



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 573

Pretoria, 28 March
Maart 2013

No. 36318

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICES			
Trade and Industry, Department of			
<i>General Notices</i>			
287	Competition Commission: Notification to approve with conditions the transaction involving Sizanai General Trading (Pty) Ltd and the Heathway Shopping Centre owned by Momeutum Property Investments (Pty) Ltd	3	36318
288	Competition Commission: Notification to approve with conditions the transaction involving Char-Trade 246 CC and RDI Devco One (Pty) Ltd	7	36318
289	Competition Commission: Notification to approve with conditions the transaction involving Mediclinic Southern Africa Limited and Solar Spectrum Trading 242 (Pty) Ltd	10	36318
290	Competition Commission: Notification to approve with conditions the transaction involving Accelerate Property Fund Limited and 61 Letting Properties sold by Orthothouch Limited and 13 Letting Properties sold by the Trustees of the time being of the George Nicolas Trust	13	36318
291	Competition Commission: Notification to approve with conditions the transaction involving Primeprac (Pty) Ltd and Murray & Roberts Retail Asset Management (Pty) Ltd	18	36318
292	Competition Commission: Notification to approve with conditions the transaction involving Tecsa (Pty) Ltd and Reco, a division of African Oxygen Limited	24	36318
293	Competition Commission: Notification to approve with conditions the transaction involving Eaton Corporation and Cooper Industries PLC	29	36318
294	Competition Commission: Notification to approve with conditions the transaction involving Foodprop Property Holdings (Pty) Ltd and Acucap Investments (Pty) Ltd in respect of the letting property known as Rondebosch-On Main	33	36318
295	Competition Commission: Notification to approve with conditions the transaction involving Clive Theodore Menne and Matat Wholesalers (Pty) Ltd and Matat Liquors (Pty) Ltd	35	36318

GENERAL NOTICES

NOTICE 287 OF 2013

COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

SIZANAI GENERAL TRADING PTY LTD

AND

**THE HEATHWAY SHOPPING CENTRE OWNED BY MOMENTUM PROPERTY
INVESTMENTS (PTY) LTD**

CASE NUMBER: 2012FEB0072

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Sizanai General Trading (Pty) Ltd ("Sizanai"), a company incorporated under the laws of the Republic of South Africa. Sizanai is a property letting firms which lets out rentable office space and retail properties.

The primary target firm is the Heathway Shopping Centre ("Heathway Centre") owned by Momentum Property Investments (Pty) Ltd ("MPI"). The Heathway Centre comprises of office property and rentable retail space located in Cresta/Blackheath to Randpark node, Gauteng.

In terms of the Sale of Letting Enterprise Agreement, Sizanai intends to acquire the Heathway Centre as a going concern. Pursuant the implementation of the proposed transaction, the Heathway Centre will be solely controlled by Sizanai.

There is an overlap in the activities of the merging parties in two markets: i) market for provision of B-grade office space within the Cresta/Blackheath to Randpark node; and ii) market for the provision of retail space specifically in convenience centres within a 5km radius from the

Heathway Centre. The Commission finds that the merged entity's market share remains minimal in all the affected markets and therefore, is of the view that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition in both affected markets.

In addition, the Commission confirmed that the proposed transaction does not result in significant effect on employment.

The Commission finds an exclusivity clause in the lease agreement between the anchor tenant and the owners of the Heathway Centre which has the effect of excluding rivals of the anchor tenant from the Heathway Centre. This implies that small businesses are prevented from entering and competing effectively in the Heathway Centre. In order to address this concern, the Commission negotiated with the merging parties to have the clause removed. The Commission reached an agreement with the merging parties to impose a condition to have the exclusionary clauses removed (in accordance with the contractual terms) from the agreements.

The Commission therefore approves the merger with conditions (attached in Annexure A) in terms of section 14(1)(b)(ii) of the Competition Act no.89 of 1998, as amended. The Commission hereby issues a certificate in the prescribed form approving the merger with conditions as set out below.

CONDITIONS

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. **"Acquiring Firms"** means Sizanai General Trading (Pty) Ltd;
- 1.2. **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC15);
- 1.3. **"Commercial reasons"** means reasonable principles of commerce, or bona fide reasons, taken into account in arriving at a decision in the ordinary course of

business;

- 1.4. **"Commission"** means the Competition Commission of South Africa;
- 1.5. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.6. **"Conditions"** means these conditions;
- 1.7. **"Lease Agreement"** means agreement concluded between the lessor and the lessee.
- 1.8. **"Merger"** means the acquisition of control over the Heathway Shopping Centre owned by Momentum Property Investments (Pty) Ltd by Sizanai General Trading (Pty) Ltd;
- 1.9. **"Merging Parties"** means Sizanai General Trading (Pty) Ltd and the Heathway Shopping Centre owned by Momentum Property Investments (Pty) Ltd.
- 1.10. **"Sizanai"** means Sizanai General Trading (Pty) Ltd;

2. Recordal

- 1.1 Sizanai has agreed to the following undertakings which are meant to address the public interest concerns.
- 1.2 It is the Commission's view that the conditions, in the current form, are necessary to address the public interest concerns.

3. Conditions to the approval of the merger

4. Sizanai shall negotiate with the anchor tenant in respect of the current effective lease agreement, in the utmost good faith to have the exclusivity clauses in the lease agreement in respect of the target property, removed at the renewal of the lease.

5. Monitoring of compliance with the Conditions

- 5.1. Should Sizanai succeed in removing the exclusivity clause from the lease agreement, it shall submit a copy of the signed, new lease agreement to the Commission as proof of compliance within 30 days of concluding the new lease agreement.
- 5.2. Should Sizanai not succeed in the removal of the exclusivity clause from the lease agreement, it shall submit a report setting out the details and outcome of its negotiations with the anchor tenant and an affidavit confirming the accuracy of the report within 30 days of concluding its negotiations.
- 5.3. All correspondences in relation to these conditions shall be submitted to the e-mail address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 288 OF 2013
COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

CHAR-TRADE 246 CC

AND

RDI DEVCO ONE (PTY) LTD

CASE NUMBER: 2012FEB0072

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Char-Trade 246 CC ("Char-Trade"), a company incorporated under the laws of the Republic of South Africa. Char-Trade is a property investment corporation. The members of Char-Trade own property through various entities controlled by the holding company, SA Centres Management (the Char-Trade Group). The Char-Trade Group has a property portfolio of office space, residential, industrial, retail and vacant land.

The primary target firm is RDI Devco One (Pty) Ltd ("RDI Devco"), a company incorporated under the laws of the Republic of South Africa. RDI Devco is a special purpose vehicle established to develop and hold the property known as the Grove for letting purposes. RDI Devco is a special purpose vehicle and as such has not traded previously. The Grove is a rentable retail space (community centre) and A-grade office space situated in Nelspruit, Mpumalanga Province.

In terms of the Sale Agreement, Char-Trade intends to acquire the property letting enterprise known as the Grove (phase 2) comprising of rentable retail space (community centre) and A-grade office space situated in Nelspruit, Mpumalanga Province.

There is an overlap in the activities of the merging parties in relation to the provision of retail property and office property. There is however no geographic overlap in the activities of the merging firms as the acquiring group does not have any retail space in the Nelspruit node, Mpumalanga Province. The Commission is thus of the view that the proposed transaction is unlikely to substantially prevent or lessen competition as there is no geographic overlap in the activities of the merging firms.

There is vertical relationship between the merging parties. The Commission finds that the relationship existed pre-merger and will continue post-merger.

The proposed transaction does not result in retrenchments. There is a concern pertaining to the exclusivity clause contained in the lease agreement. The Commission found that the exclusivity clause has the effect of excluding rivals of the anchor tenant from the centre with the implication that small businesses are prevented from competing effectively in the centre. In order to address the concern, the Commission negotiated with the merging parties to have the exclusivity clause removed as the exclusivity clause could not be justified. The Commission imposed a condition to have the exclusivity clause removed from the lease agreement upon renewal.

The Commission therefore approves the proposed transaction subject to the following condition:

Condition

- 1 Char-Trade shall negotiate with the anchor tenant in respect of Grove lease agreement, in utmost good faith to have the exclusivity clauses in the lease agreement in respect of the target property, removed at the renewal of the lease.

Monitoring of compliance with the condition

- 2 Char-Trade shall within thirty (30) days after entering into the new or renewed lease agreement in respect of the centre, provide the Commission with a report setting out in detail the extent to which they have complied with the conditions of removing the exclusivity clause.

All reporting documents and correspondences in relation to these conditions must be submitted to the Commission's email address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 289 OF 2013
COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

MEDICLINIC SOUTHERN AFRICA LIMITED

AND

SOLAR SPECTRUM TRADING 242 (PROPRIETARY) LIMITED

2012MAY0225

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Mediclinic Southern Africa Limited ("**Mediclinic**") that own private hospitals that provide a range of general and specialised medical care facilities and services.

The primary target firm is Solar Spectrum Trading 242 (Pty) Ltd ("**Opco**"), a shelf company that was created for the purpose of obtaining the hospital license and does not provide any services or offer any products. Opco is the holder of an approval dated the 27th of March 2009, granted by the Gauteng Department of Health ("**GDOH**"), for the establishment of a private hospital ("**Target Hospital**").

In terms of the Principal Agreement concluded between the parties, Mediclinic will acquire more than 50% of the shareholding in Opco resulting in Mediclinic having control over Opco.

The Commission analysed the transaction using a narrowest market which included the location where the Target Hospital would be built, and the surrounding areas within a 30km radius and found that, even within this worst case scenario, Mediclinic's market share is unlikely to pose significant competition concerns.

Post-merger, the merged entities will face competition from bigger players such as Netcare and Life Healthcare, who have a stronger presence in the Gauteng region, as well as other independent private hospitals.

The Commission investigated Mediclinic's plans to expand its current hospitals and other pending hospital licence applications in light of the doctrine of creeping mergers in adopting a conservative approach to analysing the transaction, as health is a priority sector which faces challenges of accessibility and pricing throughout South Africa. When consideration is given to these expansions and pending additional hospital licence applications, Mediclinic's market share in the narrowest geographic market is still unlikely to pose significant competition concerns.

Barriers to entry in this market are high with time, regulatory and financial sunk costs making it difficult for a new entrant. The evidence presented on countervailing power for medical aid schemes is mixed and it is suggesting that such power exist to some degree through medical schemes that can negotiate tariffs with service providers and hospital groups to get onto their preferred service provider list. The medical aid schemes contacted by the Commission during the course of the investigation did not raise any concerns, submitting that prices are negotiated at a national level and therefore the proposed merger is unlikely to change pricing. Cognisant of the market dynamics (high prices and uncertainty with respect to medical aid schemes' countervailing power), the proposed transaction is relatively small and is therefore unlikely to enhance the distortions in the private hospital market.

The Commission found exclusivity clauses in previous shareholders agreements which Mediclinic had entered into with other strategic BEE partners, which are in the Commission's view anti-competitive and related to this proposed transaction. The Commission has agreed with the merging parties to remove these clauses and have imposed a condition in this regard. The Commission engaged the GDOH in light of the process which it follows when granting licences to new applicants, due to the concern raised and the potential harm found in the exclusivity clauses. The Commission is of the view that this harm needs to be addressed through advocacy with the GDOH going forward to safeguard competition in the private hospital market and encourage new entrants in the market.

Furthermore, there are no public interest issues raised by the proposed transaction or any other concerns by third parties.

The Commission therefore approves the transaction subject to conditions (which having been agreed between the merging parties and the Commission, to be treated as confidential).

All reporting documents and correspondences in relation to these conditions must be submitted to the Commission's email address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 290 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****ACCELERATE PROPERTY FUND LIMITED****AND****61 LETTING PROPERTIES SOLD BY ORTHOTOUCH LIMITED****AND****13 LETTING PROPERTIES SOLD BY THE TRUSTEES OF THE TIME BEING OF THE
GEORGE NICOLAS TRUST****CASE NUMBER: 2012DEC0739 AND 2012DEC0740**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm in both intermediate transactions, filed under Commission case 2012Dec0739 and 2012Dec0740, is Accelerate Property Fund Limited ("Accelerate"), a firm incorporated in terms of the laws of the Republic of South Africa. Accelerate does not control any other firms. Accelerate is controlled by a single shareholder. The acquiring group own various letting properties located throughout the Republic of South Africa which are classified as retail, industrial and office properties.

In the intermediate transaction filed under Commission case no. 2012Dec0739 the primary target firms are 13 letting properties sold by the trustees of the time being of the George Nicolas Trust ("the George Trust"). In the intermediate transaction filed under Commission case no. 2012Dec0740 the primary target firms are 61 letting properties sold by Orthotouch Limited ("Orthotouch"). The properties sold in both transactions are classified as rentable retail,

industrial, mixed use properties and office properties located across the Republic of South Africa.

It is important to note that the two transactions were filed separately as Orthotouch and the George Trust are separate entities which are selling the rentable properties separately to Accelerate. However, both transactions were filed on the same date and they involved a common acquiring firm (Accelerate). The Commission has therefore consolidated the analysis and the reasons for the decision of the two transactions.

The Commission finds that there is no overlap in the activities of the merging parties in relation to the provision of hotels and the market for the provision of rentable retail property specifically in comparative centres as the acquiring group does not own hotels and comparative centres. The Commission therefore concludes that the transaction is unlikely to substantially prevent or lessen competition in those markets.

However, the Commission finds horizontal product overlap in the markets for provision of rentable A-Grade, B-Grade and C-Grade office property. However, a geographic overlap only exists in the market for the provision of rentable B-Grade office property. The Commission finds that the post-merger market share of the merging parties in the market for provision of rentable B-Grade office space remains minimal. The Commission therefore concludes that the transaction is unlikely to substantially prevent or lessen competition in all of the affected rentable office property markets.

In addition, the Commission finds horizontal product overlap in the activities of the merging parties' in two additional markets namely: (i) the market for the provision of rentable retail space specifically in convenience centre; and (ii) the market for the provision of rentable light industrial property. The Commission finds that the activities of the merging parties do not overlap in the narrowest geographic market where competition takes place. The Commission therefore concludes that the transaction is unlikely to substantially prevent or lessen competition in these markets.

Furthermore, the Commission finds exclusivity clauses in lease agreements in certain of the Orthotouch rentable properties classified as retail centres which have the effect of excluding rivals of the anchor tenants from the respective centres. The exclusivity clauses have the effect of preventing small businesses from competing effectively in the respective centres. In order to address the concern, the merging parties agreed to a condition to have the exclusionary clauses removed (in accordance with the contractual terms) in the individual lease agreements upon renewal.

The Commission confirmed that the transaction does not have an adverse effect on employment.

The Commission therefore approves the proposed merger subject to the following conditions:

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. "**Acquiring Firms**" means Accelerate Property Fund Limited
- 1.2. "**Approval Date**" means the date referred to in the Commission's merger clearance certificate (Form CC15);
- 1.3. "**Commercial reasons**" means reasonable principles of commerce, or bona fide reasons, taken into account in arriving at a decision in the ordinary course of business;
- 1.4. "**Commission**" means the Competition Commission of South Africa;
- 1.5. "**Competition Act**" means the Competition Act 89 of 1998, as amended;
- 1.6. "**Conditions**" means these conditions;
- 1.7. "**Merger**" means the acquisition of control over 13 letting properties sold by George Nicolas Trust and 61 letting properties sold by Orthotouch Limited to Accelerate

Property Fund Limited;

- 1.8. **"Merging Parties"** means Accelerate Property Fund Limited and Orthotouch Limited and the George Nicolas Trust;
- 1.9. **"Lease Agreements"** means 12 identified lease agreements in respect of the sold letting properties containing exclusivity clauses;
- 1.10. **"Lessees"** means all the entities leasing retail space as anchor tenants in the letting properties;
- 1.11. **"Orthotouch"** means Orthotouch Limited;
- 1.12. **"The George Trust"** means the George Nicolas Trust;

2. Recordal

- 2.1. Accelerate has agreed to the following undertakings which are meant to address the public interest concerns.
- 2.2. It is the Commission's view that the conditions, in the current form, are necessary to address the public interest concerns.

3. Conditions to the approval of the merger

- 3.1. Accelerate shall negotiate with the respective lessees in respect of the current effective Lease Agreements, in the utmost good faith to have each exclusivity clause contained in the Lease Agreements removed at the approaching renewal date.

4. Monitoring of compliance with conditions

- 4.1. Should Accelerate succeed in removing the exclusivity clause in any, or all lease agreements mentioned in 3.1 above, it shall submit a copy of the signed, new lease

agreements to the Commission as proof of compliance within 30 days of concluding each new lease agreement.

- 4.2. Should Accelerate not succeed in the removal of the exclusivity clause from any of the lease agreements mentioned in 3.1 above, it shall submit a report setting out the details and outcome of its negotiations with each party mentioned in conditions 3.1 and an affidavit confirming the accuracy of the report within 30 days of concluding its negotiations.

All correspondences in relation to all the monitoring conditions shall be submitted to the e-mail address: mergerconditions@compcom.co.za.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 291 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****PRIMEPRAC (PROPRIETARY) LIMITED****AND****MURRAY & ROBERTS RETAIL ASSET MANAGEMENT (PROPRIETARY) LIMITED****2012SEP0582**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Primeprac (Pty) Ltd ("Primeprac"), a firm incorporated in terms of the laws of the Republic of South Africa. Primeprac is controlled by Carlmac Steel (Pty) Ltd ("Carlmac"). Primeprac is a firm incorporated for purposes of the current acquisition of M & R Retail as such does not conduct any businesses. However, Carlmac hold interest in Capital Africa Steel (Pty) Ltd ("CAS"), which manufactures and supplies steel reinforcement and welded mesh fabric through its Reinforcing Mesh Solutions ("RMS") division.

The primary target firm is Murray & Roberts Retail Assets Management (Pty) Ltd ("M & R Retail"), a firm incorporated in terms of the laws of the Republic of South Africa. M & R Retail is created for the housing of M & R steel business which involves the manufacturing and supply of mesh and wire products ("referred to as RSC") and providing reinforcing steel (rebar) solutions to construction firms ("referred to as BRC") ("hereinafter referred reference to RSC incorporates the activities of M & R Ltd which relates to BRC).

In terms of the Sale of Business Agreement, Primeprac intends to acquire 100% interest in M & R Retail, thus acquiring the Murray & Roberts RSC business. Upon completion of the transaction Primeprac will have sole control over M & R Retail.

The transaction result in an overlap in two markets namely: (i) upstream market for the cutting, bending, supply and installation of rebar in construction products and (ii) in the market for the supply of welded mesh. The Commission identified unilateral concerns as the merging parties' combined market share in both these affected market are relatively high and the markets are characterised by high barriers to entry and low countervailing power. Further, the Commission identified a concerns related to possible coordinated conduct between CAS (specifically through RMS) as the transaction results in Carlmac holding interest in RMS and RSC. In view of uncovered cartel conduct in both affected markets and the Competition Tribunal's findings against RMS, the Commission is of the view that the transaction is likely to facilitate collusion between the merging parties.

In addition, the Commission found that the proposed transaction results in employment concerns as the Primeprac's intended restructuring will result in job losses.

In order to address all the concerns the Commission approves the transaction subject to the following conditions.

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. **"Affected markets"** means the market for the supply of cut and bent rebar to construction companies; and the market for the supply of welded mesh to construction companies.
- 1.2. **"Affected employees"** means certain employees which might be retrenched by the merging parties;
- 1.3. **"Alert Steel"** means Alert Steel Holdings Limited, a firm incorporated in terms of the laws of the Republic of South Africa;
- 1.4. **"Approval Date"** means the date referred to in the Competition Commission's

Merger Clearance Certificate (Form CC 15);

- 1.5. **"BRC"** means BRC Mesh Reinforcing (Proprietary) Limited, a subsidiary of M & R Ltd that carries out all the operations of M & R Ltd in the supply of mesh and wire products for reinforcing steel solutions;
- 1.6. **"CAS"** means Capital Africa Steel (Pty) Ltd, a firm incorporated in terms of the laws of the Republic of South Africa
- 1.7. **"Carlmac"** means Carlmac Steel (Pty) Ltd a firm incorporated in terms of the laws of the Republic of South Africa;
- 1.8. **"Commission"** means the Competition Commission of South Africa;
- 1.9. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.10. **"Conditions"** means these conditions;
- 1.11. **"Interim period"** means the period;
 - i. both Carlmac and CAS hold interests in Alert Steel; and
 - ii. Carlmac holds an interest in CAS
- 1.12. **"McCulloch"** means Mr Malcom McCulloch, a director of Primeprac and controlling shareholder of Carlmac
- 1.13. **"Merger transaction"** means the acquisition by Primeprac of 100% of the issued share capital of M&R Retail;
- 1.14. **"Merging Parties"** means Primeprac and M & R Retail;
- 1.15. **"M&R Retail"** means Murray & Roberts Retail Asset Management (Pty) Ltd, a firm incorporated in terms of the laws of the Republic of South Africa;
- 1.16. **"M & R Retail Business"** means all the firms which are to be transferred by M&R Ltd to M&R Retail as part of the proposed transaction, which include Bestforce Reinforcing Steel Gauteng (Pty) Ltd, Limpopo Reinforcing Steel slabs (Pty) Ltd, Cyclone Reinforcing Steel Gauteng (Pty) Ltd, Mthatha Reinforcing Steel (Pty) Ltd, SA Rebar Holdings (Pty) Ltd and Khokane Reinforcing (Pty) Ltd, and shares in BRC Mesh Reinforcing (Pty) Ltd, Reinforcing Steel Contractors (Pty) Ltd, RCS

International Trading (Pty) Ltd, Reinforcing Steel Systems (Pty) Ltd and Specialist Equipment Manufactures (Pty) Ltd;

- 1.17. **"M&R Ltd"** means Murray & Roberts Limited, a firm incorporated in terms of the laws of the Republic of South Africa;
- 1.18. **"Primeprac"** means Primeprac (Pty) Ltd a firm incorporated in terms of the laws of the Republic of South Africa;
- 1.19. **"RMS"** means Reinforcing Mesh Solutions, a trading division of CAS involved in operations related to the manufacturing and supply of steel reinforcement, rebar and welded mesh;
- 1.20. **"RSC"** means RSC International Trading (Proprietary) Limited, a M & R Ltd company that includes all the operations of M & R Ltd consisting of cutting, bending and installation of rebar for reinforcing steel solutions;

2. Recordal

- 2.1. On 28 September 2012, the merging parties filed this merger transaction with the Commission. Following its investigation of this merger transaction, the Commission is of the view that the proposed transaction is likely to raise substantial unilateral competition concerns given the high post-merger market share of the merging parties in all the affected markets.
- 2.2. In addition, the Commission has concerns in relation to the cross directorship resulting from Carlmac's interest in CAS and Alert Steel. Given the history of collusion in the affected markets, these cross-directorships are likely to create a platform for the merging parties to continue to engage in coordinated conduct.
- 2.3. Further, given the possible impact that the transaction may have on employment, in particular the employees of M & R Retail Business, the Commission is of the view that it is necessary to impose employment conditions.
- 2.4. Therefore the Commission sets out the following conditions:

3. Conditions to the approval of the merger

Cross-directorships

- 3.1. Any director or shareholder of Carlmac must resign from the board of CAS with immediate effect;
- 3.2. In the interim period Carlmac shall ensure that it does not share or facilitate the exchange of competitively sensitive information. This information includes but is not limited to:
 - 3.2.1. Pricing;
 - 3.2.2. Margins;
 - 3.2.3. Costs;
 - 3.2.4. Marketing strategies; and
 - 3.2.5. Budgets and business plans.

4. Employment

- 4.1. For a period after the approval date the merging parties:
 - 4.1.1. shall not retrench more than the specified number of employees at M & R Retail business, as a result of the merger.
 - 4.1.2. For the purposes hereof –
 - 4.1.2.1. Retrenchments following on voluntary separation agreements and early retirement packages, unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act 1995 (as amended) are not merger related retrenchments; and
 - 4.1.2.2. The board of directors and the executive management of M & R Retail Business are not regarded as employees of M & R Retail business.
- 4.2. The merging parties undertake to redeploy the affected employees within the Carlmac Group, which includes all firms affiliated and/or associated with Carlmac within a specified period from the approval date. Further, the merging parties

undertake that the redeployed employees will not be employed under terms which are less favourable than their current positions.

- 4.3. The merging parties undertake to support and assist all affected employees. The support and assistance shall include but shall not be limited to:
- 4.3.1. making available counselling, pre and post the termination of employment;
 - 4.3.2. providing individual assistance and support in dealing with administrative issues (e.g. pension, tax and UIF contributions and payments) that may arise as a result of the termination of employment; and
 - 4.3.3. for a period of 12 (twelve) months after the termination of employment, the merging parties shall give preference to affected employees for any suitable vacancy that may arise in the merged entity's business provided the affected employee has, inter alia, the requisite skills, experience and qualifications.

5. Monitoring of compliance with the Conditions

- 5.1. Carimac must submit an affidavit by its Chief Executive Officer confirming compliance with the above conditions by 15 January 2013;
- 5.2. Carimac must report to the Commission on a 6 (six) monthly basis on the employment conditions. The report must include details of the number of employees retrenched, their skills levels and job description, the number of blue collar employees redeployed, and details of their redeployment.
- 5.3. Further, with each report submitted the merged entity must submit an affidavit by its Chief Executive Officer confirming the accuracy of the report and confirming the merged entity's compliance with conditions.
- 5.4. The first report and accompanying affidavit must be submitted on the 1st of June 2013.

All reporting documents and correspondences in relation to these conditions must be submitted to the Commission's email address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 292 OF 2013
COMPETITION COMMISSION

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

TECSA PROPRIETARY LIMITED ("TECSA")

AND

RECO, A DIVISION OF AFRICAN OXYGEN LIMITED ("RECO")

2012NOV0667

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

On 8 November 2012, the Competition Commission of South Africa (the Commission) received a merger notification in terms of which Tecsa (Pty) Ltd (Tecsa) would acquire Reco from Afrox Oxygen Limited (Afrox). Reco is a division of Afrox. Upon completion of the proposed transaction Reco would become a wholly-owned subsidiary of Tecsa. Reco does not directly or indirectly control any other firms.

The activities of the merging parties overlap horizontally in respect of the importing and wholesaling of the following products: refrigeration components and spares parts; air conditioners and air conditioning components; and refrigerant gases.

The Commission concludes that the following markets are relevant for purposes of analysing the proposed transaction:

- Regional market for the importation and wholesale distribution of refrigeration components and spares for the commercial market;
- Regional market for the importation and wholesale distribution of refrigeration components and spare parts for the domestic market;

- Regional market for the importation and wholesale distribution of air conditioners and air conditioning components; and
- Regional market for the importation and wholesale distribution of refrigerant gases.

The following constitute the relevant regions: Gauteng region; KwaZulu-Natal region; Western Cape region; Eastern Cape region; Mpumalanga region; Limpopo region; and Free State region as these are the narrowest separate geographic markets that are likely to be affected by the proposed merger.

The Commission's investigation finds no serious competition concerns in respect of the identified markets.

The Commission is however concerned that the proposed merger will raise significant public interest concern in that 16 semi-skilled employees would be retrenched. In order to address this employment concern, the Commission is imposing the following employment conditions.

1. DEFINITIONS:

In this document the following words shall have the following meanings ascribed to it:

- 1.1 **'Affected areas'** shall refer to the following areas: Cape Town; Pietermaritzburg; Nelspruit; Randburg; George; and Bloemfontein.
- 1.2 **'Affected employees'** mean the semi-skilled employees and 11 skilled employees.
- 1.3 **'Effective Date'** shall mean the date of approval of the merger by the Competition Commission';
- 1.4 **'employees'** or **'employee'** shall mean a person or people in the permanent employ of Tecsa and Reco, a division of Afrox;
- 1.5 **'Merged entity'** shall mean Tecsa (Pty) Ltd ("Tecsa") and Reco, a division of African Oxygen Limited ("Reco")
- 1.6 **'Moratorium period'** shall mean 2 calendar years from the Effective Date;
- 1.7 **'Semi-skilled employees'** shall include employees without any formal qualification and those currently occupying the following titles:

- (a) Fork lift drivers;
- (b) Warehouse foreman;
- (c) Filing Clerks;
- (d) Call centre Operators; and
- (e) Other drivers.

These shall exclude all Branch Managers, Purchasing Managers, Credit Controllers, Claims Administrators, Accounting Clerks, and Telesales Operators;

- 1.8 **“Skilled employees”** mean employees with formal education and training and those occupying the following positions: Branch Managers, Purchasing Managers, Credit Controllers, Claims Administrators, Accounting Clerks, and Telesales Operators.

2. RECORDAL

The Commission finds that the proposed transaction is unlikely to raise significant competition concerns as there are other competitors in the market which will constraint the merging parties from unilaterally increasing their prices in all the affected markets. Further, the barriers to entry and / or expansion in all the affected markets are relatively low.

However, the proposed transaction is likely to have a negative impact on employment since the merging parties are intending to combine certain branches and close down certain branches that are adjacent to each other. This is likely to result in approximately 27 employees losing their jobs of which 16 is semi-skilled employees and 11 is skilled employees as defined in the Employment Equity Act, No. 55 of 1998, EEA 9, Annexure 2: Occupational levels. The Commission is concerned that this transaction is likely to raise significant public interest concerns as it affects approximately 16 semi-skilled employees who are unlikely to find employment in the near future. In order to alley the job losses resulting from the proposed transaction, the Commission approves the proposed transaction subject to conditions discussed in 3 (three) below.

3. CONDITIONS TO THE APPROVAL OF THE MERGER

- 3.1 The merged entity shall not retrench any semi-skilled employee during the moratorium period as a result of the merger. For the sake of clarity, retrenchments do not include (i) voluntary separation arrangements (ii) voluntary early retirement packages; and (iii) refusals to be redeployed whether on reasonable or unreasonable grounds.
- 3.2 The merged entity shall not retrench more than 11 skilled employees as a result of the merger;

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

- 4.1. The merging entity shall circulate a copy of the conditions to their respective employees, including the relevant trade unions, within 7 days of the Effective Date of the transaction. As proof of compliance hereof, the merging parties shall within 5 days of circulating the conditions, provide an affidavit by a senior official attesting to the circulation of the conditions and provide a copy of the notice that was sent to the employees.
- 4.2. The merged entity shall on a six monthly basis submit an affidavit to the Commission confirming that no retrenchments of semi-skilled employees has occurred as a result of the merger. Where employees are retrenched due to other reasons, the merged entity will indicate the number and reasons for these retrenchments occurring. In the affidavit, the merged entity shall also indicate the number of skilled employees retrenched and the reasons for these occurring.
- 4.3. The first report shall be submitted on the 5th of August 2013. All correspondences with respect to clause 4 must be forwarded to the following email address: mergerconditions@compcom.co.za.

5. DURATION OF THE CONDITIONS

- 5.1. The conditions shall apply for a period of 2 years from the date of the approval of the merger.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 293 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****EATON CORPORATION****AND****COOPER INDUSTRIES PLC****CASE NUMBER: 2012SEP0536**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Eaton Corporation ("Eaton"), a public company incorporated in accordance with the laws of Ohio and listed on the New York Stock Exchanges. Eaton is not controlled by any firm. Eaton owns several firms throughout the world. Eaton is a diversified industrial company. In South Africa, Eaton is active in four main business units, namely electrical; hydraulics; vehicles; and aerospace.

The primary target firm is Cooper Industries plc ("Cooper"), a public company incorporated in accordance with the laws of Ireland and listed on the New York Stock Exchange. Cooper is not controlled by any single firm. Cooper controls several firms throughout the world. In South Africa, Cooper only controls Cooper Industries SA LLC. Cooper is a manufacturer of electrical equipment. Cooper manufactures two main categories of products, namely energy and safety solutions. Cooper does not have a manufacturing facility in South Africa and imports all of its products for sale in South Africa through its distributors.

The Commission found that the proposed transaction is unlikely to raise significant competition concerns as the accretion in market shares is insignificant. Further, there are other players in

the market that compete with the merging parties which will be in a position to constrain any potential anti-competitive behaviour by the merging parties.

With respect to vertical relationship between the parties, the Commission found that the proposed transaction is unlikely to result in foreclosure concerns.

With respect to public interest concerns, the Commission found that the proposed transaction is likely to have a negative impact on employment since it is likely to result in job losses on the employees of an independent distributor of Cooper as post-merger, Eaton is likely to use its own distribution network to distribute fuses. In order to address this concern, the Commission decided to impose a condition on the merged entity to continue using independent distributors. The merging parties have agreed to this condition.

The Commission accordingly approves the proposed transaction subject to the following conditions that addresses the public interest concerns.

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. **"Acquiring Firm"** means Eaton Corporation;
- 1.2. **"Approval Date"** means the date referred to in the Commission's merger clearance certificate (Form CC15);
- 1.3. **"Commission"** means the Competition Commission of South Africa;
- 1.4. **"Competition Act"** means the Competition Act 89 of 1998, as amended;
- 1.5. **"Conditions"** means these conditions;
- 1.6. **"Cooper"** means Cooper Industries Plc, the primary target firm;
- 1.7. **"Eaton"** means Eaton Corporation, the primary acquiring firm;
- 1.8. **"Independent Distributor"** means a third party distributor of fuses currently used by

Cooper Industries Plc;

- 1.9. **"Merger"** means the acquisition of control over Cooper Industries Plc by Eaton Corporation; and
- 1.10. **"Merging Parties"** means Eaton Corporation and Cooper Industries Plc.

2. Recordal

The Commission finds that the proposed transaction is unlikely to raise significant competition concerns as the accretion in market shares is insignificant. Further, there are other players in the market that compete with the Merging Parties which will be in a position to constrain any potential anti-competitive behaviour by the Merging Parties. However, the proposed transaction is likely to have a negative impact on the employees of an Independent Distributor of Cooper as post-merger, Eaton is likely to use its own distribution network to distribute fuses.

3. Conditions to the approval of the merger

- 3.1. The Merging Parties shall continue using Independent Distributors of Cooper for fuses in South Africa on the same terms and conditions.

4. Monitoring of compliance with the Conditions

- 4.1. The Merging Parties shall circulate a copy of the Condition to Independent Distributors within 7 days of receipt of the merger clearance.
- 4.2. As proof of compliance hereof, Eaton or Cooper shall within 5 days of circulating the condition, submit an affidavit to the Commission by a senior official attesting to the circulation of the condition.
- 4.3. The Merging Parties shall submit a report to the Commission on a (6) six month basis from the Approval Date confirming compliance with respect to 3.1. The first report shall be submitted on 01 February 2013.

- 4.4. The reports and/or documents referred to in paragraph 4.2 and 4.3 shall be submitted to the following e-mail address mergerconditions@compcom.co.za.
- 4.5. An apparent breach by Eaton or Cooper of any of the Conditions shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission.
- 4.6. The Commission may on good cause shown by the Merging Parties, lift, revise or amend these Conditions.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 294 OF 2013**COMPETITION COMMISSION**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

FOODPROP PROPERTY HOLDINGS (PTY) LTD

AND

**ACUCAP INVESTMENTS (PTY) LTD IN RESPECT OF THE LETTING PROPERTY KNOWN
AS RONDEBOSCH-ON-MAIN**

CASE NUMBER: 2012JUL0383

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary acquiring firm is Foodprop Property Holdings (Pty) Ltd ("FoodProp"), a company incorporated in terms of the laws of the Republic of South Africa. Foodprop does not control any subsidiary, directly or indirectly. Foodprop is controlled by Foodprop Investment Holdings (Pty) Ltd. Foodprop owns retail centres in South Africa.

The primary target firm is Acucap Investments (Pty) Ltd in respect of the letting property known as Rondebosch-on-Main, ("Acucap") in respect of the property letting enterprise known as Rondebosch-on-Main, a company incorporated in terms of the laws of the Republic of South Africa. Acucap controls the convenience centre (target property) Rondebosch-On –Main.

In terms of the Sale Agreement entered into between the parties, Foodprop is acquiring from Acucap the property letting enterprise known as Rondebosch-on-Main, which comprises a retail neighbourhood centre with a GLA of 6199m situated in Rondebosch, Cape Town.

There is a horizontal overlap in the activities of the merging parties in the market for provision of retail properties, specifically convenience centres. However, the Commission found that none of

the target properties overlap geographically with the retail properties held by the acquiring firm. The Commission concludes that the proposed transaction is unlikely to lead to a substantial prevention or lessening of competition as there is no geographic overlap.

There is a concern pertaining to the exclusivity clause contained in the lease agreement between Pick n' Pay and Acucap. The Commission found that the exclusivity clauses have the effect of excluding rivals of Pick n' Pay from the centre with the implication that small businesses are prevented from competing effectively in the centre. In order to address the concern, the Commission negotiated with the merging parties to have the exclusivity clause removed as the exclusivity clause could not be justified. The Commission imposed a condition to have the exclusivity clause removed from the lease agreement upon renewal.

The Commission therefore approves the proposed transaction subject to the following condition:

Condition

- 1 FoodProp shall negotiate with Pick n' Pay in respect of Rondebosch-on-Main lease agreement, in utmost good faith to have the exclusivity clauses in the lease agreement in respect of the target property, removed at the renewal of the lease.

Monitoring of compliance with the conditions

- 2 Foodprop shall within thirty (30) days after entering into the new or renewed lease agreement in respect of the centre, provide the Commission with a report setting out in detail the extent to which they have complied with the conditions of removing the exclusivity clause.

All documents or correspondences in relation to these conditions must be submitted to the following email address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

NOTICE 295 OF 2013**COMPETITION COMMISSION****NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:****CLIVE THEODORE MENNE****AND****MATAT WHOLESALERS (PTY) LTD AND MATAT LIQUORS (PTY) LTD****CASE NUMBER: 2012OCT0586**

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

The primary firm is Mr Clive Theodore Menne ("Menne"), the current store manager of the target stores being Matat Wholesalers (Pty) Ltd and Matat Liquors (Pty) Ltd. Menne is an individual and does not directly or indirectly provide any products or services.

The primary target firms are Matat Wholesalers (Pty) Ltd ("Matat Wholesalers") and Matat Liquors (Pty) Ltd ("Matat Liquors") which form part of the Rhino Group, collectively referred to as the "divested stores". Matat Wholesalers is a full-line wholesale store situated in Matatiele in the Eastern Cape. Matat Wholesalers' customers are independent retailers and general dealers that sell to end consumers. Matat Wholesalers is predominantly a wholesaler of groceries and store manager estimates that incidental retail sales constitute less than a specific percentage of total sales. Rhino Liquors Matatiele is involved in the wholesale and retail sale of liquor products in Matatiele and surrounding areas. It offers a full range of liquor products including beer, wine and spirits.

In terms of the Sale of Shares and Loan Account Agreement, Menne will acquire shares in the target stores. On completion of the proposed transaction, Menne will have sole control over the target firms.

The Commission finds that there is no overlap in the activities of the merging firms. In addition, the proposed merger does not raise any public interest concerns. However, due to the relationship that will exist between the merging parties post-merger, the Commission is concerned that the proposed transaction might lead to:

1. The possibility of information sharing and collusion through access to the buying channels and back office support function provided by the Rhino Head Office to Menne; and
2. The independence of Menne being affected by the guarantee provided by Massmart
3. To address these potential competition concerns regarding information sharing and the independence of Menne, the Commission engaged with the merging parties and the parties have agreed to the following conditions:

1. Definitions

The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings –

- 1.1. "Access to Favourable Trading Terms" means the undertaking by Massmart, in terms of the Obligations and Services Agreement, to procure that the Divested Store is able to purchase the stock it requires at the same prices at which Rhino is able to purchase stock, including the same promotional prices and subject to the same discounts and rebates as those which are granted to Rhino (as set out in clause 4.1 of the Obligations and Services Agreement);
- 1.2. "Annexure A" means the services set out in Annexure A of the Obligations and Services Agreement;
- 1.3. "Annexure B" means that services set out in Annexure B of the Obligations and Services Agreement.

- 1.4. "Approval Date" means the date referred to in the Competition Commission's merger clearance certificate (Form CC 15) in respect of the merger between the Purchaser and the Divested Store (case number: 2012OCT0586);
- 1.5. "Commission" means the Competition Commission of South Africa;
- 1.6. "Conditions" means these conditions;
- 1.7. "Divested Store" means Matat Wholesalers (Pty) Ltd and Matat Liquors (Pty) Ltd;
- 1.8. "Implementation Date" means the first day of the month following the month in which the Divested Store is transferred to the Purchaser;
- 1.9. "Massmart" means Massmart Holdings Ltd or any of its subsidiaries;
- 1.10. "Obligations and Services Agreement" means the agreement between Massmart and the Divested Store in respect of the services to be provided by Massmart to the Divested Store in terms of clause 4 of this agreement;
- 1.11. "Purchaser" means Clive Theodore Menne or any company or trust managed and/or controlled by him;
- 1.12. "Rhino" means numerous Massmart subsidiary companies trading as Rhino Cash & Carry and Rhino Liquors;
- 1.13. "Sale Agreement" means the sale of shares and loan account agreement between the Seller, the Purchaser and the Divested Store;
- 1.14. "Seller" means the Embabe Trust; and
- 1.15. "Tribunal" means the Competition Tribunal of South Africa.

2. Recordal

In order to maintain the competitive independence of the divested store and to prevent the flow of competitively sensitive information which might facilitate coordination, the Commission imposes the following conditions:

3. Conditions to the approval of the merger

- 3.1. Massmart shall ensure that the back office services provided to the Divested Store as set out in Annexure A will be limited to a maximum period of **[CONFIDENTIAL]** from the Implementation Date.
- 3.2. Massmart will provide the Divested Store with Access to Favourable Trading Terms, for a period of **[CONFIDENTIAL]** from the Implementation Date which **[CONFIDENTIAL]** period may be extended at the election of the Purchaser for a further period which may not exceed **[CONFIDENTIAL]** from the expiry of the **[CONFIDENTIAL]** period on the terms set out in Annexure B of the Obligations and Services Agreement.
- 3.3. Massmart and the Divested Store shall ensure that no competitively sensitive information will be shared with the Massmart group which would enable the parties to collude in the relevant market for the duration of the period during which the back office services (referred to in clause 3.1), or the Access to Favourable Trading Terms (referred to in clause 3.2) are provided. Competitively sensitive information shall include, but is not limited to:
 - 3.3.1. Any pricing information including selling or promotional price of specific products;
 - 3.3.2. Customers details including sales volumes, and any discounts, or rebates provided to customers for specific products;
 - 3.3.3. Any planned price increases, price reductions or promotional sales for specific products;
 - 3.3.4. Margin information by product line;
 - 3.3.5. Financial data including sales value, sales volume, per product or line item.
 - 3.3.6. Promotional, advertising, and marketing strategies;
 - 3.3.7. Budget and business plans; and
 - 3.3.8. Store specific deals from local suppliers.

3.4. The Purchaser may at any time during the [CONFIDENTIAL], terminate the Obligations and Services Agreement.

4. It is recorded that in order to secure funding for the transaction, Massmart may be required to act as guarantor to the bank for the funding of the deal. In the event of default by the Purchaser such that Massmart is required to pay such guarantee to the bank, Massmart undertakes that, notwithstanding any obligations that may thereby arise between Massmart and the Purchaser, it shall not seek to take over the Divested Store or otherwise acquire or exercise any control, whether direct or indirect, over the business of the Divested Store.

4.1. The Purchaser shall submit to the Commission a copy of the final signed loan agreement entered into with the bank within 30 days of finalising such agreement.

4.2. Massmart shall provide a final signed copy of any agreement reached with the bank in respect of its role as guarantor for the funding of the deal within 30 days of concluding such agreement.

4.3. Massmart shall provide a signed final copy of any agreement reached with the purchaser with respect to the funding of the deal and its role as guarantor, to the Commission within 30 days of concluding such an agreement.

5. Monitoring of compliance with the Conditions

5.1. A senior executive of Massmart shall submit an affidavit on an annual basis confirming its compliance with the above merger conditions for a period of [CONFIDENTIAL].

5.1.1. The first affidavit will be submitted within 1 month of the Implementation Date and must confirm the parties' implementation of and compliance with the conditions.

5.1.2. All affidavits thereafter will be provided on the anniversary of the Implementation Date.

5.2. Should the Purchaser elect to extend the assistance envisaged in clause 3.2 for a further [CONFIDENTIAL], Massmart shall inform the Commission in writing and submit a

signed copy of any renewed agreement within 1 month of such renewal.

5.2.1. Massmart's reporting obligations as specified in terms of clause 4.1 above shall continue until the expiry of the further **[CONFIDENTIAL]**.

5.3. Should the Purchaser elect to terminate the Obligations and Services Agreement, it shall notify the Commission in writing of such termination.

All documents or correspondences in relation to these conditions must be submitted to the following email address: mergerconditions@compcom.co.za

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531