

MEMORANDUM OF UNDERSTANDING

ENTERED INTO BETWEEN

**MUZINE INVESTMENT HOLDING GROUP (Pty) LTD (Registration
Number: 2012/0922**

(hereinafter referred to as "MUZINE")

AND

**MUNICIPALITY OF GOBABIS (a local authority under the Local
Authorities Act)**

(hereinafter referred to as "MUNGO")

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WHEREAS MUZINE wishes to acquire land on Portion 72 of the Farm Town lands of Gobabis No: 114 at the intersection of the TransKalahari Highway and Tlhabanello Street (hereinafter referred to as the land);

WHEREAS MUNGO wishes to sell the land to MUZINE;

AND THEREFORE, the parties wish to record that they have agreed to enter into this agreement on an exclusive basis, and with no other person, whether natural or juristic, in fulfilling the above objectives. The terms of the agreement aforesaid are set out hereinafter:

1. INTERPRETATION

1.1 In this memorandum of understanding, unless inconsistent with or otherwise indicated by the context.

1.1.1 The parties to this agreement are:

- **“MUNCO”** means the Municipality of Gobabis, a local authority under the Local Authorities Act in the Republic of Namibia
- **“MUZINE”** means a private company with limited liability, incorporated under the Namibian Companies Act with registration number 2012/0922;
- **“Effective date”** means the date of signature of this agreement by the party signing last in time;
- **“Parties”** means Muzine Investment Holding Group (Pty) Ltd and Municipality of Gobabis and **“party”** means any one of them;

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- “**Project**” means the construction of a retail shopping mall and fuel service station on the land.
 - any reference to the singular includes the plural and vice ve;
 - any reference to natural persons includes legal persons and viceve;
- 1.4 any reference to gender includes the other genders;
- 1.5 the clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.6 words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms party, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.7 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause.
- 1.8 if any period is referred to in this agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the day shall be the next succeeding business day.
- 1.9 this agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of Namibia.

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2. PROPOSED TRANSACTION

2.1 The parties hereby bind each other, one to the other, for the purpose of pursuing the objectives as more fully stated in the preamble.

2.2 The salient terms of the Proposed Transaction are as follows:

- The land is approximately 1.5 hectares and subject to final sizes based on surveyor diagrams
- MUNGO sells the land at a fixed price of N\$35 (Thirty Five Namibian Dollars) per hectare (i.e. $N\$35 \times 15000 \text{ sqm} = N\$525,000.00$) or such other amount as per the final surveyed size of the land to be used for the project. MUZINE shall pay the purchase price in 2 equal installments, first being payable on the 31st of June 2015 and the balance within six months thereafter on the 31st of December 2015.
- The land is currently zoned "Public Open Space" and MUZINE shall apply for re-zoning of the newly created Portion A to "General Business" and hence allow for permanent closure as a "Public Open Space". MUZINE shall appoint a professional Town Planning Consulting firm to carry out the above.
- MUZINE will service the land at its own cost in terms of municipal by-laws and statutory procedures and this includes water reticulation, electricity, sewerage, roads, storm water drainage system, etc. The bulk services and engineering designs shall be handed to MUNGO after completion of the project. MUNGO will approve, supervise and monitor the construction of the engineering services.
- MUZINE will subdivide the land into Portion A (measuring 1.5 hectares or such final size as per the surveyor diagrams) and the Remainder in terms of section 19 of the Townships and Division of

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Land Ordinance (Ordinance 11 of 1963).

- MUZINE shall obtain an environmental clearance certificate under the Environmental Management Act of 2007 and Regulations before submission of the sub-division application to the Namibia Planning Advisory Board (NAMPAB).
- MUZINE shall appoint a professional Land Surveyor to survey the newly created Portion A of the Farm Townlands of Gobabis No 114 and submit the diagram to the Surveyor-General's Office for approval.
- It is recorded that MUNGO gives MUZINE permission to commence with the filling and clearing of the site and removing of unwanted trees, taking into account environmental considerations.
- After payment of the 50% deposit and approval of the building plans by MUNGO, MUZINE may commence with the construction of the project.
- MUZINE may not sell the land prior to the envisaged development without the written approval of MUNGO.
- The above transaction is suspensive to Ministerial approval as provided for under the Local Authority Act and upon which a formal deed of sale shall be signed between the parties. MUNGO shall do everything possible within its powers to obtain the above approval within the shortest possible period.
- The land shall be used exclusively for the project or related activities and the development must happen within at least 2 years.

3. STATUS OF THIS MEMORANDUM OF UNDERSTANDING

The parties shall, in good faith, negotiate and endeavor to reach agreements with one another in respect of this agreement.

4. CONFIDENTIALITY

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The parties shall at all times ensure that all its directors, employees, agents and advisors treat the business processes, confidential information, application systems and contents of the information services and the terms contained in this agreement as confidential and undertake not to disclose to any third party any such information except insofar as such disclosure is authorized in writing by all parties or is ordered by a Court of Law, or is otherwise essential for application in a judicial action.

5. ARBITRATION

- Any dispute arising from or in connection with this agreement shall first be resolved amicably within 7 (seven) days after the dispute arises, failing which it will be referred to a competent arbitration for resolution.
- The provisions of this clause:-
 - constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;
 - are severable from the rest of this agreement and shall remain in effect despite termination of or invalidity for any reason of this agreement; and
 - do not take away the parties right to seek urgent relief from a court of competent jurisdiction.

6. BREACH

Should any party/parties ("**the party/ies in default**") breach any term, condition, undertaking, warranty or representation contained in this agreement and fail to remedy such breach within 14 (fourteen) days (or such reasonable longer period

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as the parties may agree on) after receipt of a written notice from the other of them (“the innocent party/ies”) requiring such breach to be remedied, then, without prejudice to any other rights that it or they may have in terms hereof or in law, the innocent party/ies shall be entitled to forthwith cancel this agreement, insofar as it relates to the party/ies in default, on written notice thereof to the party/ies in default.

7. NOTICES AND DOMICILIA

7.1 The parties select as their respective domicilia citandi et executandi for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this agreement, the following addresses:

340 Sam Nujoma Drive, Klein Windhoek, Namibia: MUZINE

35 Church Street, Gobabis, Namibia: MUNGO

or such other address or telefax number as may be substituted by notice given as required. Each of the parties will be entitled from time to time to vary its domicilium by written notice to the other to any other address within the Republic of Namibia which is not a post office box.

7.2 Any notice addressed to a party at its physical or postal address will be sent by prepaid registered post, or delivered by hand, or sent by telefax or by email;

7.3 A notice will be presumed, unless the contrary is proved, to have been given-

- if posted by prepaid registered post, 7 (seven) days after the date of posting thereof;
- if hand delivered during business hours on a business

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day, and

- if sent by telefax, on the first business day following the date of sending of such telefax.

8. **WHOLE AGREEMENT**

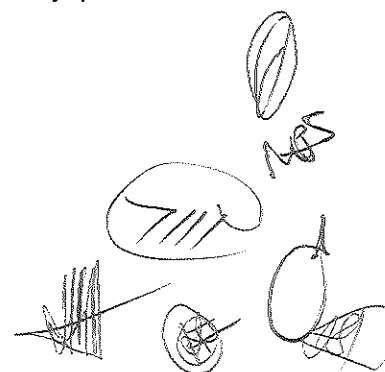
This agreement constitutes the whole agreement between the parties as to the subject matter hereof and no agreements, representations or warranties between the parties regarding the subject matter hereof other than those set out herein are binding on the parties.

9. **VARIATION**

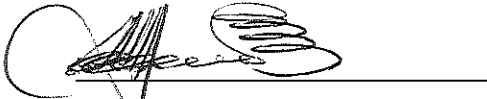
No addition to or variation, consensual cancellation or novation of this agreement and no waiver of any right arising from this agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the parties or their duly authorized representatives.

10. **RELAXATION**

No latitude, extension of time or other indulgence which may be given or allowed by any party to the other parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any party arising from this agreement, and no single or partial exercise of any right by any party under this agreement, shall in any circumstances be construed to be an implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any of the party's rights in terms of or arising from this agreement or estop or preclude any such party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

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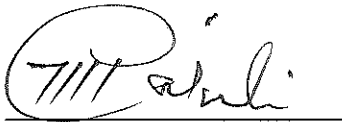
SIGNED AT Gobabis on this 16 day of April 2015



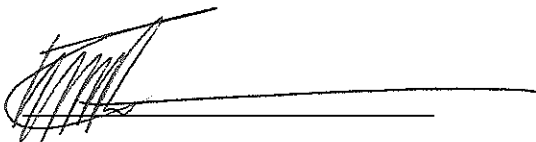
Efraim Dawids
Chief Executive Officer
Municipality of Gobabis



Cll. Liberius Shetunyenga Kalili
Chairperson of the Management Committee
Municipality of Gobabis

Witness:  

SIGNED AT Windhoek on this 18th day of April 2015



Mr. Manfred Zamuee
MUZINE: Director

Witness: 