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## **EXHIBIT HH 12.2**

# **SUPPLEMENTARY STATEMENT & ANNEXURES OF MOSES MOREMI**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,  
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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**INDEX: EXHIBIT HH 12.2**

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**SUPPLEMENTARY STATEMENT**

I, the undersigned,

**TEKOETSILE MOSES MOREMI**

do hereby state as follows:

1. I am the Chief Director Provincial Treasury, Free State.
2. This is an additional statement of what I have already submitted to the Commission.

**BRIEF BACKGROUND OF THE FARM KRYNAAUWLUST.**

3. When I joined Phumelela Municipality as Chief Financial Officer in 2011, I requested audited financial statements of the Trust from the then Accountant in 2011. The Trustees decided to sell the livestock and farming equipment through auction and later dissolved the Trust. An amount of approximately R8 million, which I was informed it was the proceeds from the auction, was paid over to the municipality but audited financial statements up to the date of the dissolution of the Trust were not provided. The 99 year lease agreement was also cancelled after dissolution of the Trust.



4. The municipality then leased 3368 hectares of the farm to the four local farmers for a combined annual rental of R958 880.00. The lease agreement with the farmers commenced on the 1<sup>st</sup> October 2011 and was expected to expire on the 30<sup>th</sup> September 2013 but this period was negotiated and contracts of three farmers cancelled in February 2013 to allow the establishment of the dairy operation.
5. The exact date of the presentation by the Head of Department, Mr Thabethe, was on the 12 June 2012. There was a pre-planned council meeting that took place on that date but the meeting had to be delayed to allow for the presentation. After the presentation, the delegation from the Department, invited local farmers and businesses people left the boardroom and council then continued with its business and the resolutions, in support of the dairy project, were passed (refer annexure "MM01").
6. The letter dated 26 June 2012 addressed to Mr Thabethe was an official confirmation of the resolutions of 12 June 2012 Council meeting.
7. The draft resolutions referred to in this paragraph were prepared by the Department of Agriculture and Rural Development and were emailed to me by Mr Thabethe on the 21<sup>st</sup> June 2012.



8. In the morning of 17 July 2012, I received a call from the Provincial Government Director General, Ms. Elzabe Rockman who informed me that a high level delegation from India would be visiting the municipality and she further indicated to me that in the event that there is a need for legal assistance, I must inform her so that she can request the State Law Advisors to assist the municipality as Phumelela is a very small rural municipality with no revenue base and cannot afford to source legal assistance from the private law firms.
9. I also would like to place it on record that I received emails from Messrs Nayaran and Schalkwyk on the 18 July 2012 where they confirmed that a meeting was held and Mr.Nayaran also provided feedback from the Stakeholders on some concerns I raised during the meeting on the lease agreement. I attach the emails as annexure (MM013)

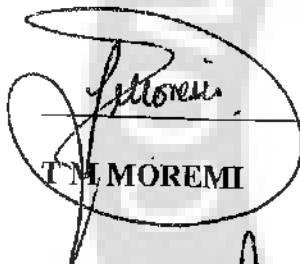
## CONCLUSION

10. I would like to place on record Chair that upon perusal of my archives, I found a copy of the agreement titled "Land Use Agreement" which was signed by me in my capacity as Accounting Officer of Phumelela, of course with a written consent from my Mayor, Mr TJ Motaung, and Mr Thabethe in his capacity as the Head of Department (refer attached agreement marked annexure MM010)
11. Subsequent to the media reports around 2014/2015, that Phumelela has transferred the farm to Estina, I went to the Deeds Office in Bloemfontein to ascertain the ownership status and discovered that a Notarial Lease was registered against the municipality's titled deed on the 18 January 2013 wherein the municipality's farm, Krynaauwlust was leased to



Estina (Pty) Ltd for a period of 99 years and no monthly rental was payable for that period  
(refer attached contract marked annexure MM011).

12. The Notarial Lease was later cancelled on the 05 September 2014 (refer attached  
cancellation stamp marked annexure MM012). The cancelation of the Notarial Lease  
and progress on the transferring of the farm back to the municipality was confirmed by Mr  
AJ Venter during his testimony.

  
T.M. MOREMI

DATE: 13 August 2019.

Mmoro

**LAND USE AGREEMENT**

between

**PHUMELELA LOCAL MUNICIPALITY**

and

**FREE STATE PROVINCIAL GOVERNMENT**

Through its DEPARTMENT OF AGRICULTURE &amp; RURAL DEVELOPMENT

**WHEREBY THE PARTIES AGREE AS FOLLOWS****1. INTERPRETATION****1.1 In this agreement -**

1.1.1 clause headings are for convenience and are not to be used in its interpretation;

1.1.2 unless the context indicates a contrary intention and expression which denotes-

1.1.2.1 a natural person includes a juristic person and *vice versa*;

1.1.2.2 the singular includes the plural and *vice versa*.

1.2 In this agreement, unless the context indicates a contrary intention, the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings-

1.2.1 "Assignee" means **THE FREESTATE PROVINCIAL GOVERNMENT**, through is Department of Agriculture & Rural Development, and herein represented by Peter Thabethe, in his capacity as Head: Agricultural, Free State Provincial Government, Bloemfontein, acting by virtue of a delegation of authority given to him by the MEC: Agriculture on 12 September 2012

1.2.2 "Effective date" means the date of signature of this agreement by the party last signing;

1.2.3 "Municipality" means **THE PHUMELELA LOCAL MUNICIPALITY**, herein represented by TEROETSILE MOSES MOREMI in his capacity as municipal manager, acting by virtue of a Council's resolution dated 10 August 2012.

1.3 Any substantive provision conferring rights or imposing obligations on any party in the interpretation clause shall be given effect to as if it were a substantive provision in the body of the agreement.

1.4 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this agreement.

1.5 Reference to months or years shall be construed as calendar months or years.

1.6 No provision herein shall be construed against or interpreted to the disadvantage of any party by reason of such party having or being deemed to have structured or drafted such provision.



- 1.7 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a Saturday, Sunday or public holiday, the next succeeding business day.
- 1.8 the *contra proferentem* rule shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision.

## 2. **CESSION AND ASSIGNMENT**

- 2.1 Subject to the terms and conditions of this agreement, the Municipality hereby-

2.1.1 cedes to and in favour of the Assignee all its right, title and interest (including but not limited to: right to enter into lease agreements, collection of rental, mortgaging the Property); and

2.1.2 assigns, transfers and makes over, to and in favour of the Assignee, all its obligations;

in and to:

THE REMAINING EXTENT OF THE FARM KRYNAAUWS LUST  
NUMBER 275, DISTRICT VREDE, PROVINCE FREESTATE  
("the Property")

- 2.2 The Assignee hereby accepts the cession and assignment of the Municipality's rights and obligations in and to the Property.

### 3. ACKNOWLEDGEMENT

- 3.1 The Assignee acknowledges that with effect from the effective date it becomes liable for all municipal and/or any other expenses with regard to the property.



### 4. ENDORSEMENT

- 4.1 The content of this agreement will be endorsed against the title deed of the Property, by means of the necessary application to the Deeds Office Bloemfontein.
- 4.2 The Municipality will sign any document that will be necessary to register the said endorsement in the Deeds Office Bloemfontein.

### 5. GENERAL

- 5.1 This agreement constitutes the whole of the agreement between the parties hereto relating to the matters dealt with in this agreement and save to the extent otherwise provided herein no undertaking, representation, term or condition relating to the subject matter of this agreement not incorporated in this agreement shall be binding on any of the parties.
- 5.2 No variation, addition, deletion, or agreed cancellation will be of any force or effect unless in writing and signed by or on behalf of the parties hereto.
- 5.3 No waiver of any of the terms and conditions of this agreement will be binding or effectual for any purpose unless in writing and signed by or on behalf of the party giving the same. Any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of any party hereto in exercising any right, power or privilege hereunder will constitute or be deemed to be a waiver thereof, nor will any



MS. J.D. Q  
 

single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

- 5.4 Save as otherwise herein provided, neither this agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, assigned, or otherwise transferred without the prior written consent of the other parties.
- 5.5 Any consent or approval required to be given by any party in terms of this agreement will, unless specifically otherwise stated, not be unreasonably withheld.
- 5.6 This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement as at the date of signature of the party last signing one of the counterparts. The parties undertake to take whatever steps may be necessary to ensure that all counterparts are duly signed by all of them without delay.
- 5.7 Each party signing this agreement warrants that he/she has the necessary authority to bind his/her principal.



Handwritten signatures and initials: M.J., J.F., and a large signature.


## 6. COSTS

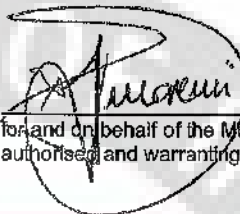
All costs of and incidental to the preparation and signature of this agreement, including value-added tax thereon, will be paid by the Assignee.

SIGNED at Bloemfontein on 14 DECEMBER 2012

AS WITNESSES:

1.





for and on behalf of the Municipality, duly authorised and warranting his authority.

2.



SIGNED at Bloemfontein on 14 December 2012

AS WITNESSES:

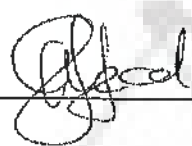
1.



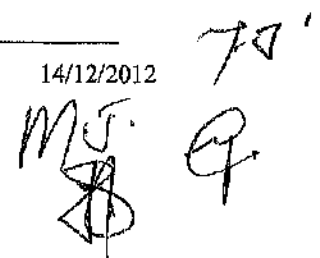


for and on behalf of the Assignee, duly authorised and warranting his authority.

2.









PHUMELELA  
LOCAL MUNICIPALITY

Cnr Kuhn & Prinsloo

Vrede, 9835

Private Bag X 5

Vrede, 9835

Tel: (058) 913 8314

Fax: (058) 913 3601

## EXTRACTS FROM THE LAND USE AGREEMENT BETWEEN PHUMELELA LOCAL MUNICIPALITY AND FREE STATE PROVINCIAL GOVERNMENT (THROUGH ITS DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT)

### CESSION AND ASSIGNMENT

Paragraph 2.1.1 read as follows: The Municipality hereby cedes to and in favour of the Assignee (Free State Provincial Government, represented by the Department of Agriculture and Rural Development) all its rights, title and interest (including but limited to the right to enter into lease agreement, collection of rental, mortgaging the property).

Paragraph 2.1.2 read as follows: The Municipality assigns, transfer and makes over to and in favour of the Assignee, all its obligations; in and to the remaining extent of the farm Krynaauwslust 275, District: Vrede, Province: Free State.

### ENDORSEMENT

Paragraph 4.1 read as follows: The content of the Land Use Agreement will be endorsed against the title deed of the Property, by means of the necessary application to the Deed Office in Bloemfontein. Paragraph 4.2 read as follows: The Municipality will sign any document that will be necessary to register the said endorsement in the Deeds Office in Bloemfontein.

In terms of paragraph 5.7 of the land use agreement; each party signing this agreement warrants that he/she has the necessary authority to bind his/her principal.

It is on that background that I, T J Motaung, Mayor of Phumelela Local Municipality do take note and accedes to the contents of the extracts above and hereby authorise Mr T M Moremi, Municipal Manager of Phumelela Local Municipality to sign the Land Use Agreement and its related documents thereto on behalf of the Council. The grating of permission/authority to the Municipal Manager to sign the Land Use Agreement would be presented by me in the next Council meeting for ratification.

  
T J MOTAUNG  
MAYOR

DATE: 13/12/2012

Mmoh

TMM SUP 12

# Department of Rural Development and Land Reform

REPUBLIC OF SOUTH AFRICA



Certified Copy / Gesertifiseerde Afskrif  
Issued by / Uitgereik deur

REGISTRAR OF DEEDS  
REGISTRATEUR VAN AKTES  
BLOEMFONTEIN

Private Bag / Privaatsak X20613 Bloemfontein 9300

Tel: 051 403 0300

Fax/Faks: 051 403 0308 - 051 447 4746

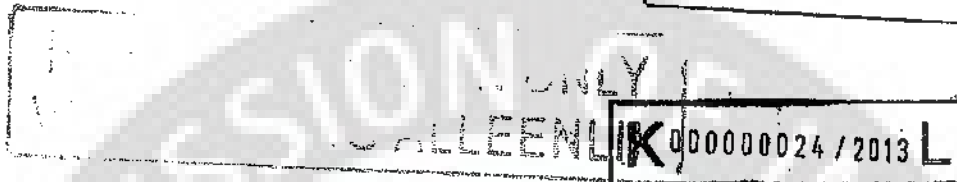


M/MO11

SEELREG	
STAMP DUTY R.	
FOON	
FEEES R.	260-50

Protocol number: 1256

GEREGISTREER REGISTERED
REGISTRATEUR/REGISTRAR
2013-01-18

**NOTARIAL LEASE**

Be it hereby made known that on this 18 day of DECEMBER 2012 came and appeared before me,

MAURITZ HOLTZHAUSEN,

duly sworn and admitted and practising in Bloemfontein in the Free State Province

MELANIE ANDERSON

in her capacity as agent of :

**THE FREE STATE PROVINCIAL GOVERNMENT**

Through its Department of Agriculture & Rural Development, therein represented by PETER THABETHE, in his capacity as Head: Agriculture, he being duly authorised thereto by a delegation of Authority given to him by the Member of the Executive Council: Agriculture on 12 September 2012, she the said MELANIE ANDERSON acting by virtue of a special power of Attorney signed at Bloemfontein on 14 DECEMBER 2012. Which said Power of Attorney is now filed with the Minute in my, the said notary, Protocol.

(hereinafter referred to as the Lessor)

22-10-2012  
ANASTACIA  
DATA  
NASIFA

21 JAN 13  
JANE  
DATA  
OPNEEM

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and

in her capacity as agent of:

**ESTINA (PTY) LTD****REGISTRATION NUMBER 2008/015033/07**

therein represented by KAMAL VASRAM, he being duly authorized thereto, the said MELANIE ANDERSON acting by virtue of a special power of attorney signed at Bloemfontein and dated 14 December 2012. Which said Power of Attorney is now filed with the Minute in my, the said notary, Protocol.

(hereinafter referred to as the Lessee)

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And the said Appearer declared that her constituents had agreed to enter into a notarial lease agreement on the following terms and conditions:

**PREAMBLE**

- (A) Whereas Phumelela Local Municipality is the registered owner of the Remaining extent of the Farm Krynaauws Lust 275 district Vrede, Free State Province

Measuring: 4439,5122 (FOUR THOUSAND FOUR HUNDRED AND THIRTY NINE comma FIVE ONE TWO TWO) Hectares

Held by Deed of Transfer T43752/1893

*[Handwritten: 6.16 3, 4 & 5] - RDP houses 1200 ha.*

[hereinafter called the "LEASED PREMISES"]

- (B) And Whereas the Phumelela Local Municipality and Free State Provincial Government, through its Department of Agriculture & Rural Development, entered into an agreement of cession and assignment dated 14 DECEMBER 2012 and signed at BLOEMFONTEIN, in terms whereof all the Phumelela local Municipality's rights, title, interest and obligations in the Leased Premises were ceded and assigned to the Free State

*[Handwritten signatures and initials]*

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*[Handwritten signature]*



Provincial Government, through its Department of Agriculture & Rural Development.

- (C) And Whereas the Free State Provincial Government, through its Department of Agriculture & Rural Development is desirous to lease the Leased Premises to Estina (Pty) Ltd, Registration Number: 2008/015033/07, who is desirous to lease the leased premises from the Free State Provincial Government on the terms and conditions as set out in this agreement of lease.

Now therefore the parties agree as follows:

# 1 INTERPRETATION:

- 1.1 The headings and clauses are used for reference only and are in no way deemed to explain, modify, amplify or aid in the interpretation of this agreement.
- 1.2 Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this agreement.
- 1.3 Reference to months or years shall be construed as calendar months or years.
- 1.4 No provision herein shall be construed against or interpreted to the disadvantage of any party by reason of such party having or being deemed to have structured or drafted such provision.
- 1.5 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a Saturday, Sunday or public holiday, the next succeeding business day.
- 1.6 the *contra proferentem* rule shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision.

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1.7 Unless inconsistent with, or otherwise indicated by the context, words importing the masculine gender shall include the feminine and vice versa and words importing the singular shall include the plural and vice versa, and the following terms shall have the meaning assigned to the hereunder:

1.7.1 "the Lessor" – **THE FREE STATE PROVINCIAL GOVERNMENT,**  
 through its Departement of Agriculture & Rural Development

1.7.2 "the Lessee" – **ESTINA (PTY) LTD**  
**REGISTRATION NUMBER: 2008/015093/07**

1.7.3 "the Leased Premises" – The Remaining extent of the Farm Krynaauws Lust  
 275, district Vrede, Free State Province, measuring:  
 4439,5122 (FOUR THOUSAND FOUR HUNDRED  
 AND THIRTY NINE comma FIVE ONE TWO TWO)  
 Hectares.

1.7.4 "the Effective Date" – The date of execution of this agreement.

## 2. THE LEASE

The Lessor hereby lets to the Lessee, the leased property with effect from the effective date.

## 3. PERIOD OF LEASE

3.1 This lease is for a period of 99 (NINETY NINE) years commencing on the effective date and terminating 99 (NINETY NINE) years later.

3.2 The Lessee shall have the right to renew the lease period for a further term of 99 years to be mutually agreed upon in writing by the Lessor and the Lessee six months prior to the expiry of the period referred to in clause 3.1;

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#### 4. RENTAL

- 4.1 There shall be no monthly rental payable by the Lessee to the Lessor for the entire term of the Lease

#### 5. NON CANCELTION

This lease cannot be cancelled by either party for the duration of the lease period unless such cancellation is mutually agreed upon by the Lessor and Lessee in writing prior to cancellation.

#### 6. NO ASSIGNMENT, SUB LETTING ET CETERA:

The Lessee will not cede any of its rights or delegate any of its obligations, or mortgage, pledge or encumber any of his rights under this lease without the Lessor's prior written consent save as contemplated under Clause 7.2;

#### 7. LESSEE'S RIGHTS AND OBLIGATIONS

- 7.1 Save for raising of the necessary finance for the development herein contemplated, the Lessee shall not without the prior written consent of the Lessor first being had and obtained, which consent shall not be unreasonably withheld:

- 7.1.1 contravene, or permit the contravention of, any law, by-law or statutory regulation or the conditions of any licence relating to or affecting the occupation of the leased premises or the carrying on of the Lessee's business therein or thereon and shall pay any penalty of fine imposed or levied on the Lessor or the Lessee consequent upon the use of the leased premises otherwise than as set forth herein or consequent upon any contravention of any law or regulation;

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- 7.1.2 contravene any of the conditions of the title deeds under which the Lessor holds the leased premises or any laws which the Lessor is required to observe by reason of his ownership of the land.
- 7.2 The Lessee shall be entitled, from time to time both prior to the effective date and during the period of the lease, to-
- 7.2.1 erect on the leased premises such fixtures, fittings, structures, buildings, plant and machines as may be required or necessary for the carrying on of the Lessee's business or the business of any of its sub-lessee's thereon as determined in consultation with the Phumelela Local Municipality;
- 7.2.2 sub-let parts of the leased premises to entities required for and/or necessarily and incidental to the primary operation to be conducted by the Lessee on the leased premises;
- 7.2.3 place any third person in occupation of the leased premises or a part thereof as the Lessee may in its sole and absolute discretion decide.
- 7.3 The Lessee shall keep and maintain at its own cost all buildings and structures erected by it on the leased premises in good order and condition, fair wear and tear excepted.
- 7.4 The Lessee shall use the leased premises for the purpose of conducting thereon an integrated dairy project and the development of agricultural related products and ancillary business and operations for any purpose related thereto provided that the Lessee shall be entitled to use the leased premises for any other purpose provided that the consent of the Lessor is first had and obtained, which consent shall not be unreasonably withheld.
- 7.5 All buildings fixtures, fittings and additions of a permanent nature, installed or made by the Lessee on the leased premises, shall remain the property of the Lessee, provided however, that the Lessor shall have the right upon termination of their lease to either provide compensation to the Lessee for the

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value of the Buildings, fixtures and additions of a permanent nature at the then prevailing market value thereof, or to extend the lease for a further period as mutually agreed between both parties in terms of clause 3.2;

## 8. DEVELOPMENT

The parties expressly record that the Lessee is to develop an integrated dairy project and develop agricultural products and ancillary structures and businesses and to install the necessary infrastructure thereof on the leased premises and beneficial occupation in terms of this agreement shall mean the erection and operation of dairy project and ancillary structures and business on the leased premises from time to time in terms of this agreement and notwithstanding any of the other terms of this lease, the Lessee shall be granted occupation of the leased premises rent free from date of signature of this agreement by the last signing of the parties hereto until the effective date.

## 9. ELECTRICITY, WATER, GAS AND REFUSE

9.1 The Lessee shall arrange, maintain to the extent necessary, and pay for –

9.1.1 all electricity, water and gas used by the Lessee in or on the leased premises and shall make such deposits and enter into such agreements as the supplier and/or municipality and/or local authority may require in respect of the supply of such services;

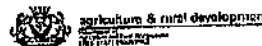
9.1.2 the cost of removing the Lessee's refuse in or on the leased premises;

9.1.3 any charges made by any supplier and/or municipality and/or other authorities in respect of sewerage and trade effluents and for the disposal thereof, in each case direct to the supplier and/or municipality and/or local authority concerned provided that should the Lessor be required in law to make payment of any such amounts to the supplier municipality and/or local authority, then the Lessee shall refund the same to the Lessor on demand.

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**10. LESSEE'S AGENTS**

The Lessee shall at all times ensure that its servants, agents, customers and other invitees do not cause damage to the leased premises save as expressly provided or contemplated in terms of this lease and particularly but without derogating from the generality of the foregoing in regard to the development to be undertaken on the leased premises.

**11. INTERRUPTION OF SUPPLY, DAMAGES AND INSURANCE**

11.1 The Lessee shall have no claim of any nature whatsoever for damages against the Lessor for any interruption in the supply of water, gas, electricity or other services to the leased premises.

11.2 The Lessee shall have no claim of any nature whatsoever against the Lessor for any accident, injury or damage cause to the Lessee, its employees, invitees or any other third person through or while using any portion of the leased premises and the Lessee hereby indemnifies the Lessor against any claim of this nature against the Lessor by any person who is not party to this lease, the cause of which arose during the period of this lease.

11.3 The Lessee shall be obligated, at its own cost expense, to take out such Lessee's public liability insurance to the Lessor's reasonable satisfaction and maintain such insurance in full force throughout the currency of this lease and to bear and pay the cost of all premiums under such policy from time to time punctually as and when they fall due for payment. The policy of insurance shall note the Lessor's interest and record that the policy shall not be lapsed or altered without the insurance company first notifying the Lessor. Should the Lessee fail to effect such insurance or to make payment of any premium payable thereunder on the due date therefor, then without prejudice, and in addition to his other rights hereafter arising from such breach/es, the Lessor shall have the right to effect such insurance on behalf of the Lessee or, as the case may be, to pay such premium/s on the Lessee's behalf and, in the latter case, to recover the amount so paid from the Lessee. Under no circumstances

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shall the Lessor be held liable for any injury to the tenant or to third parties arising from any cause whatsoever and the Lessee hereby indemnifies the Lessor against any claim of this nature made against the Lessor by any person who is not a party to this lease.

- 11.4 The Lessee shall be obliged to insure all of the buildings and/or structures erected on the leased premises and to maintain such insurance during the entire period of this lease and to pay all premiums in respect of such insurance on due date and not allow such policy of insurance to lapse.

## 12. CLEANING AND REPAIR

- 12.1 The Lessee shall be responsible for the management and upkeep of the leased premises.
- 12.2 The Lessee shall replace or make good and repair, as the case may be, at the Lessee's own expense and as soon as reasonably possible buildings, structures, fixtures, fittings or other installations which may become damaged or broken or destroyed, from time to time, during the currency of this lease as and when the same may be so destroyed or may become so damaged.

## 13. LESSOR'S OBLIGATIONS

### 13.1 The Lessor -

- 13.1.1 shall not unnecessarily or unreasonably interfere with the carrying on the Lessee's business or that of the sub-lessees on the leased premises.

### 13.2 The Lessor -

- 13.2.1 or its agent shall be entitled to inspect the leased premises at all reasonable times;
- 13.2.2 warrants and represents to the Lessee that the leased premises are fit

for the purpose for which they will be occupied by the Lessee, but does not warrant that the Lessee will obtain any license or permit required by the Lessee although the Lessor does undertake to do all that may be required of it to assist the Lessee in seeking any licence or permit.

- 13.2.3 The Lessor shall compensate the Lessee the value equal to the improvements made on the land, where this agreement is terminated at the reasonable market value at the time of termination.

#### 14. RELAXATION WITHOUT PREJUDICE

No relaxation which the Lessor may give at any time whatsoever in regard to the carrying out of the Lessee's obligations in terms of this lease -

- 14.1 shall prejudice any of the Lessor's rights under this lease in any manner whatsoever;
- 14.1.2 shall be regarded as a waiver of any of the Lessor's rights in terms of this lease;
- 14.1.3 shall be regarded as a waiver of the Lessor's lien.

#### 15. LESSOR'S CONSENT

Wherever in this lease the landlord's consent or agreement is required such consent or agreement shall not be unreasonably withheld.

#### 16. LEASE VARIATIONS

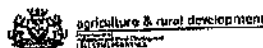
No alteration hereof shall be of any force and effect unless it is recorded in writing and signed by both the Lessor and the Lessee.

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**17. DOMICILIUM CITANDI ET EXECUTANDI**

17.1 Lessor- DEPARTMENT OF AGRICULTURE &  
RURAL DEVELOPMENT FREE STATE  
PROVINCIAL GOVERNMENT  
Bldg. 4, Glen Agricultural College  
Gielle Joubert Street, Glen

17.1.2 Lessee - ESTINA (PTY) LTD  
144 KATHERINE STREET  
SANDTON, JOHANNESBURG  
GAUTENG PROVINCE

17.2 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing and addressed to the parties' relevant address referred to in clause 17.1 hereto.

17.3 Any party may by notice to the other party change its *domicilium citandi et executandi* to another physical address in the Republic of South Africa provided that the change shall become effective on the 14<sup>th</sup> (FOURTEENTH) day after the latest receipt of the notice.

17.4 Any notice to a party contained in a correctly addressed envelope and –

17.4.1 sent by prepaid registered post to its *domicilium citandi et executandi*;

17.4.2 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi*;

17.4.3 sent by telefax to the telefax number of the respective parties, as the case may be, in terms of clause 17.1.1 and 17.2.2 hereto; shall be deemed to have been received, in the case of clause 17.4.1 hereto on

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the 7<sup>th</sup> (SEVENTH) business day after posting (unless the contrary is proved) and, in the case of clause 17.4.2 hereto, on the day of delivery provided such day is a business day or otherwise on the next following business day.

17.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium*.

#### 18. RIGHT TO ENCUMBER

18.1 It is expressly agreed between the parties that the Lessee may encumber and/or pass a bond over the leased premises in order to fund the development on the leased premises referred to in clause 8 hereto in its sole and absolute discretion and shall notify the Lessor thereof in writing at its *domicilium citandi et executandi* in terms thereof.

18.2 The Lessor hereby undertakes to sign upon demand by the Lessee all documents and to give all consents necessary to give effect to the provisions of clause 18.1 hereto.

#### 19. ARBITRATION

19.1 Should any dispute arise between the parties to this agreement in regard to –

- 19.1.1 the interpretation of; or
- 19.1.2 the carrying into effect of; or
- 19.1.3 any of the parties' rights and obligations arising from; or
- 19.1.4 the termination of or arising from the termination of; or
- 19.1.5 the rectification of this agreement

then the dispute shall be submitted to and decided by arbitration.

19.5 The arbitration shall be held –

19.5.1 in Johannesburg;

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- 19.5.2 with only the parties and their representatives present thereat;
- 19.5.3 otherwise in terms of the Arbitration Act 42 of 1966; it being the intention that the arbitration shall, where possible, be held and concluded within 21 (TWENTY ONE) working days after it has been demanded.
- 19.6 The arbitrator shall be, if the matter in dispute is principally –
- 19.6.1 a legal matter, a practising attorney of not less than 15 (FIFTEEN) years standing or a practising advocate of not less than 10 (TEN) years standing;
- 19.6.2 an accounting matter, a practising chartered accountant of not less than 10 (TEN) years standing;
- 19.6.3 any other matter, any independent person agreed to between the parties.
- 19.7 Should the parties fail to agree on an arbitrator within 14 (FOURTEEN) days after the arbitration has been demanded then the arbitrator shall be nominated by the President for the time being of the Law Society of Transvaal.
- 19.8 Should the parties fail to agree whether the dispute is of legal, accounting or other nature within 7 (SEVEN) days after the arbitration has been demanded then it shall be considered a matter as referred to clause 19.7 hereto.
- 19.9 The arbitrator shall have the fullest and freest discretion with regard to the proceedings and his award shall be final and binding on the parties to the dispute. Furthermore, the arbitrator –
- 19.9.1 may dispense wholly, or in part, with formal submissions or pleadings;
- 19.9.2 shall determine the applicable procedure;
- 19.9.3 shall not be bound by strict rules of evidence;
- 19.9.4 shall take into account the practicality or otherwise of ordering the continuance of any legal relationship between disputants; and
- 19.9.5 shall include such order as to costs as he deems just and the parties shall be entitled to have the award made an order of any court of competent jurisdiction.

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**20. COSTS**

Each party shall pay its own costs necessary and incidental to the negotiation, preparation and implementation of this agreement. The Lessee shall however pay the costs involved in the registration of the notarial deed of lease.

**21. REGISTRATION**

The Lessee shall be solely responsible to have this lease registered against the Title Deed of the property at the appropriate Registrar of Deeds and the Lessor shall upon demand by the Lessee sign all documents necessary and incidental to give effect to the above.

**22. COMPLIANCE WITH LAW**

The Lessee shall be bound to comply with all legislation, regulations, and/or bye-laws in force from time to time in regard to the leased premises.

**23. LOCAL LABOUR**

The Lessee hereby undertakes to the Lessor to use its best endeavours to ensure that subject to the availability of skills in the area local labour is employed both in the construction and operational stages of the developments on the leased premises.

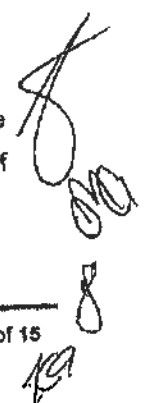
**24. GOVERNING LAW**

This agreement shall in all respects be construed and governed by the laws of the Republic of South-Africa.

**25. VALIDITY OF AGREEMENT:**

This Agreement remains valid even if any portion hereto is void and not enforceable due to any reason whatsoever and the remainder of this Agreement will exist as if such clauses were separable.

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**26. SIGNATURES**

Signed hereto by the duly authorized signatories of both parties, who warrant that he or she is duly authorised to bind his/her principal.

**27. CANCELLATION OF EXISTING LEASE**

This Agreement is subject to the cancellation of any existing lease agreement, whether registered against the leased premises or not. The Lessor shall provide the Lessee with written proof that the existing lease agreements over the leased premises are cancelled.

If the existing lease agreements are not cancelled on the effective date, then the effective date shall be postponed until the date of such cancellation.

THUS DONE and SIGNED at BLOEMFONTEIN on the day month and year aforesaid in the presence of the undersigned witnesses

As Witnesses:

1 K. Atwood.

2 [Signature]

As Witnesses:

1 K. Atwood.

2 [Signature]

[Signature]

q.q. Lessor

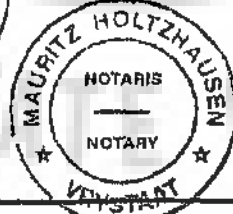
[Signature]

q.q. Lessee

Quod Attestor

[Signature]

Notary



[Signature]

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M/M/0/2.

# Department of Rural Development and Land Reform

## REPUBLIC OF SOUTH AFRICA




Certified Copy / Gesertifiseerde Afskrif  
Issued by / Uitgereik deur

**REGISTRAR OF DEEDS  
REGISTRATEUR VAN AKTES  
BLOEMFONTEIN**

Private Bag / Privaatsak X20613  
Bloemfontein 9300


Tel: 051 403 0300  
Fax/Faks: 051 403 0308 – 051 447 4746

BLADSY/PAGE 28  
AKTB No./DBED No. T 43752/1893

ARTIKEL 16 VAN WET 47 VAN 1937 GETRANSPORTEER AAN	SECTION 16 OF ACT 47 OF 1937 TRANSFERRED TO
THE FREE STATE PROVINCIAL GOVERNMENT	THE FREE STATE PROVINCIAL GOVERNMENT
<b>T</b> 000000452/2013	
2013-01-18	
REGISTRATEUR/REGISTRAR	

MM012

I.C.C. K 957/94 L

ENDOSSEMENT KRAGTENS ARTIKEL 68 (1) VAN WET 47 VAN 1937	ENDORSEMENT BY VIRTUE OF SECTION 68 (1) OF ACT 47 OF 1937
PERSOONLIKE SERWITUUT IN VOOR- WAARDE OF BLADSY 13 ENDOSSEMENT GEDATEER HET VRYAL.	THE PERSONAL SERVITUDE IN CON- DITION ON PAGE 13 ENDORSEMENT DATED HAS LAPSED.
<b>BC</b> 000000418/2013	
2013-01-18	
REGISTRATEUR/REGISTRAR	

2013-01-18

**BC** 000000578/2014 S

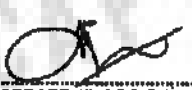
**GEKANSELLEER  
CANCELLED**



REGISTRATEUR/REGISTRAR

2014-09-05

Reminder &amp; form by naams, List 278

VERHUUR AAN	LEASED TO
ESTIMA (PTY) LTD 1, B2, 2008/015033/07	
VIR FOR	JAAR VANAF YEARS FROM
<b>K</b> 000000024/2013	
2013-01-18	
REGISTRATEUR/REGISTRAR	

2013-01-18

MM013

VIR ENDOSSEMENTE KYK BLADSY  
FOR ENDORSEMENTS SEE PAGE

26

FOR INFORMATION ONLY  
VIR INLIGTING ALLEENLIK



BLADSY/PAGE 26  
AKTE No./DEED No. T53752/1093

**ENDORSEMENT IN TERMS OF SECTION 28 OF THE  
EXPROPRIATIONS ACT, 1963 (ACT NO 63 OF 1975)**

A Portion, in extent 4.479 ha of the within-mentioned property is subject to an expropriation in favour of FREE STATE PROVINCE: DEPARTMENT OF POLICE, ROADS AND TRANSPORT

See expropriation notice and expropriation diagram filed with EX 13/2011

DATE

05 SEP 2014

  
REGISTRAR OF DEEDS  
BLOEMFONTEIN

VIR ENDOSSEMENTE KYK BLADSY  
FOR ENDORSEMENTS SEE PAGE 27

FOR INFORMATION ONLY  
VIR INLIGTING ALLEEN



BLADSY/PAGE

27

AKTE No./DEED No.

T437521/1993

**ENDORSEMENT IN TERMS OF SECTION 26 OF THE  
EXPROPRIATIONS ACT, 1963 (ACT NO 63 OF 1975)**

A Portion, in extent 2,818 ha of the within-mentioned property is subject to an expropriation in favour of FREE STATE PROVINCE: DEPARTMENT OF POLICE, ROADS AND TRANSPORT

See expropriation notice and expropriation diagram filed with EX 17/2011

DATE

05 Sep 2014

  
REGISTRAR OF DEEDS  
BLOEMFONTEIN

VIR ENDOSSEMENTE KYK BLADSY  
FOR ENDORSEMENTS SEE PAGE

28

FOR INFORMATION ONLY  
VIR INLIGTING ALLEENLIK



BLADSY/PAGE

29

AKTE No/DEED No.

T63752/1893

**ENDORSEMENT IN TERMS OF SECTION 26 OF THE  
EXPROPRIATIONS ACT, 1963 (ACT NO 63 OF 1975)**

A Portion, in extent 1,8524 ha of the within-mentioned  
property is subject to an expropriation in favour of  
ORANGE FREE STATE PROVINCIAL  
ADMINISTRATION

See expropriation notice and expropriation diagram filed  
with EX 859/2014

DATE

05 SEP 2014

  
REGISTRAR OF DEEDS  
BLOEMFONTEIN

29  
VIR ENDOSSEMENTE KYK BLADSY  
FOR ENDORSEMENTS SEE PAGE

FOR INFORMATION ONLY  
VIR INLIGTING ALLEENIG



BLADSY/PAGE 29  
AKTE No./DEED No. T43752/1893

**ENDORSEMENT IN TERMS OF SECTION 26 OF THE  
EXPROPRIATIONS ACT, 1963 (ACT NO 63 OF 1975)**

A Portion, in extent 0,4109 ha and 0,26 ha of the within-mentioned property is subject to an expropriation in favour of ORANGE FREE STATE PROVINCIAL ADMINISTRATION

See expropriation notice and expropriation diagram filed with EX <sup>871</sup>559/2014

DATE

05 SEP 2014

  
REGISTRAR OF DEEDS  
BLOEMFONTEIN

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VIR INLIGTING ALLEENLIK



PROD DEEDS REGISTRATION SYSTEM - BLOEMFONTEIN  
PREPARED BY : DRS03136 - RAMASODI KEVIN

DATE : 20151102 TIME : 15:30:46.1 PAGE : 1

PICKING SLIP NR : 338336  
FIRM FILE NR... : NONE

PROPERTY DETAILS PRINT FOR PORTION 0 (R/E)  
FARM NO 275  
REG DIV VREDE RD

PROVINCE FREE STATE  
PREV DESCRIPTION  
DIAGRAM DEED NO 000/1879  
EXTENT 4439.5122 H  
CLEARANCE PHUMELELA LOCAL MUNICIPALITY  
FARM NAME KRYNAALUS LUST

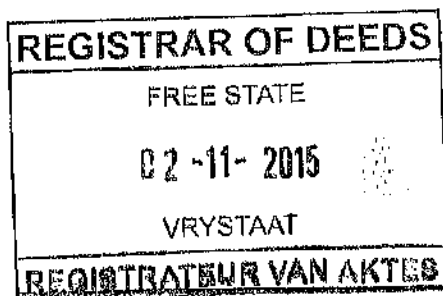
INTERDICTS	CASE NUMBER	CASE DATE/TITLE NR	NOTED ON
I-2387/2010LG	D613/2010		20100908
I-2386/2010LG	D612/2010		20100908
I-2502/2012LG	T43752/1893 & T15582		20130114
I-4577/2009C			20091013
I-41/2013C	T43752/1893	T43752/1893	20130121
I-5066/1977C-771101			0
I-6020/1997C-T43752/			19970916
I-778/1995C-T43752/1			0
EX14/1977			0
EX13/2011			20110204
EX17/2011			20110204
EX859/2014			20140626
EX871/2014			20140626

DOCUMENTS	HOLDER & SHARE	AMOUNT	O/P/A	SCAN/MICRO REF	MDD
K1763/1994L	KRYNAALUS BOERDERY TRUST	R0.00			
K195/1976L					
K236/2009L	KRYNAALUS BOERDERY TRUST	R0.00		20090505090552	0423
K24/2013L	ESTINA PTY LTD	R0.00		20140915080949	0118
K624/1990L				2003 0270 1371	
K629/1985S					
K733/1981S					
K851/1994L	HEEVER CAREL THEODORUS EKSTEEN VAN DEN	R0.00		2003 0270 1365	
VA342/1999	T43752/1893				0323
VA614/2009	T43752/1893		P	20090505090423	0423
VA615/2009	K957/1994L			20090505090620	0423
592/1960S					
59/1989L GEKANSLEER DEUR K4 63/2003					0602
NOW VREDE					
PROK 99 DD 530904					
STEN K463/2003L KANSSELLASIE VA N HUURGEBOED					0603
VREDE RD, 275					

#### OWNER DETAILS

FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A	IDENTITY	DATE OF BIRTH	TITLE DEED	MDD	SCAN/MICRO REF
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PROD DEEDS REGISTRATION SYSTEM - BLOEMFONTEIN  
PREPARED BY : DRS03136 - RAMASODI KEVIN

DATE : 20151102 TIME : 15:30:48.2 PAGE : 2

FREE STATE PROVINCIAL GOVERNMENT

SECT 16

PICKING SLIP NR : 338336

FIRM FILE NR... : NONE

T43752/1893

0502 20140912074513

T452/2013

0118 20130130130700

\* O/P/A - O - MULTIPLE OWNER P - MULTIPLE PROPERTY A - MULTIPLE OWNER AND PROPERTY

M/MO/2

\*\* PLEASE NOTE : THE INFORMATION APPEARING ON THIS PRINTOUT IS FURNISHED FOR PURPOSES OF INFORMATION ONLY.  
FOR MORE DETAILED INFORMATION, PLEASE REFER TO THE REGISTERED SOURCE DOCUMENTS.

\*\*\* END OF REPORT \*\*\*



<b>REGISTRAR OF DEEDS</b>
FREE STATE
02-11-2015
VRYSTAAT
<b>REGISTRATEUR VAN AKTES</b>

MM013.

**Moses Moremi**

**From:** Elzabe Rockman <elzabe.rockman@gmail.com>  
**Sent:** Wednesday, July 18, 2012 6:50 PM  
**To:** Moses Moremi  
**Subject:** Re: FW: Clarifications on Lease Agreement issues

Hi,

Just got back from Thaba Nchu where we were doing some work at Motlatla Intermediary School for Mandela Day.

I personally doubt whether you will be able to justify a rent-free 99 year lease agreement and be responsible for payment of rates and taxes whilst the municipality is allocated a 4 % share which is not based on a commercial value whilst at the same time losing a guaranteed income from the current lease agreement.

Let's see what National Treasury and the State Law Advisors advise.

Elzabe

On Wed, Jul 18, 2012 at 3:08 PM, Moses Moremi <[mosesmail123@gmail.com](mailto:mosesmail123@gmail.com)> wrote:

Hallo DG

Kindly take note of the email from Ashok below. I am totally in disagreement with those proposed terms but I will be guided by the legal opinion and National Treasury's advice.

Regards

Moses

---

**From:** Moses Moremi [mailto:[mosesmail123@gmail.com](mailto:mosesmail123@gmail.com)]  
**Sent:** Wednesday, July 18, 2012 3:03 PM  
**To:** 'Ashok Narayan'  
**Cc:** [timotaung@phumelela.gov.za](mailto:timotaung@phumelela.gov.za); Kuni Ditira ([kuni@premier.fs.gov.za](mailto:kuni@premier.fs.gov.za)); Thabethe Peter ([thabethe@fs.agric.za](mailto:thabethe@fs.agric.za)); Kumaran Nair ([Kumaran.Nair@treasury.gov.za](mailto:Kumaran.Nair@treasury.gov.za))  
**Subject:** RE: Clarifications on Lease Agreement issues

Hallo Ashok



I take note of your feedback from the stakeholders summarized below. I also want to inform you that I have requested the state law advisors and National Treasury to give us opinions on both legal and compliance aspects of the proposed lease agreement.

I have copied both the National Treasury and the State Lawyer's representatives to take note of clarity provided below by the stakeholders and I am sure they will take that into cognizance while formulating a formal advice to Phumelela.

Regards

Moss

**From:** Ashok Narayan [mailto:[wallemsa@gmail.com](mailto:wallemsa@gmail.com)]  
**Sent:** Wednesday, July 18, 2012 2:14 PM  
**To:** [mosesmail123@gmail.com](mailto:mosesmail123@gmail.com)  
**Cc:** [johann@vdmass.co.za](mailto:johann@vdmass.co.za); [wallemsa@gmail.com](mailto:wallemsa@gmail.com)  
**Subject:** Clarifications on Lease Agreement issues

Dear Sir,

Many thanks to yourself and the Mayor for the time spent with us to discuss the proposed Lease Agreement yesterday.

A few points that were brought to the table yesterday and which I would like to clarify after having discussed with the stakeholders:

1. The shares being issued to all shareholders including the Municipal Entity will be Ordinary Shares and not Preference Shares
2. The shares will be held in trust by the shareholders of Zayna or nominees of the Municipality till such time as the Municipal Entity is formed.
3. The 4% was calculated based on the available shares after allocation to the BEE beneficiaries and was not based on any commercial value





4. On the Rates and Taxes, this should be paid for by the Municipality as the owner of the property. The Municipality is getting a 4% stake in the business in lieu of rentals.
5. The Lease is being contemplated as a Rent-free lease.
6. The term of the lease should be 99 years
7. If possible, the Municipality should try and re-locate the existing tenants instead of transferring the lease to Zayna Investments

Regards,

Ashok



A handwritten signature in black ink, consisting of a stylized 'A' and 'S'.



**Moses Moremi**

**From:** Moses Moremi <mosesmail123@gmail.com>  
**Sent:** Wednesday, July 18, 2012 4:18 PM  
**To:** 'Johann Schalkwyk'  
**Cc:** 'Ashok Narayan'; Kuni Ditira (kuni@premier.fs.gov.za); Thabethe Peter (thabethe@fs.agric.za); tjmotaung@phumelela.gov.za; Kumaran Nair (Kumaran.Nair@treasury.gov.za)  
**Subject:** RE: LEASE AGREEMENT PHUMELELA / ZAYNA INVESTMENTS  
**Attachments:** image001.jpg

Hallo Johann

I have already indicated to Ashok that we have referred the proposed lease agreement to our state law advisor and National Treasury for advice before council can pronounce/resolve on this matter. The copy of the deed of the property will be submitted once council has taken a resolution on the lease agreement.

The appointment of the Surveyor falls within the mandate of the Department of Agriculture and the HOD, Mr Thabethe is copied above. The meeting with the current lessee (farmers) will only take place once council has pronounced/resolved on the lease agreement.

I hope you find the above explanation in order.

Regards

Moss

**From:** Johann Schalkwyk [mailto:johann@vdmass.co.za]  
**Sent:** Wednesday, July 18, 2012 2:57 PM  
**To:** mosesmail123@gmail.com  
**Cc:** 'Ashok Narayan'  
**Subject:** LEASE AGREEMENT PHUMELELA / ZAYNA INVESTMENTS  
**Importance:** High

Dear Sir

In reference to our meeting held at Vryheid on the 17<sup>th</sup> of July 2012.

We hereby confirm that you will present the agreement to your counsel for comment and discussion. We kindly request that you furnish our offices with a copy of the deed of the property.

We further confirm that you will appoint a surveyor to compile a detailed description of the proposed lease area.

It is also understood that you will schedule a meeting with the current Lessee's to discuss their situation and to come to some sort of resolution.

We trust you find the above in order and look forward to your further response.

Yours faithfully

*Johann Schalkwyk*

E-mail: [johann@vdmass.co.za](mailto:johann@vdmass.co.za)



**van der Merwe**  
**&**  
**Associates Incorporated**

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