litigation (whether it has reached *litis contestatio* or not); and
- 3.2.5.3 all rights, title and interest to the Documentation supplied in terms hereof, if any.
- 3.3 The rights, title and interest in and to the Debtors Book and the Documentation (if any) shall vest solely in the Purchaser with effect from the Effective Date and Standard Bank shall have no claims or rights against the Debtors in respect of the Debtors Book.
- 3.4 Subject to clause 6.7 below, the onus and cost will be on / for the Purchaser to notify any and/ or all the Debtors of the sale and cession contemplated in this Agreement and the consequences, thereof.
- 3.5 It is hereby acknowledged and agreed by the Purchaser for the avoidance of doubt that Standard Bank shall retain for its own benefit any sums received prior to the Effective Date in respect of any Debt. Conversely, the Purchaser shall retain for its own benefit any sums received after the Effective Date under or in respect of any Debt, subject to the provisions of clause 5.2.
4. **PURCHASE PRICE**
- 4.1 The Purchaser shall pay Standard Bank an amount of [REDACTED] (exclusive of VAT) of the total aggregate outstanding balances of Book A of the Debtors Book as at the Effective Date, as consideration for the sale of Book A of the Debtors Book and cession of the rights and claims in Book A of the Debtors Book by Standard Bank to the Purchaser.
- 4.2 The total aggregate outstanding balances of Book A of the Debtors Book, as at the Effective Date is an amount of [REDACTED] accordingly and the

Purchase Price for Book A of the Debtors Book is [REDACTED]

4.3 The Purchaser shall pay Standard Bank an amount of [REDACTED]

[REDACTED] (exclusive of VAT) of the total aggregate outstanding balances of Book B of the Debtors Book as at the Effective Date, as consideration for the sale of Book B of the Debtors Book and cession of the rights and claims in Book B of the Debtors Book by Standard Bank to the Purchaser.

4.4 The total aggregate outstanding balances of Book B of the Debtors Book, as at the Effective Date is an amount of [REDACTED]

[REDACTED] accordingly and the Purchase Price for Book B of the Debtors Book is [REDACTED]

4.5 The grand total aggregate Purchase Price for Book A and B of the Debtors Book is therefore an amount of [REDACTED]

[REDACTED] (exclusive of VAT) and which shall be effected by direct cash transfer from the Purchaser to Standard Bank into the following Standard Bank account:

Bank: Standard Bank of South Africa

Receipt Account: [REDACTED]

Branch Code: 000205

Account Type: Transmission Account

Account Number: [REDACTED]

5. STANDARD BANK'S UNDERTAKINGS

5.1 Standard Bank shall deliver to the Purchaser, 2 Business Days after the date of signature of this Agreement, the Documentation applicable in respect of the Debtors Book.

5.2

Standard Bank undertakes to pay to the Purchaser [REDACTED] of any amount it receives in respect of the Debtors Book on a monthly basis if such payment was received from a Debtor after the Effective Date, provided that such payment was received within [REDACTED] after the Completion Date. Thereafter, Standard Bank shall be entitled to retain [REDACTED] inclusive of VAT of payments received to defray expenses. Payment to the Purchaser will be made monthly on or before the 25th day of the month following the receipt of such payments.

5.3

Standard Bank shall endeavour to ensure that the Debtors Book shall not include claims which have prescribed as at the Effective Date in terms of the provisions of the Prescription Act 68 of 1969 read with Section 128B of the National Credit Act 34 of 2005. Where the Purchaser has reason to believe that a claim which forms part of the Debtors Book has prescribed as at the Effective Date, it shall advise Standard Bank who will have an opportunity to produce evidence to prove that such claim had not prescribed as at the Effective Date. Should Standard Bank not be able to do so, it shall re-purchase such claim in accordance with the formula set out in clause 9 below and the sale of such Debt will be deemed null and void.

5.4

If, following the Effective Date, it becomes apparent to the Purchaser that any of the Debts purchased in terms of this Agreement have previously been purchased by the Purchaser in terms of a separate debt sale agreement with Standard Bank or any other third party, the Purchaser shall inform Standard Bank in writing and Standard Bank shall re-purchase such claim in accordance with the formula set out in clause 9 below and the sale of such Debt in terms of this Agreement will be deemed null and void.

6. SUPPORT

6.1

Where a Debtor has claimed, unprompted, that interest and / or fees are being charged *in duplum* as a defence against payment of his / her account, and where the Purchaser can provide proof of such claim to Standard Bank, Standard Bank will for a period of 18 (eighteen) months from the Completion Date, and at Standard Bank's election, either:

- 6.1.1 provide support free of charge to the Purchaser to confirm the capital, fee and interest split at the date of default; or
- 6.1.2 re-purchase the Debt in question from the Purchaser at the same rates quoted in clause 4.
- 6.2 In addition to the support contemplated in clause 6.1 above, Standard Bank shall provide support to the Purchaser as it relates to the provision of Documentation, if available ("Documentary Support"). To the extent that such Documentation is not available, a sworn and signed affidavit evidencing the terms and conditions of the credit origination documentation will be deemed sufficient for Standard Bank to discharge its obligations under this clause 6.2. It is recorded that Documentary Support shall only be provided for a period of 18 (eighteen) months after the Completion Date, provided the relevant Documentation is available and can be sent to the Purchaser by email.
- 6.3 The Documentary Support provided by Standard Bank as contemplated in clause 6.2, will be subject to the following conditions:
- 6.3.1 the relevant email support addresses for support required by the Purchaser as indicated in clause 6.2 above will be provided by Standard Bank within 5 (five) Business Days after the Completion Date;
- 6.3.2 Documentary Support will be charged for by Standard Bank at a rate of [REDACTED] inclusive of VAT per month for [REDACTED] following the Completion Date, and at a rate of [REDACTED] inclusive of VAT per month for months [REDACTED] following the Completion Date, and at a [REDACTED] inclusive of VAT per month to the extent that the Parties agree to an extension in terms of clause 6.5.
- 6.4 Documentary Support shall be limited to:
- 6.4.1 data requests only and Standard Bank shall not provide any support in relation to physical documentation, except for such physical Documentation expressly provided for in clause 6.2 above;

- 6.4.2 the provision of details of judgments obtained by Standard Bank, on a case by case basis, and only where the details of such judgments can be located by Standard Bank.
- 6.5 If agreed between the Parties, the support as indicated in 6.1 and 6.2 may be extended by the Parties beyond the initial period of 18 months at the rates as agreed in clause 6.3.2.
- 6.6 Support will only be provided via email through Standard Bank's rehabilitation centres from Monday to Friday between the hours 08h00 to 16h00. The relevant contact details will be provided by Standard Bank after the Effective Date.
- 6.7 The Purchaser shall provide Standard Bank with its customer reference numbers in respect of the Debtors, whereafter Standard Bank shall, as soon as reasonably possible, provide the Purchaser with the certificates of balance and a letter similar in format to Annexure A hereto stating that the Debtors Book has been sold.
- 7. WARRANTIES GIVEN BY STANDARD BANK**
- 7.1 Standard Bank warrants to the Purchaser that, as at the Effective Date:
- 7.1.1 it is duly incorporated as a company under the laws of South Africa with full power and authority to own its assets and conduct its business as it is being conducted;
- 7.1.2 each of the claims, that comprise the Debtors Book, exist and are valid and enforceable;
- 7.1.3 it has obtained all regulatory approvals necessary in law to give free and unencumbered title in the Debtors Book to the Purchaser;
- 7.1.4 no person has or shall acquire any right (including any option or right of first refusal) to purchase the Debtors Book from Standard Bank other than in terms of this Agreement;
- 7.1.5 it is the owner of the Debtors Book and the related claims against the Debtors and is entitled and able to give free and unencumbered title of the

	Debtors Book and related claims against the Debtors to the Purchaser as contemplated in this Agreement;	
7.1.6	no person has or shall acquire any right (including any option or right of first refusal) to acquire any part of the Debtors Book and the related claims against the Debtors other than in terms of this Agreement;	
7.1.7	the Debtors Book and the related claims against the Debtors are not subject to any cession, pledge, mortgage, lien, notarial bond, or other right in favour of any third person;	
7.1.8	there are no claims, liabilities or fees outstanding in respect of any actions instituted against any Debtors as at the Effective Date by either Standard Bank or by EDC's, acting on Standard Bank's behalf prior to the Effective Date;	
7.1.9	it has disclosed all facts and circumstances known to Standard Bank and which are material to the Purchaser in respect of the Debtors Book;	
7.1.10	the Data provided by Standard Bank to the Purchaser to allow the Purchaser to evaluate Debtors Book at the Effective Date is accurate;	
7.1.11	it has complied with all Applicable Laws;	
7.1.12	as at the Effective Date, none of the Debts is or has become prescribed as defined in terms of the Prescription Act 68 of 1969 read with Section 126B of the National Credit Act 34 of 2005;	
7.1.13	none of the Debtors are deceased or insolvent; and	
7.1.14	none of the Debts being sold as part of the Debt Book are duplicated.	
7.2	Notwithstanding the provisions of this clause 7, Standard Bank makes no express or implied warranties in respect of the underlying quality of the Debtors Book, as set out in clause 7.3.	
7.3	Standard Bank does not warrant:	

7.3.1	the collectability of any Debt;	
7.3.2	the creditworthiness or the ability of any of the Debtors in the Debtors Book to make any repayments after the Effective Date; or	
7.3.3	the existence of any documentation or additional Data in support of or relating to:	
7.3.3.1	any of the claims against the Debtors; or	
7.3.3.2	the Debtors Book.	
7.4	Save as set out in this Agreement, the Purchaser shall have no recourse against Standard Bank in the event that any Debtor fails to make payment to the Purchaser.	
7.5	Standard Bank's liability for the breach of any warranty in this clause 7 shall be limited to the repurchase of the particular claim in respect of which the breach of warranty occurred (warranty claim) and at a price calculated in terms of clause 9 below.	
7.6	The Purchaser shall have no right to recover in respect of any warranty claim unless and until the aggregate liability of Standard Bank in respect of all warranty claims would exceed an amount equivalent to [REDACTED] of the Purchase Price. If such aggregate liability exceeds such amount Standard Bank shall be liable for the full aggregate amount of all warranty claims and not only for the amount by which such warranty claims exceed an amount equivalent to [REDACTED] of the Purchase Price.	
7.7	The maximum liability of Standard Bank in respect of all warranty claims in aggregate shall not exceed the Purchase Price.	
7.8	Standard Bank shall not be liable in respect of any warranty claim unless particulars of such warranty claim (with sufficient detail to enable Standard Bank to identify the basis of such warranty claim) are given in writing to Standard Bank as soon as is reasonably practicable after the Purchaser has become aware of	

any matter entitling the Purchaser to make such warranty claim, and in any event by not later than 18 (eighteen) months after the Completion Date.

8. WARRANTIES BY THE PURCHASER

8.1 The Purchaser hereby warrants, represents and undertakes to Standard Bank that:

8.1.1 the Purchaser is duly incorporated as a company under the laws of South Africa with full power and authority to conduct its business as it is being conducted;

8.1.2 the Purchaser is not aware of any fact, matter or circumstance which would constitute a breach of these warranties;

8.1.3 all consents, approvals, authorisations or other orders of all regulatory authorities required for or in connection with the execution and performance of this Agreement by the Purchaser and any other matters contemplated hereby and thereby have been unconditionally obtained and are in full force and effect;

8.1.4 it will not re-list Debtors at credit bureaux in respect of Debts, which due to effluxion of time, have ceased to be listed on such credit bureaux; for avoidance of doubt, it may list new judgments in respect of such Debtors;

8.1.5 it will not consent to rescission of judgments in respect of the Debtors, without the prior written consent of Standard Bank, which shall not be unreasonably withheld;

8.1.6 it will act professionally in respect of the collection of the Debts at all times;

8.1.7 it will not prejudice the name, brands, goodwill and reputation of Standard Bank or the Group;

8.1.8 it will refrain from committing any act or omission, in respect of the collection of the Debt, which Standard Bank would have refrained from committing in

order to protect its name, brands, goodwill and reputation had the Debt not been sold to the Purchaser;

8.1.9 in relation to any debt collection or debt recovery activities performed in respect of the Debts and/or its continued administration of the Debts, ensure that it is done in accordance with all the Applicable Laws;

8.1.10 in relation to any Debtors' debts that fall under the National Credit Act 34 of 2005, update the Debtors' payment files at the relevant credit bureaux and failing this, Standard Bank reserves the right to require the Purchaser to provide it with the relevant information to enable it to do so;

8.1.11 ensure that the collection of any amount due in respect of a Debt is in accordance with current best South African practice and the guidelines and codes of practice issued from time to time by the National Credit Regulator or contained in the Banking Code of Conduct. The Purchaser undertakes to ensure that all of its employees and agents involved in the collection of any of the Debts are appropriately trained and shall act in accordance with such practice, guidelines and codes;

8.1.12 not transfer the Debts, other than in terms of a traditional securitisation scheme as provided for in terms of the Securitisation Regulations published under the Banks Act 94 of 1999 and on further condition that the Purchaser shall continue to collect and manage the Debtors Book, to any other party to the extent that such a party is not a member of the Purchaser Group or unless compelled to do so by Applicable Laws, without the prior written consent of Standard Bank, which consent shall not be unreasonably withheld, and will procure that any such other party (irrespective of whether or not it is a member of the Purchaser Group) complies with the terms and conditions of this Agreement as if it were named as the Purchaser;

8.1.13 only use reputable field agents to assist in the collection of the Debts. Such field agents shall be members of either the Council for Debt Collectors, the Association of Debt Recovery Agents and/or Micro Finance SA, or officers of a court in South Africa;

- 8.1.14 not charge interest on any Debt, including, for the avoidance of doubt any interest which may have accrued prior to the Effective Date but which has not been added to the Debt by Standard Bank, at a rate greater than the rate recorded in the judgment document where applicable, and/or per the agreement between the Debtor and Standard Bank at inception of the account, where such a judgment document or agreement has been made available to the Purchaser;
- 8.1.15 not take any action in relation to Debtors which may be construed as coercing Debtors into any refinancing arrangements but will ensure that Debtors are provided with a reasonable opportunity to consider the terms of any refinance arrangement that may be offered and that any such refinance arrangement will be offered in accordance with best banking practice and Applicable Laws;
- 8.1.16 comply with all requests made of it by Standard Bank resulting from any requirements upon Standard Bank arising out of any relevant Banking Code of Practice, legislation or regulations or any guidelines issued by any Regulatory Authority;
- 8.1.17 within a period of 12 (twelve) months from the Completion Date notify the Debtors of the sale and cession of the claims in respect of the Debts in terms hereof either telephonically, electronically or in writing; the communication shall cover the same content as the letter detailed in Annexure A;
- 8.1.18 not offer to refinance any of the Debt of a Debtor, which refinancing shall include any rescheduling of debt which includes a change to pricing, unless:
- 8.1.18.1 the process the Purchaser follows, an outline of which shall be disclosed in advance to Standard Bank, is in compliance with all Applicable Laws, including but not limited, all communications with the Debtor, and
- 8.1.18.2 that a proper affordability analysis of the Debtor is undertaken to the extent required by the National Credit Act 34 of 2005; and

- 8.1.18.3 that the refinancing offer is not unreasonably aggressive given the circumstances of the Debtor; and
- 8.1.19 it will provide letters to Debtors who have settled their indebtedness in full within 14 (fourteen) days of settlement advising and confirming to them that their said indebtedness has been settled.
- 8.2 The Purchaser acknowledges that it would be difficult to quantify any loss that may be suffered by Standard Bank for breach of any of the undertakings given by the Purchaser under this clause 8 and that an action for damages may not be an adequate remedy. Standard Bank is entitled to seek specific performance or an urgent interdict or mandatory order (where such remedies are available) to prevent any material breach on the part of the Purchaser, alternatively any other remedies available to it in law.
9. **ADJUSTMENT MECHANISM**
- 9.1 Standard Bank shall be required to settle any claim instituted by the Purchaser in terms of clause 5.3, or in the event of a breach of clause 7 above by paying to the Purchaser:
- 9.1.1 with regard to Book A of the Debtors Book, at an amount of [REDACTED] per Rand of the aggregate outstanding balance at the Effective Date of the Debtors relevant to the claim; and
- 9.1.2 with regard to Book B of the Debtors Book, at an amount of [REDACTED] per Rand of the aggregate outstanding balance at the Effective Date of the Debtors relevant to the claim;
- 9.2 Payment shall be effected by direct cash transfer to the Purchaser by Standard Bank and shall be payable within 30 (thirty) Business Days of approval of the claim.
- 9.3 Payments referred to in clause 9 shall be made into the following Bank account of the Purchaser:
- Account Name: [REDACTED]

intended for publication in any form by the other Party must first be submitted in draft form to the other Party for approval. The Parties shall not at any time for the duration of this Agreement, release any statement to the press, or make any other public statement of any nature which could reasonably be expected to be published in any media, regarding the relationship or the subject matter of this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

- 13.4 This clause 13 shall survive the termination of this Agreement for any reason whatsoever.

14. ANTI-BRIBERY AND CORRUPTION

- 14.1 the Purchaser must comply with all Applicable Laws, including Compliance Laws.
- 14.2 the Purchaser warrants that it and its Affiliates have not pleaded guilty to or been convicted of an offence involving any Prohibited Activities or, as far as it is aware, are not disqualified from engaging in any government procurement programme.
- 14.3 the Purchaser must notify Standard Bank immediately of any payments made in connection with this Agreement which may result in a breach of any Compliance Laws and must assist Standard Bank to investigate such breach.

- 14.4 If Standard Bank knows or suspects that the Purchaser is in breach of the provisions of this clause 14, Standard Bank can in its sole discretion, request additional information from the Purchaser regarding the breach, refuse to perform any of its obligations in terms of this Agreement, report the breach to the relevant Regulatory Authority and comply with the directions of the Regulatory Authority.

- 14.5 Standard Bank can terminate this Agreement immediately if the Purchaser is in breach of this clause 14 or if any of the Purchaser's Affiliates are in breach of any Compliance Laws.

15. SANCTIONS

- 15.1 The Purchaser will not:

- 15.1.1 act to benefit any Sanctioned Entity;

- 15.1.2 be involved in any Prohibited Activities; and

- 15.1.3 use any product or service provided by the Standard Bank Group for any Prohibited Activities.

- 15.2 The Purchaser warrants that neither it nor any of its Affiliates are:

- 15.2.1 a Sanctioned Entity; or

- 15.2.2 the subject of any investigations relating to Sanctions.

- 15.3 The Purchaser will notify Standard Bank in writing immediately upon becoming aware that it and/or its Affiliates are the subject of an investigation relating to Sanctions.

- 15.4 Notwithstanding any provision to the contrary contained in this Agreement, if Standard Bank knows or suspects that the Purchaser is in breach of the provisions of this clause 15 and/or is or is about to become subject to Sanctions, Standard Bank will, in its sole discretion, be entitled with immediate effect to:

- 15.4.1 close, restrict activity or suspend access to any product or service provided to the Purchaser; and/or

- 15.4.2 terminate this Agreement and/or any other relationship which Standard Bank may have with the Purchaser.

16. DATA PROTECTION

- 16.1 The Parties acknowledge and agree that all Data provided by one Party to the other Party, or to which the Parties may be exposed, shall constitute Confidential Information and where applicable, Intellectual Property belonging to the Party in question.

16.2 The Parties hereby warrant, represent and undertake in favour of each other that where either Party Processes any Personal Information as a result of their obligations in terms of this Agreement, such Party will obtain written consent from the affected parties, provided that where the affected party is a Debtor, written consent will not be required if the Processing of Personal Information is compatible with the original consent provided by such Debtor to Standard Bank. In the event of such Party failing to obtain consent (where required) or failing to Process Personal Information on one of the lawful grounds for Processing of Personal Information as contemplated in applicable data protection legislation, the other Party shall not assume liability for any failure by such Party to comply with provisions of this clause 16.

16.3 Each Party hereby warrants, represents and undertakes in favour of the other that:

16.3.1 It shall at all times strictly comply with all Applicable Laws and with all the provisions and requirements of any of each Party's data protection policies and procedures which may be in force from time to time;

16.3.2 It shall not, at any time Process Data for any purpose other than to perform its obligations in terms of this Agreement.

16.4 The Parties further warrant, represent and undertake to each other that they shall ensure that all of their systems and operations which are used to perform their obligations in terms of this Agreement, including all systems on which Data is Processed, shall, once the applicable data protection legislation comes into force, be of a minimum standard required by Applicable Laws and be of a standard no less than the standards which are in compliance with the best industry practice for the protection, control and use of Data.

16.5 The Parties shall take appropriate and reasonable technical and organisational measures to prevent the loss of, damage to or unauthorised destruction of Data and the unlawful access to or Processing of Data. The measures taken must at all times be of a minimum standard required by all Applicable Laws and be of a standard no less than the standards which are in compliance with the best industry practice for the protection, control and use of Data.

16.6 The Parties shall take reasonable steps to identify all reasonably foreseeable internal and external risks posed to Data under their possession or control and establish and maintain appropriate safeguards against any risks identified. The Parties shall regularly verify that the safeguards are effectively implemented and keep a record of such verification. The safeguards shall be updated continually in response to new risks or deficiencies in previously implemented safeguards.

16.7 The Parties shall immediately notify each other a) of any risks posed to Data that it has identified; b) of the safeguards established by the Party to mitigate the impact of the risks; and c) that the safeguards have been effectively implemented.

16.8 The Parties shall notify each other of any security compromises or suspected security compromises of which it becomes aware or suspects, immediately on becoming so aware or forming such a suspicion.

17. NATURE OF RELATIONSHIP

This Agreement does not create a partnership, joint venture or agency between the Parties and neither Party shall be liable for the debts of the other Party, howsoever incurred.

18. FORCE MAJEURE

18.1 If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement by any cause beyond the reasonable control of that Party, including, without limitations, acts of God, civil commotion, riots, insurrection, acts of government, fire, explosion, the elements, epidemics, governmental embargoes or like causes ("force majeure"), the Party so affected shall, to the extent so prevented, be relieved of its obligations hereunder during the period of such events and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damage either general, special or consequential which the other Party may suffer due to or resulting from such delay or failure; provided always that written notice of the occurrence constituting force majeure shall be given within 24 (twenty four) hours by the affected Party.

- 18.2 The Parties agree that, should force majeure last more than 6 (six) weeks, the Party who has not invoked force majeure to excuse any non-performance of its obligations may terminate this Agreement by giving 10 (ten) days' written notice to the other Party.

19. BREACH

Should any Party (**Defaulting Party**) commit a breach of any provision of this Agreement and fail to remedy such breach, or if the breach is not capable of remedy, failing to implement such other action acceptable to the other Party, within 14 (fourteen) days of receiving a written notice from the other Party (**Aggrieved Party**) requiring the Defaulting Party to do so, the Aggrieved Party shall be entitled in addition to its other remedies in law or in terms of this Agreement to cancel this Agreement forthwith and without prejudice to its rights to claim damages; provided that if the Defaulting Party commits two or more breaches of any material provision of this Agreement in any 6 (six) month period of this Agreement, the Aggrieved Party shall be entitled without prejudice to any of its other rights or remedies in law or under this Agreement to terminate this Agreement forthwith by notice in writing to the Defaulting Party.

20. TERMINATION

- 20.1 Notwithstanding anything to the contrary contained herein, either Party shall be entitled to terminate this Agreement immediately and take such steps as may be required to protect its rights if the other Party:

20.1.1 takes steps to place itself, or is placed in liquidation, whether voluntary or compulsory or under judicial management or business rescue proceedings in either case whether provisionally or finally; or

20.1.2 takes steps to deregister itself or is deregistered; or

20.1.3 commits an act which would be an act of insolvency as defined by the Insolvency Act of 1936 as amended from time to time if committed by a natural person; or

20.1.4 fails to satisfy a judgment in excess of [REDACTED] entered against itself within 21 (twenty one) days after it becomes aware of

the judgment, except if it provides evidence on an ongoing basis to the reasonable satisfaction of the other Party that steps have been initiated within the 21 (twenty one) days to appeal, review or rescind a judgment and to procure suspension of execution of the judgment and that such steps are being expeditiously pursued; the period of 21 (twenty one) days shall run from the date on which the judgment becomes final, or the date on which the attempt to procure the suspension of the execution fails.

21. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary contained in this Agreement, the Parties shall not be liable to each other for any indirect or consequential loss or damage, including without limitation, loss of profit, revenue, anticipated savings, business transactions or goodwill or other contracts whether arising from negligence or breach of contract.

22. INDEMNITY

22.1 Subject to clause 22.2 below, the Parties indemnify each other against any Losses which the indemnified Party may suffer from:

22.1.1 a third party claim, unless such Losses are caused by the indemnifying Party's gross negligence or wilful misconduct;

22.1.2 a breach of any obligations or warranties by either Party as contemplated in clauses 7.8, 14 or 15.

22.1.3 The maximum liability of either Party in respect of this indemnity shall not exceed the Purchase Price.

22.2 Standard Bank will not be liable to the Purchaser for any Losses suffered by the Purchaser as a result of a Sanctioning Body or Regulatory Body seizing or withholding any funds or Standard Bank terminating this Agreement or any other relationship which Standard Bank has with the Purchaser in terms clause 14 or 15.

23. CESSIION AND ASSIGNMENT

- 23.1 Neither Party shall, other than in terms of a traditional securitisation scheme as provided for in terms of the Securitisation Regulations published under the Banks Act 94 of 1999 and on further condition that the Purchaser or a member of the Purchaser Group shall continue to collect and manage the Debtors Book, be entitled to cede, assign, transfer or make over any of their rights or obligations in terms of this Agreement to any other party, unless compelled to do so by Applicable Laws, without obtaining the prior written consent of the other Party, which shall not be unreasonably withheld;

- 23.2 Any cession or assignment agreed to by a Party will not relieve the other Party of any obligations with respect to any warranty, covenant, condition, or obligation required to be performed by that Party under this Agreement.

24. IMPLEMENTATION AND GOOD FAITH

- 24.1 The Parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or conducive to the giving of effect to the terms, conditions and import of this Agreement.

- 24.2 The Parties shall at all times during the continuance of this Agreement observe the principles of good faith towards one another in the performance of their obligations in terms of this Agreement.

25. PAYMENTS AND CALCULATIONS

All payments to be made in accordance with this Agreement shall be made in South African Rand in immediately available funds and shall be deemed to be made when they are received by the payee and shall be accounted for accordingly.

26. GOVERNING LAW

The laws of the Republic of South Africa shall govern the validity, interpretation and performance of this Agreement and the courts of South Africa shall have sole jurisdiction.

27. SEVERABILITY

The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality and enforceability of the remaining provisions of this Agreement.

28. NO WAIVER

The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

29. ENTIRE AGREEMENT AND VARIATION

- 29.1 This document embodies the entire Agreement between the Parties hereto.

- 29.2 No amendment or variation of any of the provisions of this Agreement shall be of any force or effect unless reduced to writing and signed (which includes by means of an electronic signature) by both Parties. This requirement will only be satisfied if such amendment or variation is made in a written, paper-based form and through Standard Bank's approved digital signing process.

30. DISPUTE RESOLUTION

- 30.1 If a dispute of any nature arises between the Parties in connection with this Agreement, including any question regarding its existence, validity or termination, then, upon written request of any Party, each of the Parties shall appoint a senior representative whose task it shall be to meet for the purposes of resolving such dispute. Such representatives shall discuss the matter in dispute and negotiate in good faith in an effort to resolve the dispute on amicable terms within 14 (fourteen) days.

- 30.2 Should the representatives of the Parties be unable to resolve a dispute in accordance with the foregoing, such dispute shall be submitted to and decided by arbitration in terms of this clause 30, or, by agreement between the Parties, by a court of competent jurisdiction.

Account Number: [REDACTED]

Bank: First National Bank

Branch Code: 254005

9.4 In the event Standard Bank is not able to provide the necessary documentation to the Purchaser to satisfy a Debtor as to the validity and existence of the Debt owing by the Debtor, and the Purchaser has utilised all other available documentation to prove such validity and existence (for example: statements, certificates of balances, affidavits), then this shall constitute a breach of clause 7.1.2 and Standard Bank shall be required to remedy this breach by either:

9.4.1 substituting the Debt for a further Debt (**New Debt**) account which the Parties agree has a similar profile and outstanding balance to the Debt account which is the subject of the breach; or

9.4.2 settle any claim instituted by the Purchaser against Standard Bank in accordance with the adjustment mechanism in clause 9.

10. USE OF STANDARD BANK'S NAME

10.1 Save as set out in this Agreement the Purchaser agrees and undertakes that it will not use Standard Bank's name in exercising its rights in terms of this Agreement except:

10.1.1 in terms of clause 8.1.17; or

10.1.2 where obliged to in terms of any Applicable Law or by order of a competent court; or

10.1.3 where required in debt collection documentation to show the Debtor that his/her Debt has been acquired by the Purchaser; or

10.1.4 where Standard Bank has provided prior written consent to the Purchaser to cover a specific circumstance.

11. NO RECOURSE

Save for the warranties, undertakings and claims referred to in this Agreement, the Purchaser acknowledges that this sale is effected Voetstoets (as is).

12. GOOD FAITH

In the implementation of this Agreement, the Parties undertake to observe the utmost good faith and they warrant in their dealings with each other that they will not do anything which might prejudice or detract from the rights, assets or interests of the other.

13. CONFIDENTIALITY

13.1 Except as otherwise provided in this Agreement, the Parties shall treat the Confidential Information as confidential. No Party shall disclose such Confidential Information to any third party without the prior written consent of the other Party hereto. Any third party that may become privy to such Confidential Information shall first undertake in writing to protect the confidential nature thereof. The foregoing restrictions shall not apply to the disclosure of necessary Confidential Information to employees and advisors of the Parties provided that such persons are made aware of and comply with their obligations of confidentiality under this Agreement as if they were a Party.

13.2 The confidentiality undertaking in this clause 13 shall not apply in respect of Confidential Information:

13.2.1 within the public domain; or

13.2.2 within a Party's knowledge at the commencement of this Agreement; or

13.2.3 to disclosure required to satisfy the order of a court of competent jurisdiction; or

13.2.4 to comply with the provisions of any Applicable Law in force from time to time.

13.3 Any material relating to this Agreement (including any Intellectual Property rights pertaining to either Party such as trademarks, brand names and logos) which is

Email address: [REDACTED]

31.3.2 as regards the Purchaser at:

PO Box 2413

Pinegowrie

2123

Attention: [REDACTED]

Email address: [REDACTED]

or at such other address of which the Party concerned may notify the other in writing.

31.4 Any notice given in terms of this Agreement shall be in writing and shall -

31.4.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

31.4.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8th (eighth) Business Day following the date of such posting;

31.4.3 if sent electronically, shall be deemed to have been received on the first Business Day following the successful transmission thereof as evidenced by the electronic confirmation of receipt (unless the contrary is proven). It is recorded for the avoidance of doubt that a legal notice sent by a Party shall not be regarded as valid legal notice, if sent electronically in terms of this clause 31.4.3.

31.5 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by a Party at its chosen domicile address set out above shall be an adequate written notice of communication to such Party.

32. COUNTERPARTS

This Agreement may be signed in counterparts and the copies signed in counterpart shall constitute the Agreement. This shall include faxed and emailed copies of this document.

33. COSTS

Each Party shall pay its own cost of negotiating, drafting, preparing and implementing this Agreement.

30.3 The dispute shall be referred to and finally resolved by arbitration under the Rules of the Arbitration Foundation of Southern Africa (AFSA) for Commercial Arbitrations (the **Rules**), including the right to appeal, which Rules are deemed to be incorporated by reference into this clause 30.

30.4 There shall be 1 (one) arbitrator, whose identity shall be agreed in writing between the Parties within 5 (five) Business Days following the declaration of a dispute between the Parties, failing which the arbitrator shall be appointed by AFSA from the senior legal practitioners on its panel in terms of the Rules, taking into account the value and complexity of the dispute under referral.

30.5 The seat, or legal place, of the arbitration shall be South Africa and any hearing shall be held in Johannesburg. The language to be used in the arbitral proceedings shall be English. Unless the Parties agree otherwise, the arbitration shall be conducted on an urgent basis in terms of the Rules.

30.6 The Parties agree and irrevocably undertake to keep the arbitration and all matters related thereto strictly confidential. Each Party (i) acknowledges and agrees that it shall not disclose any such information to any person other than its own employees, members, officers, professional advisors and/or other divisions who need to know such information for the purposes of this clause 30 (Permitted Recipient) or to third parties where it is required to do so under law or in terms of regulatory process; (ii) shall procure that each Permitted Recipient is made aware of and complies with its obligations of confidentiality in terms of this clause 30 and (iii) shall give reasonable notice to the other Party as and when any obligation for third party disclosure arises.

30.7 Nothing contained in this clause 30 shall preclude any Party from approaching a court of competent jurisdiction within the Republic of South Africa for interim relief on an urgent basis pending the final outcome of an arbitration referral under this clause 30 and/or to enforce any award made by an arbitrator under this clause 30.

31. NOTICES AND DOMICILIUM

31.1 The Parties choose as their *domicilia citandi et executandi* (addresses for purpose of legal proceedings and legal notices) their respective addresses set out in clause

31.2 below, at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

31.2 For the purpose of this Agreement the Parties' *domicilia citandi et executandi* are-

31.2.1 as regards Standard Bank at:

9th Floor, Reception 1
Standard Bank Centre
5 Simmonds Street
Johannesburg, 2001
Attention: Head SA Legal

31.2.2 as regards the Purchaser at:

342 Jan Smuts Avenue
Hyde Park
2196

Attention: [REDACTED]

Email address: [REDACTED]

or at such other physical address, not being a post office box or poste restante, of which the Party concerned may notify the other in writing.

31.3 Any written notices required in terms of hereof shall only be satisfied if such notice is given in a written, paper-based form. The provisions of the Electronic Communications and Transactions Act 25 of 2002 are expressly excluded from the provisions of clause 31.1. Any other written notices in connection with this Agreement shall be addressed:

the provisions of clause 31.1. Any other written notices in connection with this Agreement shall be addressed:

31.3.1

as regards Standard Bank at:
9th Floor, Reception 1
Standard Bank Centre
5 Simmonds Street
Johannesburg, 2001
Attention: [REDACTED]