Asset Purchase Agreement

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The effective date of this Asset Purchase Agreement (the “Agreement”) is [DATE],

**BETWEEN: [FIRST PARTY]** (the "Vendor"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [SECOND PARTY]** (the "Purchaser"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

**1. SALE OF ASSETS**

Subject to the terms and conditions of this Asset Purchase Agreement, the Vendor hereby sells, assigns and transfers to the Purchaser, and the Purchaser purchases from the Vendor with effect as and from [DATE] (the “Effective Date”) the following assets (the “Purchased Assets”):

* 1. all leasehold improvements made by the Vendor to the premises located at civic address [ADDRESS] (the “Premises”), including, without limitation of the foregoing, electrical, carpentry and plumbing work and gas pipe installation;
	2. all signage set forth in Appendix A hereof;
	3. all small wares found at the Premises and set forth in Appendix B hereof;
	4. the machinery described in Appendix C hereof;
	5. all inventory found on the Premises at the time the Purchaser takes possession thereof under the Franchise and Sublease Agreements between the Vendor and the Purchaser.

**2. PURCHASE PRICE**

The purchase price (the “Purchase Price”) for the Purchased Assets shall be the amount of [AMOUNT] divided amongst the classes of the Purchased Assets as follows:

* 1. as to the leasehold improvements referred to in paragraph 1.1 hereof, the amount of [AMOUNT]
	2. as to the signage referred to in paragraph 1.2 hereof, the amount of [AMOUNT]
	3. as to the small wares referred to in paragraph 1.3 hereof, the amount of [AMOUNT];
	4. as to the machinery referred to in paragraph 1.4 hereof, the amount of [AMOUNT];
	5. as to the inventory referred to in paragraph 1.5 hereof, an amount to be unilaterally determined by the Vendor at the time of the taking of possession of the Premises by the Purchaser, which amount shall not exceed the total cost to the Vendor of such inventory.
	6. The Purchase Price shall be payable in full upon the execution of these presents.

The Vendor shall execute all such instruments of transfer, assurances, consents and other documents as shall be necessary to effectively transfer to the Purchaser all of the Vendor’s rights, title and interests to and *in re*spect of the Purchased Assets, and the Vendor shall deliver up to the Purchaser possession of the Purchased Assets on the Effective Date.

**3. RIGHT TO USE OF EQUIPMENT**

3.1 The Vendor hereby grants to the Purchaser the right to use all equipment indicated in Appendix D hereto in consideration of the payment by the Purchaser to the Vendor a collective monthly amount of [AMOUNT].

3.2 The Vendor hereby represents and the Purchaser hereby acknowledges that Vendor’s rights to the use of the equipment referred to in Appendix D have been acquired under conditional sales contract and lease, as the case may be, and that such rights constitute all the Vendor’s rights, title and interest therein.

3.3 The Vendor hereby undertakes that upon acquisition by it of the ownership of the equipment referred to in Appendix D hereto, it will transfer its rights, title and interest therein to the Purchaser in consideration of the payment by the Purchaser to the Vendor of the amount of [AMOUNT] with respect to each of the said classes of equipment. At the same time as the second such transfer, the Vendor shall transfer the lease to the equipment referred to in Appendix D hereto to the Purchaser, if such lease is then still in full force and effect.

**4. RIGHT TO SERVICE CLIENTELE**

* 1. The Vendor hereby grants to the Purchaser the right to service the existing clientele associated with the Premises and previously served by the Vendor in consideration of the payment by the Purchaser to the Vendor of the sum of [AMOUNT], which sum shall be payable as follows:

4.1.1 the sum of [AMOUNT] shall be payable in full upon the execution of these presents;

* + 1. the balance of [AMOUNT] shall be payable in a number of consecutive monthly instalments equal to the number of consecutive monthly instalments provided for the payment of the Franchise Fee under the Franchise Agreement entered into between the Vendor and the Purchaser with respect to the Premises;

4.2 The Vendor hereby represents and the Purchaser hereby acknowledges:

4.2.1 that the right referred to in Subsection 4.1 hereof is limited to the clientele already associated with the Premises only and not to any other clientele served by the Vendor or any of its franchisees at any other location;

4.2.2 that save and except certain rights to the use of the trade name “[NAME]“ [*in re*spect of which the Vendor has applied for the registration of a trademark with the [COUNTRY] Trademarks Office on [DATE] under Application No. [NUMBER], notice of which Application was approved for publication for opposition in the Journal of Trademarks on [NUMBER] and to any other trademarks, service marks and trade names used by the Vendor which the Purchaser may acquire under the Franchise Agreement between itself and the Vendor, no other rights to the use of such trademarks, service marks and trade names are transferred from the Vendor to the Purchaser hereby.

**5. REPRESENTATIONS AND WARRANTIES OF THE VENDOR**

The Vendor represents and warrants to the Purchaser that the representations and warranties made in the following paragraphs of this Section 5 are true and accurate as of the date of these presents:

5.1 The Vendor is a valid and subsisting company, duly organised and in good standing under the laws of [COUNTRY], and has full power, authority and legal right to carry on the business presently conducted by it.

5.2 The execution and delivery of this Asset Purchase Agreement and the performance of the transactions contemplated hereby have been duly and validly authorised by the Board of Directors of the Vendor. This Asset Purchase Agreement and the consummation of the said transactions have been duly and validly authorised by all necessary actions of the Vendor. This Asset Purchase Agreement constitutes a valid obligation, legally binding upon the Vendor in accordance with its terms.

**6. BROKERS**

The parties hereby acknowledge and represent unto each other that no broker or finder or agent has acted for either of them in connection with this Asset Purchase Agreement or the transactions contemplated hereby, and that no broker or finder or agent is entitled to any brokerage commission, finder’s fee or similar commission, fee or charge *in re*spect hereof.

**7. CURRENCY**

All Rand amounts stated herein shall mean [CURRENCY], and all Rand amounts defined or described but not stated herein shall be read to mean [CURRENCY] Rands.

 **8. NOTICES**

All notices, requests, demands and other communications hereunder shall be given in writing and shall be personally delivered or mailed by prepaid registered mail, save and except in the event of a postal disruption, to the respective parties at the following addresses, unless and until a different address has been designated by notice in writing to the other party:

8.1 To the Vendor:

[YOUR COMPANY NAME], [YOUR COMPLETE ADDRESS]

Attention: [YOUR NAME]

8.2 To the Purchaser:

[COMPANY NAME], [COMPLETE ADDRESS]

Attention: [NAME]

Any such notice, request, demand or other communication shall be conclusively deemed to have been given on the [NUMBER] business day after it was mailed as aforesaid, or in the event of personal delivery, on the date such notice is delivered.

**9. CONCLUDING PROVISIONS**

9.1 This Asset Purchase Agreement, the documents referred to herein, and the attachments hereto, if any, constitute the entire, full and complete Agreement between the Vendor and the Purchaser with respect to the transactions contemplated hereby, and supersede all prior agreements, arrangements and undertakings relating to the subject matter hereof, no other representations having induced the Purchaser to execute this Agreement. No amendment, change or variance from this Asset Purchase Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorised officers or agents in writing.

9.2 Except as expressly provided to the contrary herein, each provision of this Asset Purchase Agreement shall be considered severable, and if, for any reason whatsoever, any provision hereof is deemed to be invalid, illegal or incapable of being enforced as being contrary to or in conflict with any existing or future laws of [COUNTRY] or regulation by a court or agency having valid jurisdiction, such shall not impair the operation of nor have any other effect upon such other provisions of this Asset Purchase Agreement, and the latter shall continue to be given full force and effect and to bind the parties hereto. No provision of this Asset Purchase Agreement shall be deemed dependent upon any other provision hereof unless so expressed herein, and any such invalid provision shall be deemed not to form part of this Asset Purchase Agreement, which shall be construed as if such invalid provision were omitted.

9.3 No waiver by either parties hereto of the conditions, or of the breach of any term, covenant, representation or warranty contained herein, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as being a further or continuing waiver of any such condition or breach or as a waiver of any other condition or as a breach of any other term, covenant, representation or warranty of this Asset Purchase Agreement.

9.4 All captions, titles, headings and section numbers in and to this Asset Purchase Agreement have been inserted and are intended solely for the convenience of the parties, and none shall be construed nor deemed to affect the meaning or construction of any provision hereof, nor to limit the scope of the provision to which they refer.

9.5 All references herein to the masculine, neuter or singular shall be construed to include the masculine, feminine and neuter genders and the singular or plural, where applicable.

* 1. This Asset Purchase Agreement shall be interpreted and construed under the laws of the [STATE/PROVINCE] of [COUNTRY], which shall prevail in the event of any conflict.

9.7 This present Asset Purchase Agreement and everything herein contained shall extend to, bind and ensure to the benefit of the respective heirs, executors, administrators, successors, assigns and legal representatives, as the case may be, of each of the parties hereto.

9.8 The parties hereto acknowledge that they have requested that this Asset Purchase Agreement and all related documents be drafted in English, that any notice to be given hereunder or thereunder be given in English, and that any proceedings between the parties relating to this Agreement or related documents be drafted in English.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

The Vendor The Purchaser

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**APPENDIX A**

**SIGNAGE**

# APPENDIX B

# SMALL WARES

**APPENDIX C**

**MACHINERY**

**APPENDIX D**

**DESIGNATED EQUIPMENT TO BE USED**