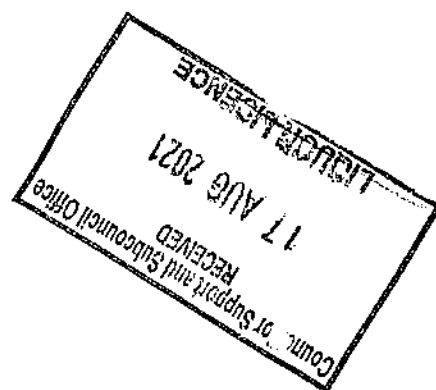


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**Checklist
Section 36 Applications**

DESCRIPTION OF DOCUMENTS TO BE ATTACHED	ANNEXURE
Application form (FORM 3)	A
Notice of lodgement of application for a liquor licence	B
Comprehensive floor plan of the proposed licensed premises	C
Site plan	D
Aerial view map	E
Description of the premises	F
Indexed colour photographs (internal and external)	G
Written representations in support of the application	H
Affidavit by the applicant that he or she is not disqualified in terms of section 35 from holding a liquor licence	I
Proof of notice in terms of section 37(2) – A3 notice affixed at premises	J
Proof of right to occupy the proposed licensed premises	K
Proof of ownership of the proposed licensed premises	L
A certified copy of the identity document, or, in the case of an applicant other than a natural person, copies of the relevant registration documents indicating the identity and, where applicable, the financial interests of all members, directors, partners, beneficiaries or trustees	M
A certified copy of Identity document	N
Proof of payment of the applicable application fee	O
A zoning certificate or a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation	P



ANNEXURE A: APPLICATION FORM (FORM 3)

WESTERN CAPE LIQUOR ACT, 2008 (ACT 4 OF 2008)

FORM 3

APPLICATION FOR A LICENCE IN TERMS OF SECTION 36

[Reg. 9(3)]

ORIGINAL MUST BE LODGED WITH AUTHORITY AND TWO COPIES WITH DESIGNATED LIQUOR OFFICER

Date stamp of designated liquor officer on receipt SUID-AFRIKAANSE POLISIEDIENS STATION COMMANDER WYNBERG KP 28 JUL 2021 STATION COMMANDER WYNBERG CP SOUTH AFRICAN POLICE SERVICE	Date stamp of Authority on receipt of application
---	---

INDEX

Description of documents to be attached	Annexure
Comprehensive floor plan of the proposed licensed premises	A
Site plan	B
Aerial view map	C
Description of the premises	D
Indexed colour photographs	E
Written representations in support of the application	F
Affidavit by the applicant that he or she is not disqualified in terms of section 35 from holding a liquor licence	G
Proof of notice in terms of section 37(2)	H
Proof of right to occupy the proposed licensed premises	I
Proof of ownership of the proposed licensed premises or, if the applicant is not the owner, written consent from the owner of the proposed licensed premises that the applicant may use the proposed licensed premises for the purposes of the licence applied for	J

Description of documents to be attached	Annexure
A certified copy of the identity card or document, or the passport and visa or permanent residence permit of the applicant if the applicant is a foreigner, or, in the case of an applicant other than a natural person, copies of the relevant registration documents indicating the identity and, where applicable, the financial interests of all members, directors, partners, beneficiaries or trustees	K
Proof of payment of the applicable application fee	L
A zoning certificate or a copy of a planning application submitted to the municipality concerned in terms of applicable planning legislation	M
Other documents required in the Act or required by the Authority	N

Name, signature and contact details of person who prepared this application:

Name

Frugavision Liquor Consultant

Signature

Postal code Physical address

PO Box 1354

WAND5BECK

3631

Office Cell phone

0824680003 or 0825858872

E-mail address

: frugavision@gmail.com

1. DETAILS OF APPLICANT

- 1.1 Full name : **Novar Group (Pty) ltd**
- 1.2 Identity number : **N/A** *(If applicant is a natural person)*
- Registration number : **2018 / 379854 / 07**
- 1.3 Date of birth : **_____ / _____**
- 1.4 Residential address : **10 Stirling street, Lemoen Kloof**
Paarl
7646

1.5 Postal address : **Po Box 1354**
 Postal code : **WANDSBECK**
 : **3631**

1.6 Address for service of all notices and documents: **Corner Rosemead & Wetton Road, Kennilworth, 7848**

1.7 Address for service of all notices and documents after application has been determined
Corner Rosemead & Wetton Road, Kennilworth, 7848

1.8 Contact details of applicant or, if the applicant is not a natural person, of contact person:
Mr Warren Cedrick Rorke

1.9 phone numbers: Office

Cell phone Home or other

: **082 399 8072**

1.9 Fax number

1.10 E-mail address

Wrorke32@gmail.com

2. QUALIFICATION OF APPLICANT

2.1	Is the applicant someone who—	Mark "yes" or "no"	
(a)	has, within the five (5) years prior to the lodgement of this application, been sentenced to imprisonment without the option of paying a fine?		No
(b)	has, within the five (5) years prior to the lodgement of this application, been declared unfit to hold a registration by the National Liquor Authority or a licence by any provincial liquor authority?		No
(c)	is an unrehabilitated insolvent?		No
(d)	is a minor?		No
(e)	was the holder of a licence that was cancelled in terms of the Act or an Act regulating liquor licences in any other province within a period of twelve (12) months prior to the lodgement of this application?		No

(f)	is a spouse or life partner of a person described in (a), (b) or (e) above?		No
(g)	anyone who is mentally ill as defined in the Mental Health Care Act, 2002 (Act 17 of 2002)?		No
2.2	In the case of an applicant who is not a natural person: Is any member, director, partner, beneficiary or trustee of the applicant a person described in paragraph 2.1(a), (b), (c), (d) or (e)?		No

2.3 If any of the questions in paragraph 2.1 or 2.2 has "yes" as the answer, provide full details:

N/A

(Use an annexure if necessary.)

3. FINANCIAL INTEREST

3.1 State the name, identity number and address of each person, including the applicant, who has any financial interest in the business, and in each case state the nature and extent of such interest:
[If the applicant is a public company, statutory institution or co-operative as contemplated in the Co-operatives Act, 2005 (Act 14 of 1981), it is sufficient if only the name and postal address of such company, statutory institution or co-operative, as the case may be, the name of each director (if any) thereof and the nature and extent of the financial interest of such company, statutory institution or co-operative are furnished and not also the interests of individual members of such company, statutory institution or co-operative.]

Warren Cedrick Rorke

Identity number: [REDACTED]

Address: [REDACTED]

Interest : 100%

3.2	If the applicant is a company, close corporation, partnership or trust, state whether a person contemplated in paragraph 3.1 above—	Mark "yes" or "no"
	has a controlling interest in the company, close corporation or trust?	NO
(b)	is a partner in the partnership?	No
(c)	is the main beneficiary under the trust?	No

3.3 If any of the questions in paragraph 3.2(a), (b) or (c) has "yes" as the answer, provide full details: **N/A**

4. APPLICATION DETAILS

4.1 State the category of licence applied for: **Off Consumption**

4.2 State the kind(s) of liquor the applicant intends to sell or manufacture under the licence:
Wine

- 4.3 Under what name is the business to be conducted? **BP Rosemead / PnP express Rosemead grocer's wine**

4.4 Address of the premises to be licensed, with reference to the number of the erf, street(s), apartment(s), shop(s) or farm, as the case may be, where the business will be conducted:

Erf 65273, corner Rosemead & Wetton Road, Kennilworth, 7848

4.5 Does the applicant own the proposed licensed premises? **YES**
If not, give details of the owner and the applicant's right of occupation:

Owner's name

Owner's address

Applicant's right of occupation: **5 years** Duration of right of occupation:

4.6	Is the application made in respect of premises that—	Mark "yes" or "no"	
(a)	have not yet been erected?		No
(b)	are already erected but require additions or alterations to make them suitable for the purposes of the proposed business?	Yes	
(c)	are already erected and, in the applicant's opinion, do not require additions or alterations in order to make them suitable for the purposes of the proposed business?		No

4.7 If any of the questions in paragraph 4.6(a) or (b) has "yes" as the answer, please state—

(a) the date when such erection, addition or alteration will commence:

15 August 2021 to 31 October 2021

(b) the period that will be required for the erection, additions or alterations:

2 Months

4.8 Trading hours sought during which it is proposed liquor may be sold or consumed on the licensed premises:

4.9 Should the application be granted, indicate whether the licence will automatically be renewed on an annual basis.
(Mark which is applicable.)

4.10 Jobs to be created: **25 employees**

(a) How many persons will be employed by the business?

25 staff members

(b) How many persons will be employed as managers?

1 person

(c) How many persons will be employed specifically for the sale of liquor?

15 staff

5. DETAILS OF APPLICANT IF APPLICANT IS NOT A NATURAL PERSON (To be filled in if applicant is a company, close corporation, trust or partnership.)

5.1 Registered name: **Novar Group (pty)ltd**

5.2 Registration number: **2018 / 379854 /07**

5.3 Date of registration: **2018**

5.4 Details of members, directors, partners or trustees:
(Use an annexure if necessary.)

(First person)

Full name Physical address

Warren Rorke

10 Stirling Street, Lemoen

Kloof, Paarl

7646

Postal address : **10 Stirling street,**

Lemoen Kloof, Paarl

Postal code **7646**

Identity number **720510 5351 082**

(Second person) Full name Physical
address

Postal code Postal address

Postal code

Identity number

5. **OTHER LICENCES**

6.1 Give full details of any existing liquor licence on the property where the proposed premises are located:

Licensee : **None**


Type of licence : **None**

Authority reference number: _____

(The location of such other licensed premises in relation to the proposed premises must be indicated on a site plan.)

6.2 Give full details of all liquor licences held by the applicant in the Western Cape Province, as well as full details of any registration held with the National Liquor Authority in terms of the Liquor Act, 2003 (Act 59 of 2003): **None**


2021/7/24 Date



Signature of applicant or person
authorised by applicant

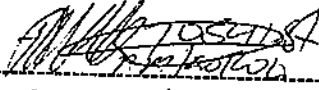
I declare / truly affirm that the information furnished in this application and in the documents attached to it, is true.

Date July 2021


Signature of applicant or if applicant is a juristic person,
the person authorised to sign application
(Written authorisation to be attached if not signed by applicant)

Name

I certify that the applicant has acknowledged that he/she knows and understands the contents of this, which was signed and sworn to / affirmed before me at this day of _____ 2021

Commissioner of oaths: 

Full name: ALBERT KOTOW

Business address: Rietgat SAPS

Designation: Sgt

Area for which appointment is held: Sergeant Pretoria

Office held if appointment is ex officio: H/A



Print name

A person who, regarding an application, objection or representations in terms of the Western Cape Liquor Act, 2008, lodges or provides information that he or she knows to be false or misleading, or that he or she does not know to be true, or lodges a forged document or one that purports to be, but is not, a true copy of the original, is guilty of an offence in terms of section 77(a) of the Act.

A person so convicted is liable on conviction to a fine not exceeding R50 000,00 or to imprisonment for a period not exceeding three months or to both such fine and such period of imprisonment.

**ANNEXURE B: NOTICE OF LODGEMENT OF
APPLICATION FOR A LIQUOR LICENSE**

WESTERN CAPE LIQUOR ACT, 2008 (ACT 4 OF 2008)

FORM 3B

NOTICE OF LODGEMENT OF APPLICATION FOR LIQUOR LICENCE

[Reg. 10(2)]

Notice is hereby given that an application for a liquor licence, particulars of which appear hereunder, has been lodged with the Western Cape Liquor Authority (the Authority) and the office of the designated liquor officer at the South African Police Service.

The application concerned may, up to and including the twenty-eighth (28th) day from the date of publication of the application, upon request and free of charge, be inspected by any person at the offices of the Authority and the designated liquor officer. Copies of the application can be obtained from the Authority after payment of the prescribed fee.

In terms of section 39 you may lodge objections or representations for or against the said application. Should you wish to do so, the objections or representations must be lodged, in writing, with the Authority and the office of the designated liquor officer.

Date of notice: **30 July 2021**

Full name of applicant: **Novar Group (pty) ltd**

Identity number or registration number of applicant: **2018 / 379854/ 07**

Street address of applicant: **10 Stirling street, Lemoen Kloof, Paarl, Postal code: 7646**

Postal address of applicant: **10 Stirling street, Lemoen Kloof, Paarl, Postal code: 7646**

Kind of licence applied for: **Off Consumption (Grocers' wine licence)**

Name under which business will be conducted: **BP Rosemead / Pick N Pay Rosemead**

Address of the premises to be licensed, with reference to the number of the erf, street(s), apartment(s), shop(s) or farm where the business will be conducted, as the case may be:

Erf 65273

Corner Rosemead & Wetton Road

Kennilworth, 7848

Name and signature of person who prepared this application:

Name : **Frugavision Liquor Consultant**

Signature



Postal address:

Po Box 1354 , Wandsbeck, 3631

Physical address:

7848

Corner Rosemead & Wetton Road, Kennilworth,

Telephone numbers:

Cell phone

: 0825858872 or 0766438957

Fax number

E-mail

: frugavision@gmail.com

A person who, regarding an application, objection or representations in terms of the Western Cape Liquor Act, 2008, lodges or provides information that he or she knows to be false or misleading, or that he or she does not know to be true, or lodges a forged document or one that purports to be, but is not, a true copy of the original, is guilty of an offence in terms of section 77(a) of the Act.

A person so convicted is liable on conviction to a fine not exceeding R50 000,00 or to imprisonment for a period not exceeding three months or to both such fine and such period of imprisonment.

ANNEXURE D: SITE PLAN

ANNEXURE C: FLOOR PLAN

ANNEXURE E: AERIAL VIEW MAP

Schröder Incorporated

Wynberg Rd

Blue Dot

Audio 59 Hair Salon

Monarch Tattoo Co
Tattoo shop

Wetton Rd

Window Shades

Adriaanse

Barnstaple Rd

Brig Rashed

Pizza 8 Grills

Takeaway

ISM Audio

McDonald's Wetton Road

Standard Bank ATM

Cosmo Services
Shampooing

Abasa ATM
Road

M28

M9

M9

Wynberg Sports Club

M9

M9

Wetton Rd

BP Pick N Pay

X Johns FC

ANNEXURE F : DISCRIPTION OF THE PREMISES

DESCRIPTION OF PREMISES AS CONTEMPLATED IN
SECTION 36 OF THE WESTERN CAPE LIQUOR ACT, 2008

Herewith is a description of the proposed premises as required in terms of Regulation 9 (4)(c) of the Western Cape Liquor Act. The proposed business is situated at **Corner Rosemead & Wetton Road, Kennilworth, 7848.**

And the business will be conducted under the name of **BP**

Rosemead / Pick N Pay Rosemead

Details of construction of the building

The walls are built of bricks which has been plastered and painted, the ceiling is fitted with rhinoboard and the roof of the building is corrugated iron.

Details of floor covering

The floors are tiled throughout with ceramic tiles and in the bakery there is a pseudo wooden floor. Laminated flooring and the walls also part covered with wooden decoration.

Furniture fitting

There metal fridges and freezer and metal shop shelving unit throughout the shop. The bakery section is fitted with three wooden tables for displaying cakes. The outlet is currently undergoing renovation. The wine section with be fitted with lockable cages to

ensure that during none trading the wine area will be locked. The cashier desk is fitted with chairs for the cashiers.

This is a grocer's wine license application and it is not a requirement to provide ablution facilities, and demarcation for a smoking area.

There will be a lockable shelve designated for the display of wines and after trading hours it would be locked.

Outside the proposed licence premises

The proposed liquor outlet is situated in a business area with ample space for parking. There are number of shops and restaurant around the proposed liquor application. There are surveillance cameras around the proposed premises.

Storage facility

There will be a proper storage facility in which the requisite dry provisions and wine can be stored on the premises. The storeroom is reflected on the floor plan

ANNEXURE G: COLOUR PHOTOS

Pick n Pay Express

Airtime

Airtime

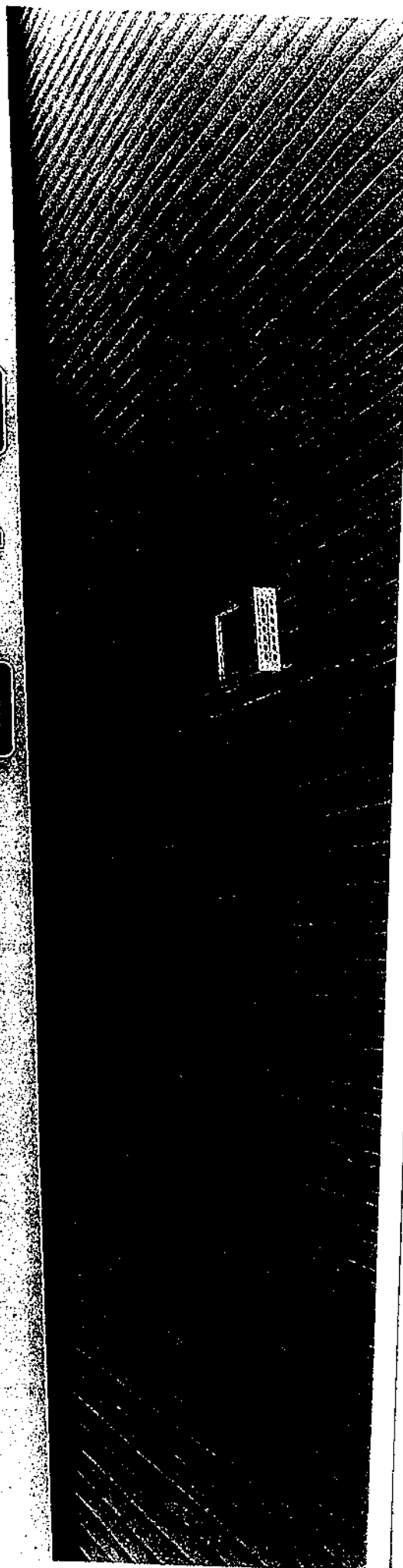
mizansistoris
in every cup

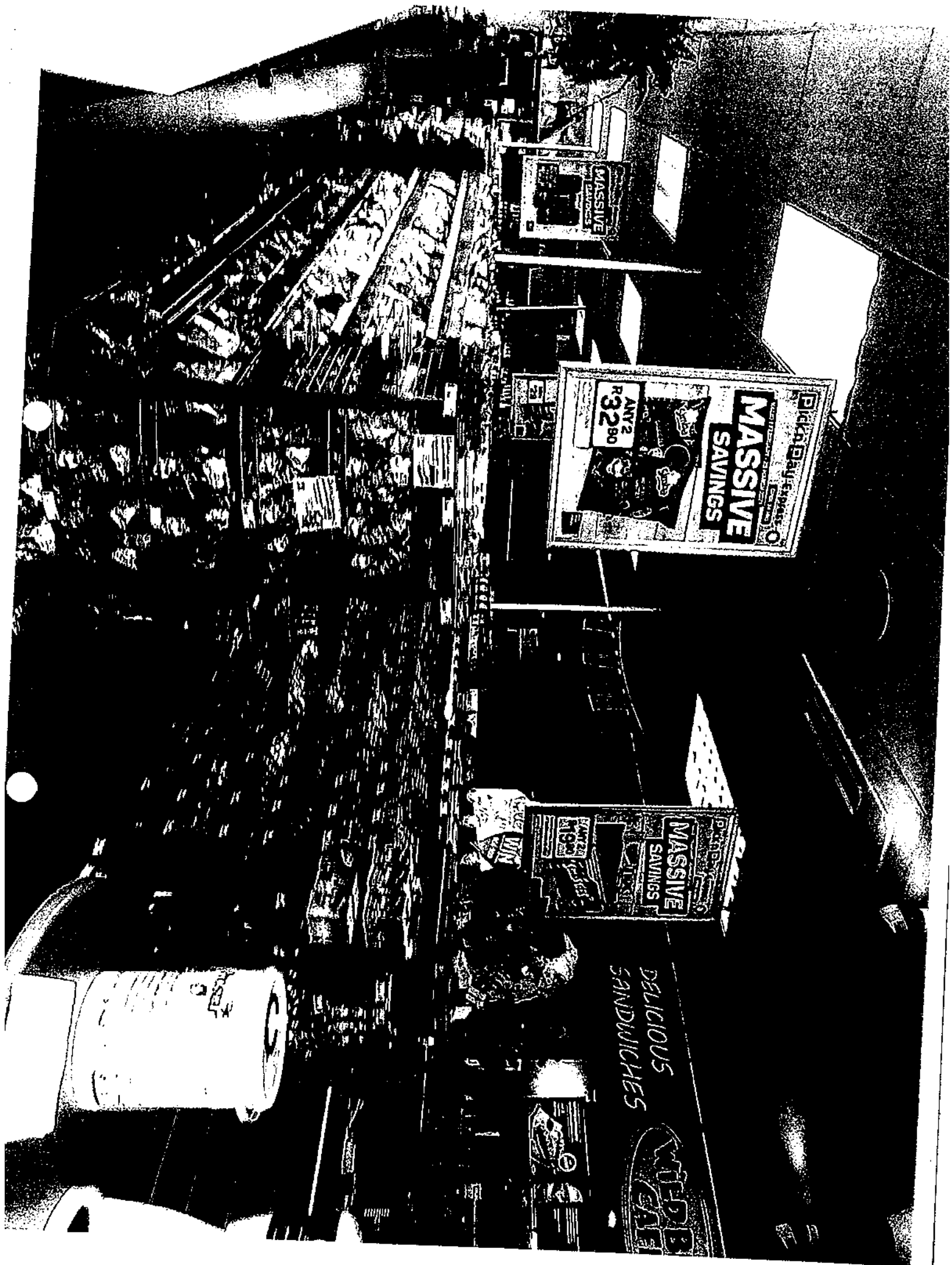
Getting
taste
here

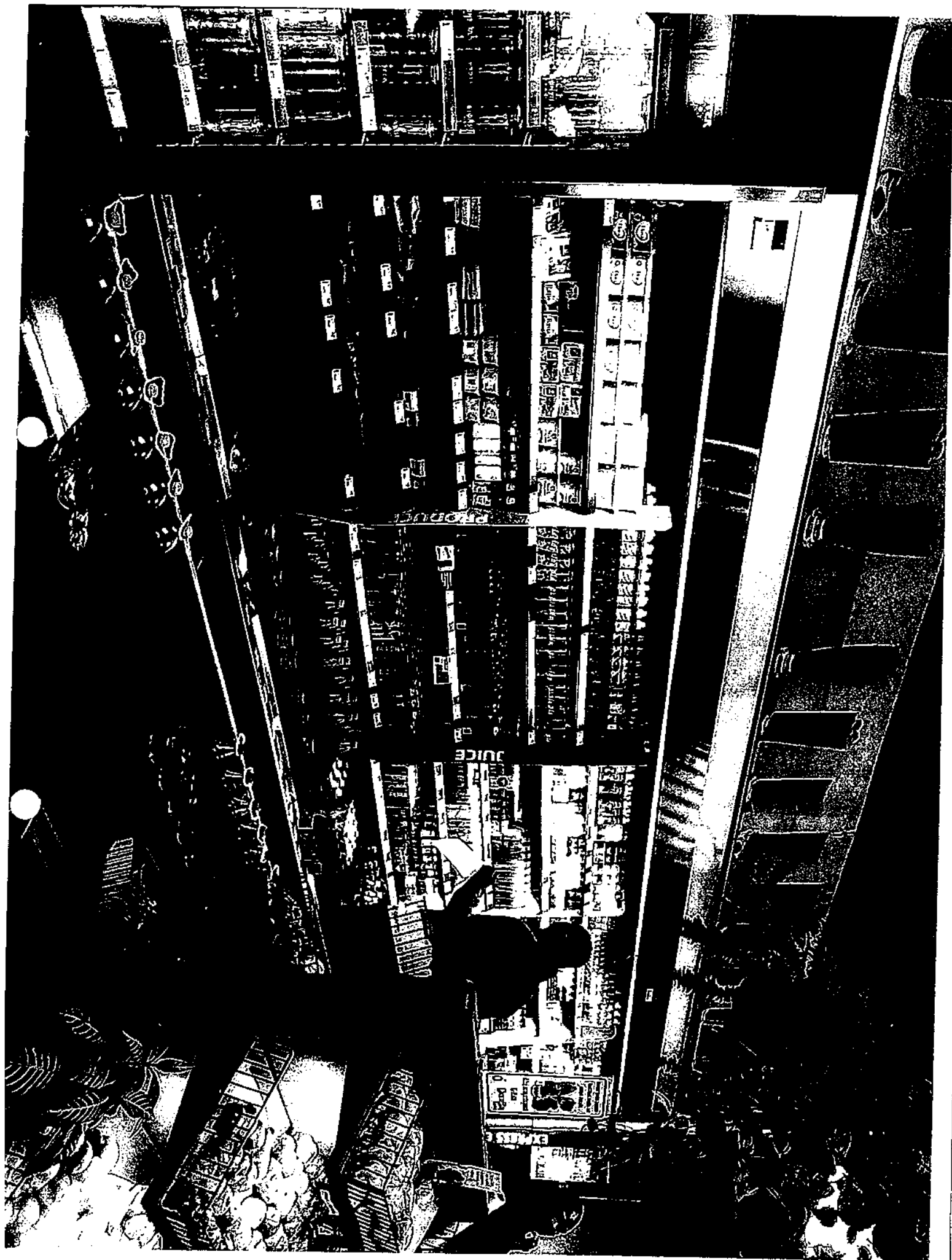
Pickn Pay Express

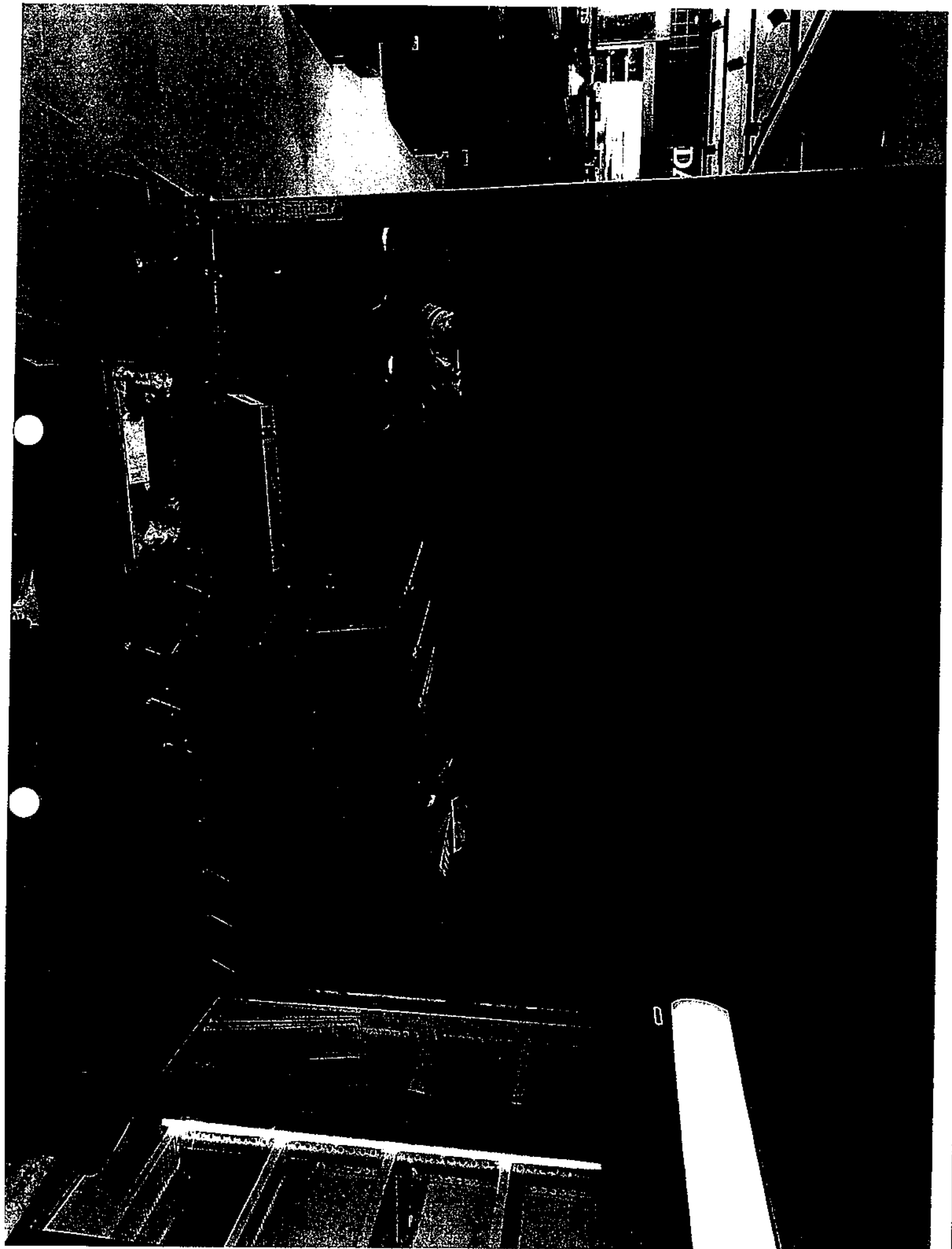


Pick n Pay Express









ANNEXURE H: COMPREHENSIVE WRITTEN REPRESENTATIONS

**WRITTEN REPRESENTATION IN TERMS OF SECTION 36 OF THE WESTERN CAPE
LIQUOR ACT, FOR A GROCER'S WINE LICENCE**

1. **NATURE OF APPLICATION**

This application is brought before the Western Cape Liquor Authority, in terms of Section 36 of the Liquor Act, 2008, (Act No 4 of 2008), and hereinafter referred to as " Western Cape Liquor Act ", for a **Grocer's wine licence (Off Consumption)** as contemplated in Act.

2. **PARTICULARS RELATING TO THE APPLICANT**

The prospected holder of the license, as could be ascertained from the annexures attached to this application, and the contents of this application, as set out above, is a juristic person Novar group (pty)ltd with registration number 2018/ 379854 / 07. The Director of the company is :

Name: **Warren Cedrick Rorke**

Identity number: [REDACTED]

A copy of the company documents and the director Identity document are included herewith.

The director is up to speed with the liquor legislation and are well versed in what is expected of them in terms of the Act, and the mere reason that they are bringing this application serves as proof thereof.

The Director is persons of good character and is not disqualified in terms of the Act and as envisaged in the Act.

3. FINANCIAL INTEREST IN THE LIQUOR INDUSTRY

The Applicant does not hold a financial or any other interest in the liquor trade anywhere else in the Republic of South Africa. Therefore it is humbly argued that the application does not cause a harmful monopolistic condition to arise or to be aggravated in the liquor trade in general.

BP Rosemead / Pick N Pay express rosemead Grocer's wine license will only focus on selling wine to its exclusive customers who will like to buy a bottle of wine with their mini groceries they are buying at the Pick n Pay express shop. The premises are zone for business and there is a zoning certificate issued by the relevant municipality.

4. Details and the extent to which the application will affect new entrants into the liquor industry

BPSA and Pick n Pay (one of Africa's largest and most consistently successful retailers of food, general merchandise and clothing) signed a formal agreement in April 2012 for up to 200 BP Express stores to be converted to Pick 'n Pay Express stores over five years. The roll-out Concentrated on BP service stations that are most suitably located for Pick 'n Pay customers and is aligned with BPSA's growth and investment plans. The Pick n Pay and BPSA relationship dates to 2008 when the partners piloted

two small-format franchise stores. The strategic partnership has now grown to over 155 franchise 24-hour Pick n Pay Express stores on BP forecourts across the country with plans to reach over 200. Originally opened to satisfy an immediate top-up shop or a quick meal solution for customers, the Pick n Pay Express stores have expanded their product ranges to meet customers' ever-changing shopping habits.

Pick n Pay express is a grocers shop which cater for convenience of customer and the application for a Grocer's wine will be demarcated from the normal grocery store and it would have a lockable cabinets to ensure that where wine will be sold will be locked during non-trading times. The applicant will abide with the liquor restriction and ensure absolute compliance by the patrons with the liquor legislations. There are similar operations in the country and there is no evidence that the availability of wine at the Pick n Pay express will contribute to liquor abuse.

5. JOB CREATION

The granting of the grocer's wine license by the Liquor Authority will have a positive impact in terms of job creation. The applicant intends to employ a total headcount of 25 staff in total staff compliments of Pick n Pay express shop in the first year of operations and it will increase with the growth of the business.

6. SCHOOLS / CHURCHES IN THE AREA

There are no schools, or children amenities within 500m radius, the nearest school is Cedar Pre-school which is approximately 600 meters. A place of worship is Methodist church of South Africa which is more than 1 km. The premises are located in a business area with a number of shops and restaurant. The operation of this proposed business will not create undesirable conditions or nuisance in the area as the place is situated in a business zone area and it is an off consumption ONLY focusing on wine.

7. SECURITY AROUND THE AREA

BP (Pick n Pay express shops) are highly secured with surveillance cameras throughout the property. There is always a security officer at the express grocers shop to ensure the safety of the clients and employees.

8. HOW TO COMBAT ALCOHOL ABUSE

The applicant commits himself to ensure that a certain percentage on his annual turnover will be towards combating alcohol abuse. These will be observed when promotional materials are printed in order to ensure that the advertisements should not encourage irresponsible drinking rather address the dangers of alcohol abuse. The applicant further commits to draft pamphlets which will educate the public about the responsible drinking and

the danger of excessive alcohol drinking. No under aged will be allowed near the business or employed by the company.

SUMMARY

The Western Cape Liquor Authority is hereby requested to consider granting of this application due to the following reasons:-

- a. The Applicant is of good character and is otherwise fit and proper to be issued a Grocer's wine license in terms of the Act;
- b. The Applicant is not disqualified in terms of the Act ;
- c. The granting of the license will not cause a harmful and monopolistic condition to arise or be aggravated in the liquor trade;
- d. The application is in the public interest as it will contribute towards job creation

It is therefore the humble request and prayer of the Applicant that the application for Grocer's wine license to be granted.

ANNEXURE I: AFFIDAVIT FROM APPLICANT

AFFIDAVIT IN TERMS OF SECTION 35 OF THE LIQUOR ACT

This is a sworn affidavit to confirm that **Warren Cedrick Rorke** with identity number [REDACTED] is not disqualified from holding liquor licence and also to confirm that the applicants:

- (a) has not, within five (5) years prior to the lodgement of the application, been sentenced to imprisonment without the option of paying a fine;
- (b) has not, within five (5) years prior to the lodgement of the application, been declared to be unfit to hold a registration by the National Liquor Authority or a licence by any provincial liquor board or authority;
- (c) Is not an unrehabilitated insolvent;
- (d) Is not a minor
- (e) Was never a holder of a licence which was cancelled in terms of the provisions of this Act, or an Act regulating liquor licences in any other province, within a period of twelve (12) months prior to the lodgement of the application;
- (f) Is not a spouse or life partner of a person described in (a), (b) or (e) above; and
- (g) She is not mentally ill as defined in the Mental Health Care Act, 2002 (Act 17 of 2002).

Signature of applicant : Warren

Name and Surname : **Warren Cedrick Rorke**

Date : **23 July 2021**



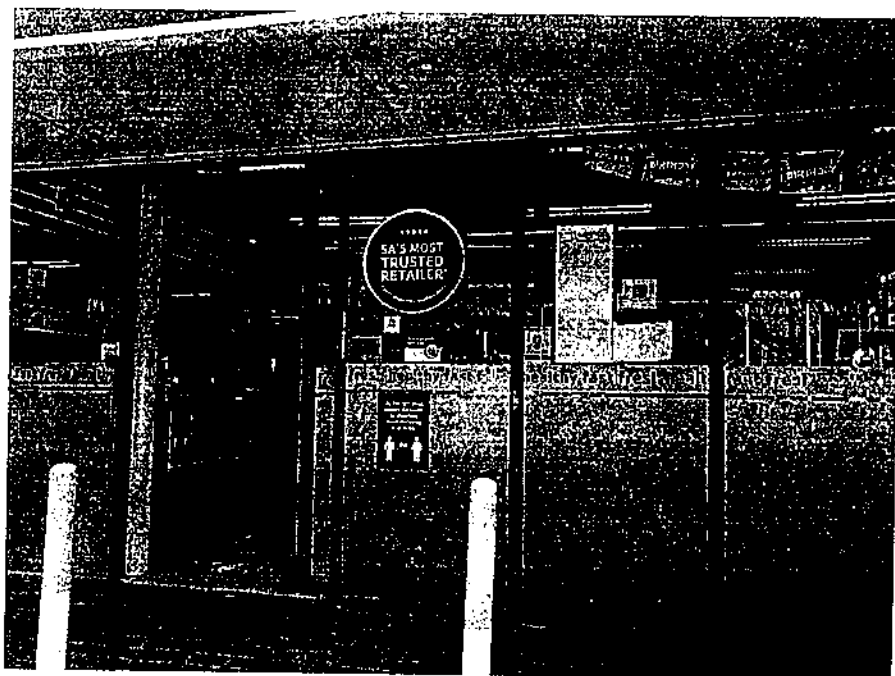
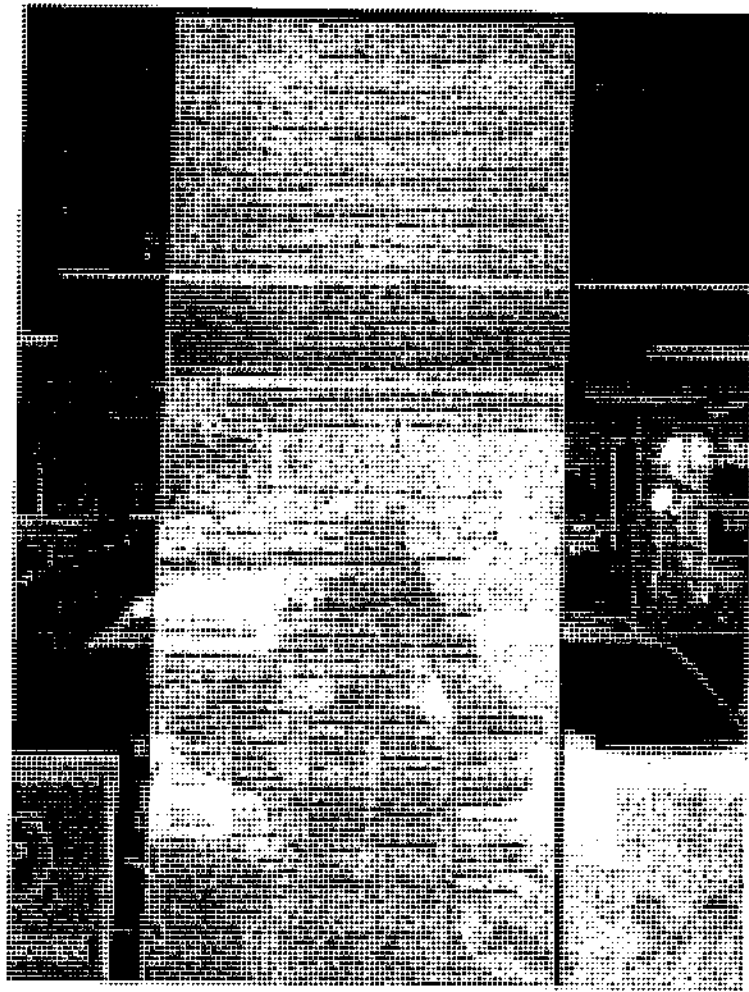
Commissioner of oaths

Full Name and Surname : ALBERT KOTHOLO

Designation : Sgt

Official Stamp

ANNEXURE J: PROOF OF ADVERT



ANNEXURE K: PROOF OF RIGHT OF OCCUPATION



AGREEMENT OF LEASE

entered into between

BP SOUTHERN AFRICA PROPRIETARY LIMITED
Registration Number: 1924/002602/07
(AS LESSOR)

and

Novar Group (Pty) Ltd
Registration Number: 2018/379857/07
(AS LESSEE)

Warren Cedric Rorke



A handwritten signature in black ink, appearing to be 'A. R.', located in the bottom right corner of the page.

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1. PART A: DEFINITIONS AND INTERPRETATION

1.1 In the Lease, unless inconsistent with the context, the following words and expressions shall bear the meanings assigned thereto:

- (a) "BEE Codes" means the codes of good practice published under section 9(1) of the Broad Based Black Economic Empowerment Act, 2003, as amended from time to time;
- (b) "BEE Shareholding" means shareholding in the issued share capital or members' interest in the relevant company or close corporation held by Black People;
- (c) "Black People" shall have the meaning attributed to that term in the BEE Codes;
- (d) "BP Brand" means the marketing image and getup developed by the Lessor and its holding and associated companies supported *inter alia* by the BP Marks and other factors contributing to the distinct identity attached to entities trading under the BP name throughout the world;
- (e) "BP Marks" means the trademarks, service marks and trade names, together with all other marks, trade names, logos, designs, symbols, emblems, uniforms and other insignia, whether registered or not or whether capable of registration or not, and which are licensed for use by or otherwise available to the Lessor and adopted or designated now or at any time hereafter for use in conjunction with the BP Systems;
- (f) "BP Systems" means the Business formats and methods developed or to be developed by the Lessor comprising the standards, concepts, methods, procedures, techniques and plans applicable to the Permitted Use during the currency of this Lease;
- (g) "Buildings" means all structures of whatever nature erected and constructed on the Premises and all fixtures and fittings thereto and shall, without limiting the generality hereof, include the canopy erected or to be erected on the Forecourt;
- (h) "the Business" means the conduct of a garage, petrol-filling and service station and other activities referred to in clause (uu);
- (i) "Business Day" means any day other than a Saturday, Sunday and any proclaimed public holiday in the Republic of South Africa;
- (j) "Commercial Factors" means any factor relating to the commercial environment in respect of service stations that affect the implementation of this Lease or create added cost or expenditure or decrease cost or expenditure or renders continued operation of service station businesses generally, or the Business at the Leased Premises, as the case may be, subject to added or different obligations or liabilities, to those previously applicable
- (k) "Commencement Date" means the later of:
 - (i) the date upon which the suspensive conditions as set out in clause 3 have been fulfilled; or
 - (ii) the first day of the Month following that in which a certificate of completion has been issued by an architect or project manager nominated by the Lessee in respect of

certain improvements which are to be carried out by the Lessor to the Leased Premises;

- (l) "Copyright" means all copyright and design rights in or to any part of the Trade Marks, Trade Secrets, Get Up, Manual or any other material which is or will be licensed or used by the Lessor in the course of its business, from time to time;
- (m) "the CPA" means the Consumer Protection Act, 68 of 2008;
- (n) "CPI" means the annual percentage increase in the Consumer Price Index in weighted average Consumer Price Index for all areas of the Republic for all items as reflected in table 4 of the Index, which Index is published annually by the South African Central Statistical Services;
- (o) "Dealer/s Principal" means the natural person/s who is/are member/s of a close corporation, shareholder/s and/or director/s of a company or trustee/s or beneficiary/ies of a trust whom it is recorded and acknowledged by both the Lessor and the Lessee to be those persons who have the principal interest in the Lessee and whom it is understood will remain as members, shareholders, trustees and/or beneficiaries of a trust, subject to the terms of this Lease;
- (p) "Diesel" means Diesel oil, and includes any mixture of Diesel oil with any other substance, which can be used as fuel for the operation of a compression ignition engine;
- (q) "EBITDA" means earnings before interest, tax, depreciation and amortisation, as generally understood in terms of applicable international financial reporting standards, including but not limited to the principle to adjust for anomalies including drawings;
- (r) "Equipment Maintenance Schedule" means the schedule of detailed maintenance requirements in respect of the Service Station Equipment and the Storage and Dispensing Equipment, as the case may be, annexed hereto as Annexure "D";
- (s) "Forecourt" means that portion of the Leased Premises on which the Storage and Dispensing Equipment is located and the driveways, including ingress and egress areas reserved for the purpose of giving motor vehicles access to the Service Station Equipment and Storage and Dispensing Equipment as depicted in Annexure B;
- (t) "Franchise Agreement" means of the Pick 'n Pay Express Store Supply Agreement, the BP Express Store or Wild Bean Café franchise agreement entered into or to be entered into with this Lease between the Lessor and the Lessee, in terms of which the Lessee is given the right to operate a Pick 'n Pay or BP Express Shop and/or a Wild Bean Café on the Leased Premises, which is in force from time to time;
- (u) "Get Up" means collectively:
 - (i) the decor, layout, setting, colour schemes, colour combinations, internal and external visual arrangements, structural arrangements, arrangement of equipment, material or furniture;
 - (ii) arrangement, setting and layout of business documentation including, without limiting the generality of the foregoing, letterheads, invoices, price lists and brochures; and

- (iii) cards, pamphlets, posters, handbooks, display boards, signs, or other articles on which are described, written, drawn or otherwise depicted any item of food or beverage for sale or any of the Trade Marks;
- (v) "Harm" shall bear the meaning attributed to that term in section 61(5) of the CPA;
- (w) "Head Lease" means that lease between the Lessor and any third party owner of the Property, in circumstances where the Lessor is itself not the registered owner of the Property in terms of which the Lessor enjoys tenure under such a lease and which lease may be registered;
- (x) "Health, Safety, Security and Environment Operating Procedures Manual" means the manual and other documents as amended from time to time by the Lessor which set out the health, safety, security and environment procedures and standards applicable to and required to be complied with in the conduct of the Business by the Lessee on the Leased Premises;
- ~~(y) "Initial Fee" means the fee payable by a first time or new to industry Lessee in amount of R [] (exclusive of VAT) which shall be payable by the Lessee to the Lessor in terms of clause 7.~~
- (z) "Investor Margin" means that part of the Retail Margin which is payable by the Lessee to the Lessor and determined in accordance with the provisions of clause Error! Reference source not found.. For the sake of clarity, it is recorded that the Investor Margin Rental does not form part of the price payable by the Lessee for the volumes of petrol which it purchases from the Lessor for re-sale to the public at the Leased Premises in terms of this Lease in terms of clause 20.1.
- (aa) "Irregular Product" means any product possessed, handled, stored, acquired or in the possession of the Lessee or sold by the Lessee that has not been acquired from and sold to and delivered by, the Lessor to the Lessee in terms of the provisions of this Lease or by Pick 'n Pay to the Lessee in terms of the Pick 'n Pay Supply Agreement, and which may have been obtained through irregular means, without derogating from the generality of the foregoing, by theft, fraud or other improper or irregular means;
- (bb) "Intellectual Property" means the Trade Marks, Trade Secrets, Get Up, Copyright, the Operating Procedures Manual and the Health Safety, Security and Environment Operating Procedures Manual;
- (cc) "Key Person" means Warren Cedric Rorke [REDACTED] the person responsible for the management and operation of the garage, Petrol-filling and service station business on the Leased Premises;
- (dd) "Law" means common law, legislation, regulations and any subsidiary legislation prevailing from time to time in the Republic of South Africa;
- (ee) "Lease" means this Lease and the annexures and attachments hereto;
- (ff) "the Leased Premises" means that portion of the Property comprising the garage, Petrol-filling and service station premises together with the Buildings and the Service Station Equipment situated thereon as depicted in the diagram attached hereto as Annexure L;
- (gg) "Lease Period" means the period commencing on the Commencement Date and enduring thereafter for a period of 5 (five) years;

- (hh) "the Lessee" means Novar Group (Pty) Ltd, registration number: 2018/379854/07, a private company/close corporation with limited liability registered in accordance with the Laws of the Republic of South Africa, whose VAT registration number is [REDACTED]
- (ii) "the Lessor" means BP Southern Africa (Proprietary) Limited, Registration number 1924/002602/07, a private company with limited liability registered in accordance with the Laws of the Republic of South Africa;
- (jj) "Lessor's Auditors" means the Lessor's duly appointed auditors from time to time or for the time being;
- (kk) "Lessor's Products" means the Petroleum Products (and other goods and/or articles) which may be supplied by the Lessor to the Lessee directly and without any intermediary for resale from the Leased Premises, but excludes Irregular Products;
- (ll) "Letter of Appointment" means the letter addressed by the Lessor to the Lessee notifying it of its appointment as a Lessee under this Lease and setting out specific and special and/or additional terms and conditions of such appointment;
- (mm) "Loss" means loss, liability, claims, costs, charges, fines, damages including special, punitive and consequential damages, and outgoings of every description (including legal costs and expenditure), compensation payable under contracts, loss of normal operating profits, loss of opportunity, loss of goodwill, loss of revenue from related contracts and pure economic loss, tracing and collection charges, costs of investigation, interest and penalties;
- (nn) "Lubricants" includes all lubricating oils and greases;
- (oo) "Month" means a calendar month and more specifically:
- (i) In reference to a number of months from a specific date, a calendar month commencing on that date or the same date of any subsequent month; and
 - (ii) In any other context a month of the calendar that is one of the twelve months of the calendar;
- and "Monthly" has a corresponding meaning;
- (pp) "Monthly Base Rental" means the amount of R2531. 52 (exclusive of VAT) which shall be payable by the Lessee to the Lessor Monthly in advance, in terms of clause 5.2;
- (qq) "Moratorium" means the periods comprising of the first Year commencing from the Commencement Date and the last 3 months prior to the end of the Leased Period or termination for any reason;
- (rr) "Operating Procedures Manuals" means the manuals and other documents containing the procedure and standards applicable to the Business conducted by the Lessee on the Leased Premises, as listed on the Operating Procedures Manuals Schedule and shall include for the purpose of the definition of Operating Procedures Manuals, any other procedures and standards, of which the Lessor will have notified the Lessee in writing from time to time;

- (ss) "Operating Procedures Manuals Schedule" means Annexure "E" hereto listing the Operating Procedures Manuals which will have been delivered by the Lessor to the Lessee;
- (tt) "Parties" means the Lessor and the Lessee and "Party" means any one or other of them;
- (uu) "Permitted Use" means those uses to which the Lessee shall be entitled to put the Leased Premises namely that of:
- (i) A garage, Petrol-filling and service station;
 - (ii) a convenience store which is either a non-branded convenience store alternatively a branded convenience store in the form of a BP Express or Pick n Pay convenience store;
 - (iii) Wild Bean Café;
 - (iv) Automatic teller machine facility;
 - (v) ~~car wash;~~
 - (vi) quick service restaurant;
 - (vii) other: _____
- the operation of which will be subject to the Lessor's prior written approval, at its discretion, provided that such permitted use does not cause the Lessor to be in breach with the provisions of any of its agreements with its business partners;
- (vv) "Petrol" means any grade of petrol, and includes any mixture of petrol with any other substance, which can be used as fuel for the operation of a spark or compression ignition engine;
- (ww) "Petroleum Fuels" means any liquid fuel (including Diesel) or bio-fuels of any grade and distillate which can be used for the operation of a spark or compression ignition engine;
- (xx) "Petroleum Products" means Petroleum Fuels, Diesel, bio-fuels, lubricating oils, liquefied petroleum gas, kerosene, detergents and any other petroleum based products supplied by the Lessor to the Lessee for re-sale from the Lease Premises;
- (yy) "Petroleum Products Act" means the Petroleum Products Act, 1977 as amended from time to time;
- (zz) "Pick 'n Pay" means Pick 'n Pay Retailers Proprietary Limited, registration number 1973/004739/07;
- (aaa) "Property" means the immovable Property on which the Leased Premises are situate;
- (bbb) "Public Amenities" includes, but is not limited to, public toilets;
- (ccc) "Regulatory Factors" means any Law, departmental decree or directive relating to the complex environment of the conduct of business by Petrol companies and their suppliers and customers and/or dealers relating to the establishment or operation of service stations in general;

(ddd) "Service Station Equipment" means all equipment excluding the Storage and Dispensing Equipment, but including all electronic and electrical equipment, affixed to or installed on the premises by the Lessor that are listed on the Service Station Equipment Schedule, and those items of that nature as may be on the Leased Premises from time to time but which may not be, in fact, so listed;

(eee) "Service Station Equipment Schedule" is the schedule of Service Station Equipment annexed hereto marked Annexure A;

(fff) "Storage and Dispensing Equipment" means the equipment installed in the Leased Premises (comprising underground tanks, pumps, pump housings and all fittings (including hoses and nozzles) as well as, where applicable, the electronic console installed on the Leased Premises and all other equipment ancillary thereto, but excluding the Service Station Equipment, installed on the Leased Premises) for the purpose of storing and dispensing Petroleum Fuels to be supplied by the Lessor, which equipment is listed on the Storage and Dispensing Equipment Schedule, and those items of that nature described as may be on the Leased Premises from time to time but which may not be in fact so listed;

(ggg) "Storage and Dispensing Equipment Schedule" means the schedule of such Storage and Dispensing Equipment annexed hereto marked Annexure "B";

(hhh) "Surviving Clauses" means clauses 1, 3, 30, 36, 38 and 40 all of which shall take effect from the date of signature of this Lease by a duly authorised representative of the Lessor and remain in force and effect between the Parties, irrespective of whether the Suspensive Conditions as contained in clause 3 below, are fulfilled;

(iii) "Trade Marks" means those trademarks, names, product descriptions, trading styles, emblems, devices and logos, whether registered or not, and whether now existing or which come into existence in the future, which are or will be licensed or used by the Lessor in the course of its business, from time to time;

(jjj) "Trade Secrets" means all methods or sources of supply, confidential or invented methods, recipes, codes, formulae, administration, trading and management procedures, business patterns and techniques, financial arrangements, structures, operating viability and all other information not readily available in the ordinary course of business to a competitor, communicated by the Lessor to the Lessee from time to time, pursuant to this Agreement;

(kkk) "VAT" means value added tax as levied in terms of the Value Added Tax Act, 1991;

(lll) "Year" means a period of 12 (twelve) consecutive Months, and "Yearly" refers to a Year, commencing on the Commencement Date or any anniversary of that date.

1.2 Words importing the singular shall include the plural, and *vice versa*, and words importing the masculine gender shall include the feminine gender, and words importing persons shall include partnerships and bodies corporate, and *vice versa*.

1.3 The headnotes to the paragraphs of the agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

- 1.4 Any provision of the Lease imposing a restraint, prohibition or restriction on the Lessee shall be so construed that the Lessee is not only bound to comply therewith but is also obliged to use all reasonable endeavours to procure that the same restraint, prohibition or restriction is observed by everybody occupying or entering the Leased Premises through, under, by arrangement with, or at the invitation of, the Lessee, including (without limiting the generality of this provision) the family, guests and employees of the Lessee and any independent contractors or workers engaged by the Lessee, but excluding the customers of the Lessee.
- 1.5 If a definition or the introduction contains a substantive provision conferring rights or obligations on any party, effect shall be given to such provision as if it were a substantive provision in the body of this Lease. The terms of this Lease having been negotiated, the contra proferentem rule shall not be applied in the interpretation of this Lease.
- 1.6 Each of the Parties hereto acknowledges that they have been free to secure independent legal and/or other advice as to the nature and effect of all of the provisions of this Lease and that they have either taken such independent legal and/or other advice or dispensed with the necessity of doing so.
- 1.7 Where any number of days is prescribed in this Lease, such period shall be calculated exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding Business Day after any Saturday, Sunday or public holiday.
- 1.8 Unless qualified by the word 'reasonably' or the word 'reasonable', any reference in this Lease to 'the satisfaction of' or 'in the discretion of' a particular Party or to a particular Party 'being satisfied' shall mean the sole, subjective and absolute satisfaction and discretion of that Party and that Party shall not be required to give reasons for its decision as to why it is so satisfied or has exercised its discretion in a particular manner.

Part B

2. LEASE

The Lessor hereby lets to the Lessee and the Lessee hereby hires from the Lessor the Leased Premises upon the terms and conditions set out hereunder.

3. SUSPENSIVE CONDITIONS

- 3.1 The provisions of this Lease (other than the Surviving Clauses) shall be subject to the fulfilment of the hereunder referred to suspensive conditions, to the Lessor's satisfaction, by a date 30 (thirty) days after notice is received by the Lessee from the Lessor calling upon the Lessee to provide proof to the satisfaction of the Lessor that any one or more of the said suspensive conditions have been fulfilled. If such proof is not forthcoming within the time referred to, subject to clause 3.3 below, the suspensive condition or conditions concerned shall be deemed to have not been fulfilled.
- 3.2 The suspensive conditions are that:-
- (a) all required licences, more particularly the relevant site and retail licence required in terms of the Petroleum Products Act will have been granted to the Lessee;

- (b) all the conditions of the Letter of Appointment, to the extent that there were any, have been fulfilled;
- (c) the Lessee will have paid all amounts which are required to be paid to the Lessor in terms of this Lease and provided the Lessor with the necessary guarantees which may be required in terms of this Lease;
- (d) the Lessee has been "cleared" in accordance with the Lessor's counter party due diligence policies and processes (as may be applicable or amended from time to time).

3.3 The suspensive conditions referred to in clause 3.2 are imposed for the Lessor's benefit. The Lessor shall be entitled, at any time before notice as contemplated in clause 3.1 shall have been given, to extend the period for fulfilment of any of the suspensive conditions or to waive fulfilment of any one or more of the suspensive conditions or in the event of the non-fulfilment to give notice to the Lessee that this Lease (save for the Surviving Clauses) is null and void by virtue of the non-fulfilment of such condition.

4. DURATION

- 4.1 The Lease shall commence on the Commencement Date and thereafter endure for the Lease Period.
- 4.2 If the Lessor and the Lessee are in negotiations regarding a new lease agreement in respect of the Leased Premises and the Lease Period comes to an end, then provided that the Lessor has consented in writing, the Lessee shall be entitled to continue to occupy the Leased Premises on the same terms and conditions as set out herein whilst the negotiations continue, provided that the Lessee's occupation shall be on a Month to Month basis and the Lessor shall be entitled to terminate such occupation in writing on 30 (thirty) days' written notice.
- 4.3 The Lessor shall use its reasonable endeavours to contact the Lessee at least 6 (six) months prior to the termination of the Lease Period to make arrangements for the handing over the Leased Premises upon termination of this agreement.
- 4.4 The Lessee acknowledges that the continuation of any Franchise Agreement shall be subject, at the discretion of the Lessor, to this Lease being in effect, valid and binding.
- 4.5 Notwithstanding anything herein contained, should the Lessee fail to procure that the Lessee's business be conducted continuously with the result that the conduct of such business shall have ceased for a period of 7 (seven) consecutive days or should the leased premises have been vacated for a period of 3 (three) consecutive days, then, in any such event, the Lessor shall be entitled to terminate this Lease at any time thereafter.

5. REGULATORY AND CHANGED COMMERCIAL FACTORS

- 5.1 Notwithstanding anything to the contrary contained or implied in this Lease:
 - (a) should a change in any Regulatory Factor have the effect that any aspect of this Lease, including rentals, no longer accords with that or any other Regulatory Factor, then and in such event such variations (and only such variations) as may be necessary to accord with the binding provisions of such Regulatory Factors, shall be introduced into this Lease;
 - (b) should either the Lessor or the Lessee, on reasonable grounds, determine that a change in any Regulatory Factors renders the continued performance of any of its obligations under this Lease

uneconomical or no longer viable, then the Party concerned may, notwithstanding anything to the contrary herein, resile from this Lease on not less than 3 (three) calendar Months' written notice to the other Party to such effect and neither Party shall have any claim against the other as a consequence of such termination, save that the Lessee shall remain liable to the Lessor for all amounts which became due and payable by the Lessee to the Lessor in terms hereof prior to the termination of this Lease;

- (c) If, as a consequence of any Commercial Factors rendering uneconomical the continued performance of the Lessor's obligations in terms of this Lease, then the Lessor shall be entitled, but not obliged, to resile from this Lease on not less than 3 (three) Months' written notice to the Lessee to such effect and neither Party shall have any claim against the other as a consequence of such termination, save that the Lessee shall remain liable to the Lessor for all amounts which became due and payable by the Lessee to the Lessor in terms hereof prior to the termination of this Lease.

5.2 In the event of any dispute between the Parties as to whether:

- (a) a particular variation may be necessary to accord with the binding provisions of any Regulatory Factors, as contemplated in clause 5.1(a);
- (b) a change in any Regulatory Factors has rendered the continued performance of either Party's obligations under this Lease uneconomical or no longer viable, as contemplated in clause 5.1(b); or
- (c) any Commercial Factors have rendered uneconomical the continued performance of the Lessor's obligations in terms of this Lease, as contemplated in clause 5.1(c),

such dispute shall be resolved in accordance with the provisions of clause 38.

6. RENTAL

6.1 The Monthly rental payable by the Lessee to the Lessor for the Leased Premises shall be constituted of the following:

- (a) a "Monthly Base Rental" as set out in clause 6.2;
- (b) a "Diesel Forecourt Rental" as set out in clause 6.3.

6.2 The Monthly Base Rental shall be payable Monthly in advance by the Lessee without set off or deduction and shall escalate on each anniversary of the Commencement Date in line with CPI.

6.3 Investor Margin:

- (a) The "Retail Margin" for purposes hereof is the retail margin published by the Department of Energy ("DOE") from time to time in the Government Gazette.
- (b) It is recorded that the DOE uses a methodology called the regulatory accounting system ("RAS") to determine the Retail Margin which is applicable to the pump price of Petrol (which pump price is also determined by the DOE).

- (c) The table annexed hereto marked "J" sets out the various elements in terms of RAS which make up the Retail Margin and the value which the DOE has determined is attributable of these each elements.
- (d) The Investor Margin is the sum of the amounts or values for each of the line items which the Parties hereby agree are attributable to the Lessor as set out in column 248 of annexure "J"
- (e) Annexure "J" and the calculation of the Investor Margin is based on values published by the DOE in December 2018. These line items or elements may be varied, updated or changed from time to time by the DOE.
- (f) As and when these amounts or values as set out in the table on annexure "J" are amended by the DOE, or the elements which make up the Retail Margin are amended by the DOE, then such amended values or elements shall at the Lessor's discretion, apply, mutatis mutandis, to the amounts or values and elements set out in annexure "J" and to the calculation of the amounts payable by the Lessee to the Lessor.
- (g) It is further recorded that as at the Commencement Date, there has been no regulation of the margins applicable to Diesel in accordance with the principles of the RAS.

6.4 The Diesel Forecourt Rental:

- (a) The Lessee shall pay to the Lessor a Monthly rental in arrears not later than the fifth Business Day of the Immediately succeeding Month based on the volumes of Diesel which it sells at the Leased Premises which shall be calculated as follows:

$$D = E \times F$$

Where:

D = the Monthly Diesel Forecourt rental amount;

E = the number of litres of Diesel sold by the Lessee at the Leased Premises, excluding Diesel sold by the Lessee to the public through the Lessor's Fuel Master System (or such other system which may replace the Fuel Master System) from time to time;

F = 17.16% of the Wholesale Margin of Diesel. For purposes hereof, the Wholesale Margin of Diesel, is the wholesale margin applicable to Diesel as determined by the DOE or the Controller of Petroleum Products and published in the Government Gazette from time to time.

- (b) In the event that the DOE introduces any new Regulatory Factors or adopts any principles which affect the margins applicable to Diesel or how these margins are to be allocated between the Parties, then and in such event, the Lessor shall be entitled to determine and charge the Lessee a fee or amend the Diesel Forecourt Rental, which fee or amended Diesel Forecourt Rental shall be determined by the Lessor at its discretion and which fee the Lessee hereby agrees to be bound by and to pay to the Lessor.

6.5 Diesel Forecourt Rental shall be calculated based on the Lessor's own records of the volumes of Petrol and Diesel which is purchased from the Lessor.

7. INITIAL FEE

- 7.1 The Lessee shall pay to the Lessor the Initial Fee on a once-off basis not later than 5 Business Days after the Commencement Date.
- 7.2 The Initial Fee shall not be refundable, notwithstanding any early termination of this Lease, nor shall the Initial Fee be taken into account in the calculation of any amount of rental payable in terms of clause 6 or any other provision of this Lease.

8. USE OF THE LEASED PREMISES

- 8.1 The Leased Premises shall only be used for the Permitted Use and for the storage and supply of the Lessor's Products, or products otherwise agreed to (in advance) by the Lessor in writing from time to time, and for such other purposes as the Lessor may agree to in writing, and the Lessee undertakes not to carry on any other business on the Leased Premises without the Lessor's prior written consent.
- 8.2 The Lessee shall not do anything which in the opinion of the Lessor detracts from the appearance of the Leased Premises, or from the Lessor's visual standards as prescribed in the Operating Procedures Manuals or any amendment thereof or which the Lessor may prescribe in writing from time to time.
- 8.3 The Lessee agrees to allow the Lessor to introduce to the Leased Premises such additional facilities as the Lessor may decide from time to time are appropriate or ancillary to the Permitted Use and, without derogating from the generality of the foregoing, including, without limitation, facilities such as BP "Fuelmaster" equipment, automated teller machines, cell phone airtime vouchers and/or lotto tickets and to co-operate with the Lessor as regards the positioning of such facilities and the conclusion of agreements with the Lessor and/or the suppliers of such services and/or facilities for such purposes.
- 8.4 The Lessee agrees to allow the occupation and use of such portion of the Leased Premises as may be appropriate for such purposes without any reduction in rental payable by the Lessee.
- 8.5 The Lessee may request in writing that the Lessor install an automatic teller machine ("ATM") at the Leased Premises and in such circumstances the following shall apply:
- (a) The Lessor shall conduct a risk assessment at the Leased Premises to determine whether or not the installation of the ATM will pose a HSSE risk.
 - (b) The Lessor shall not be obliged to comply with the written request and shall be entitled to exercise its discretion as to whether or not to install an ATM, particularly in circumstances where the Lessor determines at its discretion that the operation of an ATM at the Leased Premises would pose an HSSE risk.
 - (c) If the Lessor accedes to the Lessee's request, the Lessor shall liaise and conclude an agreement directly with the relevant banking institution regarding the installation and operation of the ATM.
 - (d) The Lessee shall grant the Lessor and the relevant banking institution or their nominated agent undisturbed access to the Leased Premises for the purposes of installing the ATM.
- 8.6 If the Lessor agrees to the installation of an ATM at the Leased Premises or if the Lessor requires in terms of clause 8.3 that an ATM will be installed on the Leased Premises, then the Lessor shall pay the Lessee

an amount of not more than 15 (fifteen) South African cents per ATM transaction, which amount shall be calculated at the end of each calendar Month and paid to the Lessee in arrears.

8.7 The Lessee shall ensure that it complies with the provisions of annexure "K" hereto which sets out the guidelines for the operation of an ATM from the Leased Premises, as amended from time to time. Any failure by the Lessee to comply with the guidelines shall constitute a material breach of this Lease which shall enable the Lessor to cancel this Lease immediately and without prejudice to any other rights which it may have in terms of this Lease or in Law. The Lessee hereby waives any claims which it may against the Lessor arising from such cancellation.

8.8 Upon termination of this Lease or upon termination of the agreement between the relevant banking institution and the Lessor relating to the operation of the ATM, the Lessor shall at its own cost remove the ATM from the Leased Premises and restore the Leased Premises to the condition prior to the installation of the ATM, fair wear and tear excluded.

9. CESSION, ASSIGNMENT AND SUB-LETTING

9.1 The Lessee shall not cede, assign, mortgage, pledge or otherwise encumber any of its rights under the Lease, nor sub-let or part with possession of the whole or portion of the Leased Premises, nor allow anyone else to occupy the Leased Premises or any part thereof on any conditions whatsoever or for any reason whatsoever without the Lessor's prior written consent, which consent may be given upon such terms and subject to such conditions as the Lessor may, in its sole and absolute discretion, determine. The Parties record that this provision is a material provision of this Lease and that in the event that the Lessee in breach of this provision allows any third party to occupy the Leased Premises or any part thereof without the Lessor's consent, there shall be no obligation on the Lessor to allow that third party to occupy the Leased Premises or to appoint that third party as its Lessee and such a breach shall be a material breach entitling the Lessor to cancel this Lease immediately.

9.2 Subject to the provisions of clause 9.3, the Lessor shall be entitled to sell the Property to any third party, provided that:

- (a) The Lessor has, prior to transferring ownership of the Property to any such third party, by notice in writing afforded the Lessee an opportunity to purchase the Property at a price equal to the fair market value of the Property, as determined by an independent sworn valuation, procured by the Lessor or the price at which the third party has offered to purchase the Property whichever is higher, and the Lessee has either indicated in writing that it does not wish to purchase the Property, or has failed, within 15 (fifteen) days of receiving the Lessor's notice in terms of this clause (a), to advise the Lessor in writing of its intention to acquire the Property at the price, and on the terms, contained in such notice.
- (b) This Lease shall terminate on the date upon which the Property is transferred to the Lessee or such third party, as the case may be (subject to the right of the Lessor to demand and receive any moneys that may have become due in terms hereof) and the Lessor and Lessee shall enter into an agreement, in the form of the Lessor's standard supply agreement, with effect from the date upon which this Lease terminates, provided that the Lessee shall, for any period during which the Lessee has been conducting the Business in terms of this Lease prior to its termination, be deemed for the purposes of calculating the unexpired period of such supply agreement to have been conducting the Business in terms thereof.

9.3 The provisions of clause 9.2 shall not apply if the Property is sold in terms of a transaction in terms of which the Lessor has sold more than one immovable property to a single purchaser, as one indivisible transaction.

9.4 The Lessor shall be entitled, upon giving the Lessee one (1) Month's written notice, to assign or transfer this Lease or any part thereof and/or any or all of the obligations on the part of the Lessor herein contained to any other wholesaler of Petroleum Products of its choice, provided that such wholesaler is, to the best of the Lessor's knowledge and belief, able, and undertakes in writing, to comply with all of the obligations assigned or transferred to it. Such assignment or transfer shall be deemed to be complete and enforceable with effect from the date upon which a notice in writing signed by both the Lessor and the assignee/transferee, and attesting to such assignment and/or transfer, is delivered to the Lessee.

10. CONDITION OF LEASED PREMISES, SERVICE STATION EQUIPMENT AND STORAGE AND DISPENSING EQUIPMENT

The Lessee shall within 14 (fourteen) days from the Commencement Date furnish the Lessor in writing with a list of all patent defects found by the Lessee to have existed in the Leased Premises on such Commencement Date. In the absence of such a list, signature of the Lease by the Lessee constitutes an acknowledgement by the Lessee that the Leased Premises, including but not limited to the Interior of the Buildings, the Service Station Equipment, the Storage and Dispensing Equipment and all other fixtures and fittings, were on the Commencement Date in good order and condition in all respects, and the Lessee shall have no claim against the Lessor for any patent defect which may subsequently be found therein. The Lessor shall upon receipt of such a list from the Lessee, carry out such repairs as may be required to restore the Storage and Dispensing Equipment to good working order and repair.

11. LESSEE'S OBLIGATIONS OF MAINTENANCE

- 11.1 The Lessee shall at all times keep the Interior of the Buildings, all fixtures and fittings thereto, and the Service Station Equipment in good order and repair to the satisfaction of the Lessor, fair wear and tear, however, being excepted, but substantially in accordance with the Lessor's standards for the appearance of its service stations in general. Without limiting the generality of the foregoing, the Lessee shall during the currency of the Lease keep and maintain in good condition and repair all interior plumbing, geysers, door handles, door locks and keys, lavatory accessories and sanitation systems, and all electric fittings, globes, tubes and glass in windows and doors and shall immediately repair and replace any such items which may be broken, damaged, or in need of repair. The Lessee shall from time to time, and in any event prior to vacation by the Lessee of the Leased Premises, paint the Interior of the Leased Premises as may be reasonably required by the Lessor.
- 11.2 The Lessee shall ensure that any compressor tanks, hoists and similar equipment on the Leased Premises be tested at least once a Year or at such other intervals as may reasonably be determined by the Lessor or in the relevant safety regulations promulgated from time to time by a competent authority, and that separator pits/LCV traps are checked at such intervals as may be determined by relevant safety regulations, and cleaned.
- 11.3 The Lessee shall, notwithstanding anything to the contrary herein contained or implied, maintain and/or replace all plate-glass including bullet-resistant glass built in or forming part of the Buildings or any other portion of the Leased Premises, and where applicable, the protective covering thereon, which shall be of such quality and appearance as the Lessor in its sole discretion may determine, irrespective

of whether such plate-glass or covering be deemed to form part of the interior or exterior of the Buildings.

- 11.4 The Lessee shall keep the Forecourt lighting installed on the Leased Premises, including the ballast and wiring for the switch gear on the Forecourt, in good and sound working order and shall replace any bulbs or tubes which may become defective or cease to function during the currency of the Lease with bulbs and tubes complying with specifications prescribed by the Lessor in its sole discretion and shall, upon the termination of the Lease, restore the same to the Lessor in good order and condition.
- 11.5 The Lessee shall prevent any blockage of sewerage or water pipes or drains in or used in connection with the Leased Premises and shall remove any obstruction or blockage in any sewer, water pipes or drains serving the Leased Premises and, where necessary, repair the sewer pipe or drain concerned. The Lessee undertakes not to dispose of waste oil into the sewerage system on the Leased Premises.
- 11.6 This clause 11 sets out the general obligations of the Lessee in regard to maintenance. The Equipment Maintenance Schedule provides the detailed and specific provisions in respect of maintenance of the Service Station Equipment and/or the Storage and Dispensing Equipment, as the case may be, and whilst the generality of this clause 11 is not affected in any way, the specific and particular terms of the Equipment Maintenance Schedule shall prevail in regard to detailed matters.
- 11.7 The Lessee acknowledges that the Lessor shall be entitled but not obliged from time to time, at its discretion, to carry out an asset verification exercise, during which all items of equipment, of whatever sort, belonging to the Lessor, as reflected in the Lessor's asset register in its books of account, are verified as to existence and condition. To the extent that any such item is missing, damaged or broken, it falls to be replaced and/or repaired in terms of the provisions of this Lease, such items shall be repaired and/or replaced by the Lessor at the cost of the Lessee and the other provisions of this Lease shall apply with regard to such missing and/or damaged items of equipment.
- 11.8 If the Lessee fails to meet any or all of its obligations, as contained in this clause 11, within 14 (fourteen) days after having been requested in writing to do so by the Lessor, then the Lessor shall be entitled (without derogating from any of the Lessor's rights under the Lease arising from such failure) and without further notice to the Lessee, to immediately take all such steps as the Lessor deems necessary to effect such repairs and replacements, including, without limiting the generality thereof, the testing of the compressors, vehicle lifts and similar equipment either itself or through its agents, contractors, employees and to make all such payments on behalf of the Lessee as would have been payable by the Lessee to third parties and/or to effect such repairs and thereupon immediately charge to and recover from the Lessee the actual cost thereof, which cost shall, failing immediate payment thereof by the Lessee to the Lessor against the Lessor's invoice, be set off against any guarantee given to the Lessor for the debts of the Lessee to the Lessor in accordance with the provisions of this Lease, or, in the event of such guarantee being insufficient, be payable to the Lessor on demand.
- 11.9 The Lessee shall, on termination of the Lease, hand over and deliver the Leased Premises, the Service Station Equipment and the Storage and Dispensing Equipment to the Lessor in good order and condition, fair wear and tear excepted.
- 11.10 The Lessee shall be obliged, and hereby undertakes, to make use only of contractors approved by the Lessor in carrying out its obligations in terms of this clause.
- 11.11 Unless expressly so stated, the Lessee shall perform its obligations in terms of this clause 11, at its own cost.

12. LESSOR'S MAINTENANCE OBLIGATIONS

- 12.1 The Lessor shall at its own cost keep and maintain the exterior of the Buildings (including the roof), the canopy, driveways and all signage on the Leased Premises in good order and repair in accordance with the Lessor's visual standards.
- 12.2 If the Lessor fails to meet any or all of its obligations, as contained in this clause 12, after having been requested in writing to do so by the Lessee, and after having been afforded a reasonable opportunity to assess the nature of any repairs or replacements required and to effect such repairs and maintenance, then the Lessee shall be entitled on written notice to the Lessor, to immediately take all such steps as the Lessee in its reasonable discretion deems necessary to effect such repairs and replacements and to make all such payments on behalf of the Lessor as would have been payable by the Lessor to third parties and/or to effect such repairs and thereupon immediately charge to and recover from the Lessor the actual cost thereof.

13. LESSOR'S ACCESS TO THE LEASED PREMISES

- 13.1 The Lessor shall have the right through its employees or contractors at any time to enter the Leased Premises for the purposes of inspection or for doing any work thereon which the Lessor wishes to undertake.
- 13.2 The provisions of this clause 13 apply to anything on or within the Leased Premises, including, but not limited to, the Storage and Dispensing Equipment.
- 13.3 Without derogating from the generality or specificity of the right of the Lessor to access the Leased Premises in terms of this clause 13, and without imposing any obligation upon the Lessor in the exercise of its rights of access, the Lessor shall endeavour to exercise its rights of access in such manner as will cause as little interference as possible to the Lessee's business, provided, however, that the provisions of clause 16.7 shall be of full application in all its terms in respect of the rights of access granted herein.

14. LIMITATION OF LIABILITY

Save where specifically provided in the Lease, the Lessee shall, to the extent allowed by Law:

- 14.1 have no claim of any nature whatsoever against the Lessor for any Loss, damage or injury including loss of life which the Lessee may directly or indirectly suffer for any reason, including but not limited to, by reason of any latent or patent defects in the Leased Premises or the Buildings, or fire in the Leased Premises or the Buildings, or theft from the Leased Premises or by the reason of the Leased Premises or the Buildings or any part thereof being in a defective condition or state of disrepair or any particular maintenance or repair arising out of act of God or any other cause beyond the Lessor's control, or arising in any manner whatsoever out of the use of the services at the Leased Premises or the Buildings by any person whomsoever, for any purpose whatsoever;
- 14.2 have no claim of any nature whatsoever whether for damages, remission of rent or otherwise, against the Lessor for any failure of or interruption in the amenities and services provided to the Leased Premises and/or the Buildings;

- 14.3 Indemnify, and hereby does indemnify and hold the Lessor harmless in respect of any claim (including costs) made against the Lessor by any person other than the Lessee for any Loss, damage or Injury suffered upon the Leased Premises, suffered by any consumer or any other third party as a consequence of the act or omission of the Lessor, whether on the Leased Premises or otherwise, but in relation to the activities conducted by the Lessor and/or the Lessee in relation to the Business.

15. LOAN OF STORAGE AND DISPENSING EQUIPMENT

- 15.1 The Lessee hereby borrows from the Lessor and the Lessor hereby lends to the Lessee the Storage and Dispensing Equipment listed in Storage and Dispensing Equipment Schedule for the purpose of storage therein and dispensing therefrom the Petroleum Fuels obtained exclusively from the Lessor or its nominee in terms of the Lease. The Storage and Dispensing Equipment shall for the duration of the Lease remain at the Leased Premises.

15.2 The Lessee shall:

- (a) institute such control measures and carry out such inspections as would timeously detect any defects which may occur in the Storage and Dispensing Equipment;
- (b) advise the Lessor immediately and in writing within 24 (twenty four) hours, of the discovery of any defect in the Storage and Dispensing Equipment, of the nature thereof and of the steps, if any, which have been taken to prevent any Loss or damage, as a result of such defect;
- (c) at all times while the Storage and Dispensing Equipment shall remain installed on the Leased Premises, the Lessee shall:
 - (i) comply with all obligations imposed on the Lessee itself by the provisions of all relevant health, safety, security and environmental legislation;
 - (ii) without limiting the foregoing comply with all obligations imposed on the Lessee in respect of such Storage and Dispensing Equipment in terms of this Lease;
 - (iii) do anything or refrain from doing anything that may be required to ensure that any obligations which may have been or that may be imposed on the Lessor in terms of any health, safety, security and/or environmental legislation that may be in force from time to time are complied with;
- (d) comply with such health, safety, security and environmental standards as the Lessor may in addition prescribe in writing from time to time, including without limitation the provisions of the Health, Safety, Security and Environment Operations Procedures Manual;
- (e) at all times ensure that:
 - (i) no Petroleum Fuels other than those supplied by the Lessor are stored in or dispensed from the Storage and Dispensing Equipment;
 - (ii) the Storage and Dispensing Equipment is, where applicable, utilised only for the storage of such particular Petroleum Fuels for which such equipment is specifically designated and/or designed;

- (iii) no equipment in the nature of or similar to the Storage and Dispensing Equipment, whether for the purpose of dispensing and/or storing Petroleum Fuels and/or any other purpose or to be used by any third party for the said purposes. The Lessee shall, when called upon to do so by the Lessor, forthwith arrange for the removal of any equipment of such nature used for the purpose of dispensing Petroleum Fuels and which are not the property of the Lessor from the Leased Premises.

- 15.3 The Lessor shall be obliged, as soon as reasonably possible after receiving any notice in terms of clause 15.2(b), to repair any defect listed therein, provided that the Lessee shall indemnify the Lessor against the costs of any such repairs to the extent that such costs could have been avoided or reduced had the Lessee given such notice of the defects to the Lessor at an earlier time or date and negligently failed to do so.
- 15.4 The Lessee shall provide to the satisfaction of the Lessor suitable safe access to and egress from the Storage and Dispensing Equipment for road vehicles and/or any other delivery medium which may be required for the purpose of delivery of the Petroleum Fuels.
- 15.5 Unless otherwise provided by Law, the Lessee shall have no claim for any Loss or damage of any nature suffered by the Lessee arising:
- (a) from or connected with the Storage and Dispensing Equipment, including, without limitation, any defect or malfunctioning thereof; or
 - (b) out of the Lessor having exercised any right of access to, inspection, repair, alteration or maintenance of the Storage and Dispensing Equipment, unless:
 - (i) the Lessee shall have complied with the terms of this Lease, including, without limitation, the obligations under this clause 15 and clause 25; and
 - (ii) the Lessee shall have discharged the onus, hereby accepted by it, to prove on a balance of probabilities that such claim, Loss or damage was not directly or indirectly caused by any act or omission of the Lessee, its contractors or agents, but instead was directly caused by the negligence or intent of the Lessor acting through its employees or its contractors.
- 15.6 The Lessor shall be responsible for the maintenance of the Storage and Dispensing Equipment and shall at all times have the right to access and/or inspect the Storage and Dispensing Equipment and, furthermore, to effect upon or outside of the Leased Premises, any repair, alteration or maintenance of the Storage and Dispensing Equipment, should it deem it necessary.
- 15.7 The Lessor shall also have the right to remove the Storage and Dispensing Equipment from the Leased Premises, if so required, in order to carry out any maintenance work or if at any time, when in the Lessor's discretion, removal is warranted as a result of considerations of safety and environmental harm, insufficient use or improper use thereof by the Lessee, or if the Storage and Dispensing Equipment is not in the opinion of the Lessor, reasonably required by the Lessee in relation to the scale of purchases of Petroleum Fuels by the Lessee.
- 15.8 If the Lessor is required to remove any of the Storage and Dispensing Equipment for the purposes of repairing, altering or maintaining the Storage and Dispensing Equipment that has become damaged and as a temporary measure Storage and Dispensing Equipment is loaned to the Lessee to use in place of