

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NO: 27762/2021

In the matter between :-

SAWINDU 08(RF)(PTY) LIMITED

Applicant/Plaintiff

and

RAMADI: TAKALANI WALTER
(ID No.: 790118 5473 081)

Respondent/Defendant

**CONDITIONS OF SALE IN EXECUTION
OF IMMOVABLE PROPERTY**

This is a sale in execution pursuant to a judgement obtained in the above Honourable Court dated the **26TH APRIL 2022** in terms of which the following property will be sold in execution on **01ST OCTOBER 2024** at **11:00** by the **SHERIFF HALFWAY HOUSE - ALEXANDRA** at **614 JAMES CRESCENT, HALFWAY HOUSE** to the highest bidder with reserve of **R563 000.00**:

A Unit Consisting of :-

- a) **SECTION NO.11 AS SHOWN AND MORE FULLY DESCRIBED ON SECTIONAL PLAN NO. SS350/2004, IN THE SCHEME KNOWN AS KEW LANE IN RESPECT OF THE LAND AND BUILDING OR BUILDINGS SITUATE AT KEW TOWNSHIP, LOCAL AUTHORITY, CITY OF JOHANNESBURG OF WHICH SECTION THE FLOOR AREA, ACCORDING TO THE SAID SECTIONAL PLAN, IS 52 (FIFTY-TWO) SQUARE METRES IN EXTENT; and**
- b) **AN UNDIVIDED SHARE IN THE COMMON PROPERTY IN THE SCHEME APPORTIONED TO THE SAID SECTION IN ACCORDANCE WITH THE PARTICIPATION QUOTA AS ENDORSED ON THE SAID SECTIONAL PLAN;**

HELD BY DEED OF TRANSFER NUMBER ST19637/16 AND SUBJECT TO SUCH CONDITIONS AS SET OUT IN THE AFORESAID DEED; (to be specially executable)

SITUATED: UNIT / DOOR NO. 11, SS KEW LANE, ERF 478, 44 – 10th ROAD, KEW

ZONING: GENERAL RESIDENTIAL (NOTHING GUARANTEED)

The following information is furnished but not guaranteed:

MAINBUILDING: LOUNGE, 3X BEDROOMS, BATHROOM, KITCHEN

The Creditor, Sheriff and/or Plaintiff's Attorneys do not give any warranties with regard to the description and/or improvements.

THE SALE SHALL BE CONDUCTED ON THE FOLLOWING CONDITIONS: -**1. THE SALE**

- 1.1. The sale shall be conducted in accordance with the provisions of Rule 46 of the Uniform Rules of the High Court, as amended, and all other applicable law as well as the provisions of the Consumer Protection Act, Act 68 of 2008, the Regulations promulgated thereunder and the "Rules of Auction", where applicable. These provisions may be viewed at www.acts.co.za (the Act) and www.info.gov.za (the Regulations).
- 1.2. The headings to the clauses are for the purposes of convenience and reference only, and shall not be used in the interpretation of, nor modify, nor amplify the conditions of this sale nor any clause. In these conditions, unless a contrary intention clearly appears, words importing any one gender shall include the other two genders, the singular includes the plural and vice versa, and natural persons include created entities (corporate or otherwise) and vice versa. Any days is referred to as court days.
- 1.3. The property shall be sold by the sheriff of the High Court, **SHERIFF HALFWAY HOUSE - ALEXANDRA** at **614 JAMES CRESCENT, HALFWAY HOUSE** to the highest bidder with reserve of **R563 000.00**, should the highest bid be less than the reserve price, the highest bid will be provisionally accepted subject to the purchaser complying with clauses 3.1, 4.1 and 4.4; and confirmation by the court. Should the sale not be confirmed by the

2. MANNER OF SALE

- 2.1. The sale shall be for rands, and not bid for less than one thousand rands shall be accepted.

- 2.2. The execution creditor shall be entitled to cancel the sale at any stage before the auction has commenced. The execution creditor shall be entitled to bid at the auction.
- 2.3. If any dispute arises about any bid, the property may again be put up for auction, at the discretion of the Sheriff.
- 2.4. (a) If the sheriff makes any mistake in selling, such mistake shall not be binding on any of the parties but may be rectified.
- (b) If the sheriff suspects that a bidder is unable to pay either the deposit referred to in condition 4.1 (a) or the balance of the purchase price, the sheriff may refuse to accept the bid of such bidder, or accept it provisionally until the bidder shall have satisfied the sheriff that such bidder is able to pay the deposit and the balance of the purchase price.
- (c) On the refusal of a bid under circumstances in paragraph (b), the property may immediately be put up for auction again.

3. OBLIGATIONS OF PURCHASER AFTER AUCTION

- 3.1. (a) The purchaser shall, as soon as possible after the sale, and immediately on being requested by the sheriff, sign these conditions.
- (b) If the purchaser purchases in a representative capacity, the purchaser shall disclose the name of the principal or person on whose behalf the property is being purchased.
- 3.2. If the Purchaser has purchased in a representative capacity, then such sale shall also be subject to the following conditions:
- (a) The principal's or person's address as furnished by the representative shall be the address as chosen by the principal or person as the address for service of all forms, notices and documents in respect of any legal proceedings which may be instituted by virtue hereof (*domicilium citandi et executandi*).
- (b) If the principal or person, for any reason, is unable to take transfer in compliance herewith then the representative shall be the contracting party as the purchaser.

- 3.3. In the event of the purchaser being a Company, Close Corporation or a Trust, a Trustee/Trustees, or any person acting in a representative capacity, then the person signing these conditions of sale shall be deemed to have bound himself/herself/themselves as surety(ies) and co-principal debtor(s) for all the obligations of the purchaser (and, if applicable, jointly and severally with any other persons signing these conditions of sale on behalf of the purchaser) such surety(ies) hereby renouncing the benefits of excussion and division, no value received and errors in calculation, the effect of which he/she/they acknowledges himself/herself/themselves to be aware.
- 3.4. The purchaser shall not be entitled to nominate a third party to obtain transfer of the property in the purchaser's name. This clause may not be over-ruled by adding the words "*or nominee*" or similar wording to the signature of the purchaser or anywhere else.
- 3.5. If the purchaser is married in community of property such purchaser shall furnish the sheriff with the written consent of the other spouse, as required in terms of Section 15(2)(g) of the Matrimonial Property Act 88 of 1984, within 48 hours of the signature of the conditions of sale.
- 3.6. the purchaser shall, on demand, sign all the necessary transfer and ancillary documents with the transferring attorneys.

4. CONDITIONS OF PAYMENT

- 4.1. (a) The purchaser shall pay to the sheriff a deposit of 10 percent of the purchase price in cash or by bank guaranteed cheque on the completion of the sale.
- (b) The balance shall be paid against transfer and shall be secured by a guarantee issued by a financial institution approved by the execution creditor or his or her attorney and shall be furnished to the sheriff within 21 days after the date of sale.
- 4.2. Should the purchaser fail to pay the deposit and the Sheriff's commission on completion of the sale, then the sale shall be null and void and the sheriff may immediately put the property up for auction again.

- 4.3. The sheriff shall retain all moneys paid, in respect of the purchase price of the immovable property sold in execution, in his or her trust account, in terms of Section 22 of the Sheriff's Act 90 of 1986, until transfer have been given to the Purchaser.
- 4.4. The Purchaser shall, immediately on demand pay the Sheriff's commission as follows:
- (i) 6% on the first R100 000.00 of the proceeds of the sale,
 - (ii) 3.5% on R100 001.00, to R400 000.00, and
 - (iii) 1.5% on the balance thereof,

Subject to a maximum commission of R40 000.00 plus VAT and a minimum of R3000.00 plus VAT.

- 4.5. (b)The purchaser shall be liable for and pay within 10 days of being requested to do so by the appointed conveyancer, the following:
- (i) All amounts due to the municipality servicing the property, in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties due to a municipality; and where applicable
 - (ii) All levies due to a Body Corporate in terms of the Sectional Titles Act No. 1986 (Act No. 95 of 1986) or amounts due to a Home Owners or other association which renders services to the property.
 - (iii) The cost of transfer, including conveyancing fees, transfer duty or VAT and any other amount necessary for the passing of transfer to the purchaser.
- 4.6. The purchaser is hereby informed of the following estimated charges:

- (a) Arrear rates and taxes estimated at _____ (and is not guaranteed).
- (b) Arrear charge payable in terms of the Sectional Titles Act, Act 95 of 1986, estimated at R _____ (and is not guaranteed).

The purchaser accepts that the amount set forth in this clause are estimates only. Neither the sheriff nor the execution creditor warrants the accuracy of this estimate.

The Purchaser shall not avoid the purchaser's obligations hereunder, nor will the purchaser have any claims against the Sheriff or the execution creditor, arising out of the fact that the arrear rates and taxes and arrear charges payable in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), Sectional Titles Act, 1986 (Act No. 95 of 1986) or Home Owners Association are greater than the estimated charges set forth herein. Payment of the actual amounts owing in respect of rates and taxes, levies or arrears charges must be effected by the Purchaser within 10 (ten) days after being requested to do so by the attorney attending to the transfer.

- 4.7. (a) The Purchaser shall be entitled to obtain transfer forthwith upon payment of the whole purchase price and on compliance with condition 4.4 and 4.5 alternatively, transfer shall be passed only after the purchaser has complied with the provisions of conditions 4.1, 4.4 and 4.5 hereof.
- (b) If the transfer is delayed by the purchaser, the purchaser shall be liable for interest at the rate of **11.50%** nominal per annum calculated daily and compounded monthly, on the purchase price from date of sale to date of registration of transfer.
- 4.8. In the event that the purchaser being the execution creditor who is also a consumer exempted in terms of Section 5(2)(b) from the provisions of the Consumer Protection Act, 68 of 2008, the execution creditor shall be required to pay the commission set out in the clause 4.4, without demand, within 10 days. Such execution creditor shall not be required to make any deposit nor furnish a guarantee as provided for in terms of 4.1(a) and 4.1(b), except insofar as the purchase price may exceed the total amount as set out in the warrant of execution. The difference between the purchase price and the total amount as set out in the warrant of execution, plus interest as provided for in 4.7(b), is to be paid or secured to the sheriff within 21 days from the date of sale, without demand. Such execution creditor shall at the date of registration of transfer provide the sheriff with satisfactory proof that the defendant's account has been credited accordingly.

5. COMPLIANCE CERTIFICATES

- 5.1. The purchaser shall at his/her own cost obtain a valid electrical installations certificate of compliance and test report, in the prescribed format, as provided for in the Electrical Installation Regulations, 2009, issued in terms of the Occupational Health and Safety Act, 1993. The purchaser agrees that this undertaking relieves the Sheriff and the Plaintiff from any duty that may be imposed upon either or both of them in terms of Section 10 of the Occupational Health and Safety Act, 1993. The purchaser accordingly agrees that there is no obligation on the Sheriff or Plaintiff to furnish the said electrical installations certificate of compliance and test report.
- 5.2. The purchaser agrees that there is no obligation on the Sheriff or the Plaintiff to furnish an Entomologist's certificate.
- 5.3. If applicable, the purchaser shall at his/her/its own cost obtain a valid gas installation and plumbing certificate of compliance and test report.
- 5.4. If applicable, the purchaser shall at his/her/its own cost obtain a valid electrical fence certificate from a credited third party.

6. RISK AND OCCUPATION

- 6.1. (a) The property may be taken possession of after signature of the conditions of sale, payment of the deposit and upon the balance of the purchase price being secured in accordance with condition 4.1(b).
- (b) Should the purchaser or any person claiming possession through the purchaser, receive possession of the property prior to registration of transfer, the purchaser shall be liable for occupational rental at the rate of 1% of the purchase price per month from the date of possession thereof to date of transfer, payable to the bond account of the execution debtor, until transfer has been given to the Purchaser.

Bond Account Details: Bank Name NEDBANK Limited

Branch code: 198765

Account number: 1452070768

Reference: 10002800

- (c) Upon the purchaser taking possession, the property shall be at the risk and profit of the purchaser.
 - (d) The execution creditor and the sheriff give no warranty that the purchaser shall be able to obtain personal and/or vacant occupation of the property or that the property is not occupied and any proceedings to evict the occupier(s) shall be undertaken by the Purchaser at the purchaser's own cost and expense.
- 6.2. (a) The Sheriff may demand that any improvements to the property sold shall be immediately insured by the purchaser for their full value, proof of the insurance given to the sheriff and such insurance policy kept in force until transfer is registered.
- (b) Should the purchaser fail to comply with the obligations in paragraph 6.2(a), the sheriff may effect the necessary insurance, the costs of which insurance shall be for the purchaser's account.
 - (c) Should the purchaser effect any improvements to the property before transfer, neither the sheriff nor the execution creditor can be held liable for the costs of such improvements
- 6.3. (a) The property is sold as represented by the Title Deeds and diagram or Sectional Plan, subject to all servitudes and conditions of establishment, whichever applies to the property. Notwithstanding anything to the contrary hereinbefore contained, the property is sold free from any title conditions pertaining to the reservation of personal servitudes in favour of third parties and in respect of which servitudes preference has been waived by the holder thereof in favour of the execution creditor.
- (b) The sheriff and the execution creditor shall not be liable for any deficiency that may be found to exist in the property.
 - (c) The sheriff and the execution creditor shall not be obliged to point out any boundaries, beacons or pegs in respect of the property hereby sold.

7. SALE SUBJECT TO EXISTING RIGHTS

Where the property is subject to a lease agreement the following conditions apply:

- 7.1. Insofar as the property is let to tenants and the sheriff is aware of the existence of such tenancy then:
- (a) then the property shall be sold subject to such tenancy if that lease was concluded before the Execution Creditor's mortgage bond was registered; or
 - (b) if the lease was concluded after the Execution Creditor's mortgage bond was registered, the property shall be offered first subject to the lease and if the selling price does not cover the amount owing to the execution creditor as reflected on the warrant of execution plus interest as per the Writ, then the property shall be offered immediately thereafter free of the lease.
- 7.2. Notwithstanding any of these provisions, the purchaser shall be solely responsible for evicting any person or other occupier claiming occupation of the property, including a tenant, at the purchaser's cost. No obligation to do so shall vest in the sheriff and/or the execution creditor.
- 7.3. The property is furthermore sold subject to any lien or liens in respect thereof.

8. BREACH OF AGREEMENT

- 8.1. (a) If the purchaser fails to carry out any obligation due by the purchaser under the conditions of sale, the sale may be cancelled by a Judge summarily on the report of the sheriff after due notice to the purchaser, and the property may again be put up for sale.
- (b) In the event of the circumstances in paragraph 8.1(a) occurring, the purchaser shall be responsible for any loss sustained by reason of such default, which loss may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from the purchaser under judgment of a Judge pronounced on a written report by the sheriff, after such purchaser has been given notice in writing that such report will be laid before the Judge for such purpose.

(c) If the purchaser is already in possession of the property, the sheriff may, on notice to affected parties, apply to a Judge for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

8.2. In the event of the sale being cancelled, the deposit shall be retained by the Sheriff in trust for such period that is stipulated in the judgment in terms of Rule 46(11) or if no such period is stipulated therein then until such time that the property has been sold to a third party and the execution creditor's damages have been quantified and judgment has been granted in respect thereof.

9. ADDRESS FOR LEGAL PROCEEDINGS

The purchaser chooses the address set out in Annexure "A" hereunder as his/her/its address for the service of all forms, notices and documents in respect of any legal proceedings which may be instituted following from this sale or its cancellation (*domicilium citandi et executandi*). In the event of the purchaser failing to choose a *domicilium citandi et executandi* hereunder, the property which is the subject matter of the sale will be deemed to be the purchaser's *domicilium citandi et executandi*.

10. CONFIRMATION OF THE PURCHASER

The Sheriff and Purchaser confirm that the property is sold:

with lease

without lease

for an amount of:

R.....

(.....)

Which amount excludes the amounts referred to in clause 4.4, 4.5 and 4.7(b) and accepts all further terms and conditions as set out herein, which acceptance is confirmed by his signature below.

11. JOINT AND SEVERAL LIABILITY

In the event of there being more than one purchaser, they will be jointly and severally liable in terms hereof.

12. TRANSFERRING CONVEYANCER

The Execution Creditor shall appoint the conveyancer to effect transfer of the property to the purchaser: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer. The details of the conveyancers as appointed by the Execution Creditor are as follows:

- 12.1 Name: BAREN JOHANNES KRUGER
- 12.2 Name of Firm: STRAUSS DALY INC.
- 12.3 Tel: 010 201 8600

I, the undersigned, Sheriff of _____ hereby certify that today the _____ **2024** and as advertised, the property was sold for R..... to

SHERIFF

I, the undersigned, _____ on this _____ 2024 do hereby bind myself as the purchaser of the aforementioned property on the conditions of sale as contained herein.

PURCHASER

(and where applicable in terms of these conditions of sale as surety and co-principal debtor)

(and where applicable on behalf of the below mentioned Principal being duly authorised in terms of a power of attorney / mandate which is attached hereto as Annexure B)

FULL NAME OF PRINCIPAL AS PER POWER OF ATTORNEY:

PHYSICAL ADDRESS OF PRINCIPAL:

ANNEXURE "A"**Information for Conveyancer:**

1. Full names:
2. Spouse's Full Names:
3. Married/Divorced/Widowed/Single:
4. If married – Date:
By Antenuptial Contract / Married in Community of Property
5. Where married:
(husband's *domicilium citandi et executandi* at the time of the marriage)
6. Identity number:
7. Physical address (*domicilium citandi et executandi*):
.....
8. Postal address:
.....
9. Telephone numbers:
Home: Work:
Telefax (if any) Cell Number:
E-mail: