



DATED _____

CONDITIONAL BUSINESS AND ASSET TRANSFER AGREEMENT

relating to the
sale and purchase of the Business and Sale Assets (each as defined herein)
of

ALLIANZ INSURANCE COMPANY OF KENYA LIMITED

between

ALLIANZ INSURANCE COMPANY OF KENYA LIMITED

(the **Vendor**)

and

JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED

(the **Purchaser**)

and

ALLIANZ AFRICA HOLDING GMBH

(**Allianz**)

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THIS AGREEMENT is made on _____

BETWEEN:

- (1) **ALLIANZ INSURANCE COMPANY OF KENYA LIMITED**, a private limited liability company incorporated under the laws of the Republic of Kenya with registration number CPR/2014/129953 and whose address for the purposes hereof is Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257 - 00800, Nairobi, Kenya (**Vendor**);
- (2) **JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED**, a private limited liability company incorporated under the laws of the Republic of Kenya with registration number PVT-8LUYEXV and whose address for the purposes hereof is Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257 - 00800, Nairobi, Kenya (**Purchaser**); and
- (3) **ALLIANZ AFRICA HOLDING GMBH**, a German limited liability company registered in the commercial register in Munich with company number 249923 and whose address for the purposes hereof is Königinstrasse 28, 80802, Munich, Germany (registered in Germany, (**Allianz**)).

BACKGROUND

- A. The Vendor is a licensed insurance company in Kenya authorised under the Insurance Act to carry on the following classes of general insurance business in Kenya: (i) aviation; (ii) engineering; (iii) fire domestic; (iv) fire commercial; (v) liability; (vi) marine; (vii) motor-private; (viii) motor-commercial; (ix) personal accident; (x) theft; (xi) work injury benefits; (xii) medical; and (xiii) micro-insurance miscellaneous.
- B. The Purchaser is a licensed insurance company in Kenya authorised under the Insurance Act to carry on the following classes of general insurance business in Kenya: (i) aviation; (ii) engineering; (iii) fire domestic; (iv) fire industrial; (v) liability; (vi) marine; (vii) motor-private; (viii) motor-commercial; (ix) personal accident; (x) theft; (xi) work injury benefits; and (xii) miscellaneous.
- C. The Vendor owns the Sale Assets (as hereinafter defined) and carries on the Business (as hereinafter defined) from the Premises (as hereinafter defined).
- D. The Vendor hereby agrees to sell and the Purchaser hereby agrees to purchase the Business (comprising the Sale Assets) all upon the terms and subject to conditions of this Agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement (including the Recitals, Schedules and the Annexure) unless the context otherwise requires the following terms shall have the following meanings:
 - 1.1.1 **Accounts** means the financial statements of the Vendor provided to the Purchaser for the accounting reference period ending on the Accounts Date, comprising a balance sheet, a profit and loss account together with the notes thereon and cash flow statement;
 - 1.1.2 **Accounts Date** means 31 December 2020;

- 1.1.3 **Adjustment Date** means the fifth Business Day following the date on which the Completion Assets and Liabilities Documents are agreed or determined;
- 1.1.4 **Affiliate** means in relation to any body corporate: (i) each of its parent undertakings; and (ii) any subsidiary undertaking of such body corporate or of any of its parent undertakings;
- 1.1.5 **Agreement** means this conditional business and asset transfer agreement;
- 1.1.6 **Anti-Corruption Law** means any Applicable Law relating to bribery, corruption, money laundering, fraud, prevention of terrorist funding or other related activities, as well as standards and international conventions and codes subscribed to by members of the Vendor's group, which relate to anti-corruption policies or the process to combat corruption;
- 1.1.7 **Applicable Law** means (i) all applicable laws, statutes, instruments, regulations, codes, decrees, orders, judgements, decisions, by-laws and any other rule or requirement having force of law; and (ii) any agreements with, requirements, policies or guidance of, or instructions by any governmental body or regulatory body (including any Competent Authority) to which the parties are subject;
- 1.1.8 **Asset Adjustment Determination** has the meaning ascribed to it in clause 5.1.5.1;
- 1.1.9 **Business** means the general insurance business of all classes (excluding Medical Insurance Business) as carried on by the Vendor at the date hereof;
- 1.1.10 **Business Day** means any day other than a Saturday, Sunday or gazetted public holiday or national day in Nairobi, Kenya on which banks are generally open for the conduct of banking business in Nairobi, Kenya;
- 1.1.11 **Business NAV** means the net asset value of the Business at Completion calculated as follows:
[formula to be included];
- 1.1.12 **Cash and Bank Balances** means, if any, the cash and bank balances held by the Vendor as at the Effective Date in relation to the Business, details of which are set out in Schedule 1;
- 1.1.13 **Central Bank of Kenya** means the Central Bank of Kenya established under the Central Bank of Kenya Act (Chapter 491 of the laws of Kenya);
- 1.1.14 **Chief Executive Officer** means an officer of the Vendor appointed in the capacity of the chief executive officer;
- 1.1.15 **Claim** means a claim against the Vendor in respect of any of the Warranties as the case may be;
- 1.1.16 **Commissioner of Insurance** means the Commissioner of Insurance appointed under the Insurance Act;
- 1.1.17 **Companies Act** means the Companies Act, 2015 (Act No.17 of 2015);
- 1.1.18 **Competent Authority** means the Government of Kenya, any County Government, any municipal or other local authorities, any person entitled by law to regulate the Vendor or the Purchaser in relation to the Business or the Sale Assets or any of the transactions referred to or contemplated in

this Agreement and other persons having statutory competence to promulgate rules and regulations touching and concerning matters and transactions referred to or contemplated in this Agreement, and **Competent Authorities** shall be construed accordingly;

- 1.1.19 **Completion** means the completion of the sale and purchase of the Business (comprising the Sale Assets) under this Agreement and transfer and amalgamation of the Sale Portfolio Assets under the Portfolio Transfer Agreement, in each case by the Vendor to the Purchaser and the payment by the Purchaser of the relevant consideration pursuant to the provisions of this Agreement and the Portfolio Transfer Agreement, in each case as applicable;
- 1.1.20 **Completion Date** means the date ascertained in accordance with the provisions of clause 7.1 being the date on which Completion shall take place;
- 1.1.21 **Completion Statement of Income and Expenditure** has the meaning ascribed to it in clause 5.1.2;
- 1.1.22 **Completion Assets and Liabilities Documents** has the meaning ascribed to it in clause 5.1.2;
- 1.1.23 **Conditions** means the conditions precedent to Completion as set out in clause 2;
- 1.1.24 **Consideration** shall have the meaning ascribed to it in clause 4.1;
- 1.1.25 **Contingent Liabilities** means, to the extent not defined elsewhere in the definition of Liabilities, any and all contingent or potential liabilities and obligations (to the extent that such liabilities and obligations have not become actual liabilities and obligations) properly incurred by the Vendor in the ordinary course of business in relation to the Business as at the Effective Date and all other such contingent or potential liabilities and obligations that arise after the Effective Date in the period up to and including the Completion Date;
- 1.1.26 **Creditors** means, to the extent not defined elsewhere in the definition of Liabilities, all trade debts and accrued charges owing by the Vendor to creditors in connection with the Business as at the Effective Date details of which are set out in Part A of Schedule 3 and all such creditors arising after the Effective Date in the period up to and including the Completion Date;
- 1.1.27 **Disclosed** means fairly disclosed by the Vendor in writing to the Purchaser (in, or by virtue of, the Disclosure Letter) with sufficient details to identify the nature and scope of the matter disclosed;
- 1.1.28 **Disclosure Letter** means the letter of the same date as this Agreement written by the Vendor to the Purchaser for the purposes of clause 15.6 and delivered to the Purchaser on or before the execution of this Agreement;
- 1.1.29 **Effective Date** means 31 December 2020;
- 1.1.30 **Employees** means the persons more particularly listed in Schedule 5 who are employed by the Vendor for the purposes of the Business that is affected by this Agreement as at the date hereof and whom the Purchaser wishes to engage as from the Completion Date;
- 1.1.31 **Employment Act** means the Employment Act, 2007 (Act No. 11 of 2007);

- 1.1.32 **Encumbrance** includes any mortgage, charge (whether legal or equitable), lien, option, security interest, restrictive covenant, equity claim, right of pre-emption, pledge, hypothecation, assignment by way of security, title retention, trust arrangement, covenant, restriction, reservation, lease, trust, order, decree, judgment, title defect (including retention of title claim), conflicting claim of ownership or other restriction or equity of any kind or other encumbrance securing or any right conferring a priority of payment in respect of any obligation of any person;
- 1.1.33 **Excluded Assets** means the assets and rights set out in clause 3.2 as being excluded from the Transaction;
- 1.1.34 **Excluded Liabilities** means all the liabilities or obligations relating to the Business or Sale Assets other than the Liabilities and outstanding on, or accrued or referable to the period up to the Completion Date;
- 1.1.35 **Framework Agreement** means the framework agreement entered into by and among Allianz, JHL and Aga Khan Fund for Economic Development S.A. dated 29 September 2020;
- 1.1.36 **Future Litigation** means all civil, criminal, arbitral, administrative or other legal proceedings in relation to the Business (and the consequences, benefits, costs and liabilities in respect thereof) which have been instituted or threatened after the Completion Date and to which the Vendor is a party;
- 1.1.37 **Gazette** shall have the meaning ascribed to it in the Interpretation and General Provisions Act (Chapter 2 of the Laws of Kenya);
- 1.1.38 **Goodwill** means the goodwill of the Vendor in relation to the Business;
- 1.1.39 **Insolvency Event** means, in relation to a person, any of the following:
- 1.1.39.1 an order being made, a petition being presented, a notice being given, a meeting being convened to consider a resolution or a resolution being passed for the winding up of the relevant person;
- 1.1.39.2 an administration order being made or petition presented or application made for such an order or an administrator being appointed or notice given or filed or step taken or procedure commenced with a view to the appointment of an administrator in respect of the relevant person;
- 1.1.39.3 a receiver (which expression shall include an administrative receiver) being appointed in respect of the relevant person or all or any of its assets;
- 1.1.39.4 a composition, compromise, assignment or arrangement with any of its creditors (including but not limited to a voluntary arrangement or scheme of arrangement) being proposed or entered into in respect of the relevant person;
- 1.1.39.5 a statutory moratorium being in force or any step being taken or procedure commenced with a view to entering into such a moratorium in respect of the relevant person;

- 1.1.39.6 distress, execution, attachment, sequestration or other process being levied on, or any step being taken towards the enforcement of any security over, any asset of the relevant person;
- 1.1.39.7 the relevant person being unable to pay its debts as they fall due;
- 1.1.39.8 the value of the assets of the relevant person being less than the amount of its liabilities, taking into account its contingent and prospective liabilities;
- 1.1.39.9 the relevant person having proposed or agreed to any composition, compromise, assignment or arrangement with any of its creditors; or
- 1.1.39.10 a step or event analogous to any of the foregoing having occurred in relation to the relevant person in any jurisdiction;
- 1.1.40 **Insurance Act** means the Insurance Act (Chapter 487 of the Laws of Kenya);
- 1.1.41 **Investments** means all the investments made by the Vendor as at the Effective Date in relation to the Business, which shall include the quoted equity investments of the Vendor, the unquoted equity investments, Kenya Government Securities (treasury bills and treasury bonds) (if any), deposits with financial institutions, investment property and commercial papers and corporate bonds, details of which are set out in Schedule 1 hereto and all other investments made by the Vendor as at the Effective Date in relation to the Business that have been inadvertently omitted from Schedule 1;
- 1.1.42 **JHL** means Jubilee Holdings Limited, a company registered in Kenya with company number C. 7/37 and whose registered office is at Land Reference Number 209/3526, Jubilee Insurance House, Wabera Street Post Office Box Number 30376 - 00100 Nairobi, Kenya;
- 1.1.43 **JK Completion** shall have the meaning ascribed to that term in the Framework Agreement;
- 1.1.44 **JK Completion Date** shall have the meaning ascribed to that term in the Framework Agreement;
- 1.1.45 **JK Portfolio Assets** has the meaning ascribed to that term in the Portfolio Transfer Agreement;
- 1.1.46 **JK SHA** shall have the meaning ascribed to that term in the Framework Agreement;
- 1.1.47 **Kenya Government Securities** shall have the meaning ascribed to that term in the Insurance Act;
- 1.1.48 **Liabilities** means all the liabilities and obligations of the Vendor relating to the Business on the Effective Date and comprising the:
- 1.1.48.1 Creditors;
- 1.1.48.2 Contingent Liabilities;
- 1.1.48.3 obligations relating to:
- 1.1.48.3.1 the Transferred Contracts;
- 1.1.48.3.2 On-going Litigation; and
- 1.1.48.3.3 Other Liabilities,

details of which are set out in Schedule 3 and shall include: (i) all other liabilities as at the Effective Date in relation to the Business that have been inadvertently omitted from Schedule 3; (ii) all and any other liabilities and obligations which represent or are derived from the same after the Effective Date in the period up to and including the Completion Date, but shall, for the avoidance of doubt exclude all liabilities and obligations that may be listed in Schedule 3 that have been discharged after the Effective Date but prior to the Completion Date;

- 1.1.49 **Local Solvency Capital Requirements** shall have the meaning ascribed to that term in the Framework Agreement in so far as it relates to the Republic of Kenya;
- 1.1.50 **Longstop Date** means the first anniversary of the JK Completion Date or such other date as may be agreed in writing between the parties;
- 1.1.51 **Loss** means any loss, damages, liabilities, costs (including without limitation reasonable legal and other professional costs), claims, charges, expenses, payments or penalties, but otherwise excluding any consequential or indirect loss and **Losses** will be construed accordingly;
- 1.1.52 **Medical BATA** means the business and asset transfer agreement relating to the sale and purchase of the Vendor's Medical Insurance Business and underlying assets entered into by and between the Vendor and Jubilee Health Insurance Limited and dated on or about the date of this Agreement;
- 1.1.53 **Medical IPTA** means the insurance portfolio transfer agreement entered into by and between the Vendor and Jubilee Health Insurance Limited in connection with the Medical BATA and dated on or about the date of this Agreement;
- 1.1.54 **Medical Insurance Business** means the general insurance business under class 12 (*medical*) as carried on by the Vendor at the date hereof;
- 1.1.55 **Notice** has the meaning ascribed to it in clause 5.1.3;
- 1.1.56 **On-going Litigation** means all civil, criminal, arbitral, administrative or other legal proceedings in relation to the Business (and the consequences, benefits, costs and liabilities in respect thereof) which have been instituted or threatened prior to the Effective Date and to which the Vendor is a party details of which are set out in Part C of Schedule 3 and shall include: (i) all such proceedings as at the Effective Date that have been inadvertently omitted from Part C of Schedule 3; and (ii) all such proceedings arising after the Effective Date in the period up to and including the Completion Date;
- 1.1.57 **Other Liabilities** means to the extent not defined elsewhere in the definition of Liabilities: (i) any other liabilities and obligations properly incurred by the Vendor in the ordinary course of business in relation to the Business on the Effective Date and (ii) all such liabilities and obligations incurred by the Vendor arising after the Effective Date in the period up to and including the Completion Date;
- 1.1.58 **Portfolio Transfer Agreement** means the agreement in the agreed form to be entered into by and between the Vendor and Purchaser by which the Sale Portfolio Assets are transferred to the Purchaser by the Vendor and amalgamated with those of the Purchaser;

- 1.1.59 **Post-Contractual Period** means the period commencing on the date of this Agreement and ending on the Completion Date (both days inclusive);
- 1.1.60 **Premises** means Allianz Plaza, 5th Floor, 96 Riverside Drive, Nairobi, Kenya, Land Reference Number 205/173 (Original Number 205/38);
- 1.1.61 **Records** means the books, accounts, lists of clients, customers and suppliers, credit reports, price lists and rates cards, cost records, catalogues, advertising and all the other documents, papers and records (however stored) of the Vendor relating to the Business, the Employees or any of the Sale Assets;
- 1.1.62 **Regulatory Permit** means any authorisation, certificate, approval, permit, licence, registration, authorisation, waiver, consent or other permissions issued by any Competent Authority required by the Vendor for the conduct of the Business in accordance with all Applicable Law;
- 1.1.63 **Reinsurance Policy Contracts** has the meaning ascribed to that term in the Portfolio Transfer Agreement;
- 1.1.64 **Relief** means any relief or allowance, exemption, set-off or deduction from or credit available from, against, or in relation to Taxation or in the computation of income, profits or gains for any Taxation purpose, or any right to repayment of Tax;
- 1.1.65 **Resolution Period** has the meaning ascribed to it in clause 5.1.5.1;
- 1.1.66 **Review Period** has the meaning ascribed to it in clause 5.1.3;
- 1.1.67 **Sale Assets** means the assets and rights relating to the Business to be sold and purchased under this Agreement as described in clause 3.1 (particulars of which are set out in Schedule 1), but excluding the Sale Portfolio Assets to be transferred under the Portfolio Transfer Agreement;
- 1.1.68 **Sale Portfolio Assets** has the meaning ascribed to that term in the Portfolio Transfer Agreement;
- 1.1.69 **Sale Portfolio Liabilities** has the meaning ascribed to that term in the Portfolio Transfer Agreement;
- 1.1.70 **Share Subscription Agreement** means the share subscription agreement to be entered into by and among the Purchaser, Allianz and JHL pursuant to which Allianz and JHL shall subscribe for and the Purchaser shall issue and allot such number of ordinary shares of par value KES 1,000.00 each in the capital of the Purchaser in consideration for Allianz and JHL paying to the Purchaser such subscription amount as may be necessary to meet the Purchaser's then applicable solvency capital requirements as required by Local Solvency Capital Requirements, as may be increased as a result of Completion;

- 1.1.71 **Tax** or **Taxation** means all taxes, levies, duties (customs or otherwise), imposts, charges and withholdings of any nature whatsoever, including (without limitation) taxes on gross or net income, social security charges, profits or capital gains and taxes on receipts, sales, use, occupation, franchise, value added and personal property, together with all penalties, charges and interest relating to any of them, in each case as applicable pursuant to Tax Legislation;
- 1.1.72 **Tax Authority** means any governmental or other authority competent to impose, administer, levy, assess or collect Tax in the Republic of Kenya;
- 1.1.73 **Tax Indemnity** has the meaning ascribed to that term in clause 17.1;
- 1.1.74 **Tax Legislation** means any directive, statute, enactment, law, regulation or similar measure, in each case having the force of law, enacted or issued in Kenya, providing for or imposing any Taxation;
- 1.1.75 **Tax Liability** of the Vendor includes the:
- 1.1.75.1 liability of the Vendor to make payments in respect of or in the nature of Tax;
- 1.1.75.2 loss, disallowance, counteracting, clawing back or the setting-off against income, profits or gains, of any Relief which would (were it not for the said loss, disallowance, counteracting, clawing back or setting-off) have been available to the Vendor; and
- 1.1.75.3 loss, disallowance or set-off of a right to repayment of Tax;
- 1.1.76 **Tax Warranties** means the Warranties set out in paragraph 6 of Schedule 2 that are given in respect of the Vendor;
- 1.1.77 **Transaction** means the transaction contemplated by this Agreement or any part of that transaction;
- 1.1.78 **Transaction Documents** means this Agreement, the Portfolio Transfer Agreement, the Share Subscription Agreement, the ancillary documents and all agreements designated as such by the parties in relation to the Transaction;
- 1.1.79 **Transferred Contracts** means all or any contracts and engagements entered into by the Vendor in relation to the Business which remain to be performed in whole or in part (other than in relation to warranty or guarantee obligations) as at the Effective Date, but excluding the Sale Portfolio Assets and any contract of employment in relation to the Employees, as set out in Schedule 7 and: (i) all other contracts or engagements as at the Effective Date in relation to the Business that have been inadvertently omitted from Schedule 7; and (ii) all other contracts or engagements entered into after the Effective Date but before Completion in relation to the Business;
- 1.1.80 **Transferred Liabilities Indemnity** has the meaning ascribed to that term in clause 11.2.1;
- 1.1.81 **VAT** means value added tax;
- 1.1.82 **VAT Act** means the Value Added Tax Act, 2013 (Act No. 35 of 2013) Laws of Kenya;
- 1.1.83 **Updated Schedules** has the meaning ascribed to that term in clause 5.1.1; and

- 1.1.84 **Warranties** means together, the warranties set out in clause 15 and Schedule 2.
- 1.2 Unless the context otherwise requires, in this Agreement (including the Recitals, the Schedules and the Annexure):
- 1.2.1 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, provided that, as between the parties, no such amendment, extension or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party;
- 1.2.2 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.3 words and expressions defined in the Companies Act or the Insurance Act shall bear the same meanings ascribed to them in the Companies Act or Insurance Act (as the case may be) wherever used herein;
- 1.2.4 words denoting the singular number shall include the plural and vice versa and a reference to the masculine gender includes a reference to the feminine gender and neuter and vice versa and words importing the whole shall be treated as including a reference to any part thereof;
- 1.2.5 references to a document in the **agreed form** or in **agreed terms** are references to the document described in the form of the draft agreed between the parties and initialed by each of the parties for the purposes of identification;
- 1.2.6 the expression **parties** shall mean the parties to this Agreement and **party** shall be construed accordingly;
- 1.2.7 the expression **person** includes any legal or natural person, partnership, association, trust, company, joint venture, agency, governmental authority or other body, entity or organisation (whether corporate or unincorporate) and that person's personal representatives or successors (as the case may be) or permitted assigns;
- 1.2.8 a reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.9 references to costs, charges, expenses or remuneration shall be deemed to include, in addition, references to any VAT or similar Tax charged or chargeable in respect thereof;
- 1.2.10 references to **month** means the period beginning at 0:00:00 hours (Kenya time) on the first day of a calendar month and ending at 23:59:59 hours (Kenya time) on the last day of such calendar month and monthly shall be construed accordingly;
- 1.2.11 any reference to a time of day is to Kenya time;
- 1.2.12 unless 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 day that is not a Business Day, the next succeeding Business Day;

- 1.2.13 the symbol **KES** and the words **Kenya Shillings** denotes the lawful currency from time to time of the Republic of Kenya;
- 1.2.14 references to sections, clauses, sub-clauses and schedules unless otherwise provided are to be construed as references to the sections, clauses, sub-clauses of and the schedules to this Agreement;
- 1.2.15 indemnifying any person against any circumstance includes indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, taxes, liabilities, costs or expenses made or incurred or suffered by that person as a consequence of or which would not have arisen but for that circumstance;
- 1.2.16 section headings are for convenience only and shall not affect the construction of this Agreement;
- 1.2.17 if a definition of a particular term or expression in this Agreement imposes substantive rights and obligations on a party, such rights and obligations shall be given effect to and shall be enforceable notwithstanding that they are contained in a definition; and
- 1.2.18 where any term is defined within the context of any particular provision in this Agreement, the term so defined, unless it is clear from the provision in question that the term so defined has limited application to the relevant provision, shall bear the meaning ascribed to it for all purposes in terms of this Agreement notwithstanding that that term has not been defined in this clause 1.

2. **CONDITIONS**

- 2.1 Notwithstanding any provision of this Agreement and without prejudice to the right of the parties, to waive any Condition that is legally capable of waiver in accordance with clause 2.4, it is hereby agreed that Completion shall be subject to and conditional upon the following Conditions being satisfied:
 - 2.1.1 all measures stipulated by Part XI of the Insurance Act having been taken, including (without limitation) the approval by the Insurance Regulatory Authority being obtained for the Transaction, which approvals shall be requested simultaneously with the regulatory approvals contemplated under the Framework Agreement and including but not limited to notices being given in the Gazette and newspapers in agreed form culminating in the Insurance Regulatory Authority publishing a notice of approval to the Transaction in the Gazette. To the extent that the Insurance Regulatory Authority grants any such approval subject to one or more conditions, this condition shall only be satisfied if those conditions are acceptable to the Vendor in its sole discretion (if the Vendor rejects those conditions, then clause 14.1.3 shall apply);
 - 2.1.2 pursuant to section 114 (b) of the Insurance Act, a copy of the requisite notice having been sent to every insurance policy contract holder and every other person who claims an interest in an insurance policy contract, unless the Commissioner of Insurance has directed otherwise in which case, notice shall be given in such manner as the Commissioner of Insurance may have directed;
 - 2.1.3 the Purchaser making an offer of employment to each Employee in accordance with the provisions of clause 8;

- 2.1.4 the Vendor having assigned in favour of the Purchaser the Kenya Government Securities, that the Vendor has deposited with the Central Bank of Kenya, in accordance with the provisions of section 32 of the Insurance Act; and
- 2.1.5 subject to clause 9.3.3, obtaining consent from the counter-parties to the Transferred Contracts which cannot effectively be assigned, transferred or novated by the Vendor to the Purchaser as envisaged in this Agreement, without the consent of such counter-parties, to the assignment, transfer or novation of such Transferred Contracts.
- 2.2 The parties shall co-operate with one another to ensure the provision of prompt and complete information required by any person for the purposes of fulfilling the Conditions and shall use their respective reasonable endeavours to ensure fulfillment of the Conditions in a timely manner.
- 2.3 In procuring satisfaction of the Conditions requiring third party or regulatory consent, the parties shall co-operate with one another, including by procuring that all necessary actions are taken and the provision by both parties of all information reasonably necessary to make any application for consent, notification or filing that the parties deem to be necessary, is required by law or as requested by any relevant authority or third party.
- 2.4 The Vendor may, in its sole discretion, waive in writing in whole or in part any or all of the Conditions, provided that it may not waive a condition which would result in a violation of Applicable Law.
- 2.5 If any of the Conditions are not satisfied or waived in accordance with clause 2.4 by the Longstop Date, then except as provided in clause 2.6, this Agreement shall automatically terminate with immediate effect at 1800Hrs on the Longstop Date.
- 2.6 On termination of this Agreement in accordance with clause 2.5, it will immediately cease to have any further force and effect except for:
- 2.6.1 any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination (including clause 1 (Interpretation), clause 2.5, this clause 2.6, and clause 22 to clause 34 (inclusive)), each of which shall remain in full force and effect; and
- 2.6.2 any rights, remedies, obligations or liabilities of the parties that have accrued before termination.

3. **AGREEMENT FOR SALE**

- 3.1 Subject to the terms of this Agreement and the Conditions having been satisfied or waived in accordance with clause 2, the Vendor shall as legal and beneficial owner free from any Encumbrances (unless otherwise expressly provided for in this Agreement) sell and the Purchaser, with a view to carrying on the Business as a going concern, shall purchase on Completion but with effect from the Effective Date, in consideration for which the Purchaser shall pay the Consideration and assume the Liabilities:
- 3.1.1 the Goodwill;
- 3.1.2 the Records;
- 3.1.3 the Investments;

- 3.1.4 the Cash and Bank Balance;
- 3.1.5 the benefit (subject to the burden) of the Transferred Contracts;
- 3.1.6 the benefit (subject to the burden) of the On-going Litigation;
- 3.1.7 where the parties agree in writing, the Premises; and
- 3.1.8 all (if any) of the other assets, property or rights of the Vendor relating to or connected with, or belonging to or required or intended for use in, the Business as at the Effective Date and which are not otherwise described in this clause 3.1; but
- 3.1.9 not the Excluded Assets,

and shall include: (i) all and any other assets, property and rights (including, but not limited to, any and all accrued interest, dividend, distribution or income) which represents or are derived from the assets, property and rights set out in clauses 3.1.1 to 3.1.8 after the Effective Date; and (ii) any and all other assets, property and rights that may have been acquired after the Effective Date in the ordinary course, but the assets, property and rights to be sold and purchased in accordance with this clause 3.1 shall only be in such number and of such value to achieve a Business NAV of zero at Completion.

- 3.2 The following assets shall be excluded from the sale under this Agreement (**Excluded Assets**):
 - 3.2.1 save where the parties agree in writing, in which case clause 3.1.7 shall apply, the Premises;
 - 3.2.2 any receivables not related to the Sale Portfolio Assets;
 - 3.2.3 all the assets, property and rights included for transfer and amalgamation under the Medical BATA and the Medical IPTA;
 - 3.2.4 subject to clause 13.2, those assets, property and rights that have been disposed of in the ordinary course of business from the Effective Date in the period up to and including the Completion Date; and
 - 3.2.5 all (if any) other assets and rights (including, but not limited to, any and all accrued interest, dividend, distribution or income) which represents or are derived from the Excluded Assets listed in clauses 3.2.1, clause 3.2.2 and clause 3.2.4 after the Effective Date.
- 3.3 The Purchaser shall be entitled to the benefit of all contracts relating to the Business placed by any customer with the Vendor after the Effective Date, and any payment relating to or connected with any such contract that is or has been received by the Vendor shall be paid to the Purchaser immediately on receipt (and shall be held on trust by the Vendor for the benefit of the Purchaser pending such payment).

4. **CONSIDERATION**

- 4.1 The consideration for the sale of the Business (comprising the Sale Assets) under this Agreement and the Sale Portfolio Assets under the Portfolio Transfer Agreement (**Consideration**) shall be a sum equal to Kenya Shillings Two Hundred and ninety-seven million seven hundred and eighty-four thousand and

sixty-seven (KES 297,784,067), exclusive of VAT (if applicable), which shall be paid by the Purchaser to the Vendor in cash on Completion in accordance with clause 4.3.

4.2 The Consideration shall be deemed to be reduced by the amount of any payment made to the Purchaser in respect of a Claim and the reduction shall be allocated as nearly as possible to the Sale Assets and the Sale Portfolio Assets to which the breach or indemnity relates or, if that is not practicable or possible, in such manner as the Purchaser shall decide.

4.3 All payments to be made to the Vendor under this Agreement shall be made in KES by electronic transfer of immediately available funds to the Vendor to the following account:

Account name: Allianz Insurance Company of Kenya Limited

Bank: CITI BANK N.A

Branch: Head office

Branch code: 16000

Account number: 0104616010

Swift code: CITIKENA

4.4 Each of the parties hereby acknowledges and agrees that:

4.4.1 the Business, the Sale Assets and the Sale Portfolio Assets and correspondingly, the Liabilities and the Sale Portfolio Liabilities may change (whether increasing in value or decreasing in value) between the Effective Date and Completion;

4.4.2 notwithstanding clause 4.4.1 and, subject to clause 5.1, the acceptance of the Updated Schedules, the Consideration is final and has been agreed by the parties as at the Effective Date and shall be deemed at Completion fair and reasonable; and

4.4.3 there will be no adjustment (whether upwards or downwards) to the Consideration at any time to account for any changes in the Business, the Sale Assets, the Sale Portfolio Assets and the corresponding Liabilities and Sale Portfolio Liabilities between the Effective Date and Completion.

5. UPDATED SCHEDULES AND ADJUSTMENTS TO SALE ASSETS AND LIABILITIES

5.1 As soon as practicable, and in any event no later than 20 Business Days after the Completion Date, the Vendor shall deliver to the Purchaser:

5.1.1 in writing and in the form in which such schedules are currently appended to this Agreement or the Portfolio Transfer Agreement the following updated schedules (**Updated Schedules**) as at the Completion Date:

5.1.1.1 Schedule 1 (Summary of Sale Assets);

5.1.1.2 Schedule 3 (Summary of Liabilities);

5.1.1.3 Schedule 5 (Employees);

- 5.1.1.4 Schedule 7 (Transferred Contracts); and
 - 5.1.1.5 Schedule 1 (*Sale Portfolio Assets*) of the Portfolio Transfer Agreement; and
 - 5.1.2 a carved out statement setting out the income and expenditure between the Effective Date and the Completion Date (**Completion Statement of Income and Expenditure** together with the Updated Schedules, the **Completion Assets and Liabilities Documents**).
 - 5.1.3 No later than the day falling 20 Business Days after the date of delivery of the Completion Assets and Liabilities Documents (**Review Period**), the Purchaser shall serve a written notice on the Vendor stating whether or not it agrees that:
 - 5.1.3.1 the Sale Assets and Sale Portfolio Assets and correspondingly the Liabilities reflected in the Updated Schedules have been received and have a Business NAV of zero; and/or
 - 5.1.3.2 the Vendor has accurately: (i) accounted to the Purchaser for those amounts it is required to do so under clause 13.2; and (ii) reflected those the amounts required for reimbursement by the Purchaser to the Vendor under clause 13.3,
- (Notice).**
- 5.1.4 In the case of agreement, the parties hereby acknowledge and agree that:
 - 5.1.4.1 the Sale Assets, the Liabilities and the Sale Portfolio Assets are accurately reflected in the Updated Schedules and are the Sale Assets, the Liabilities and the Sale Portfolio Assets for the purposes of this Agreement; and
 - 5.1.4.2 all amounts in the Completion Statement of Income and Expenditure accurately set out all amounts required to be accounted or reimbursed in accordance with clauses 13.2 and 13.3, respectively,
- and no further adjustments to the Sale Assets or the Consideration are required.
- 5.1.5 In the case of any disagreement, then:
 - 5.1.5.1 the Vendor and the Seller shall, during the 20 Business Days commencing on the date of the Notice (**Resolution Period**) seek in good faith to reach agreement on the disputed matters and determine the amount of any adjustments to the Sale Assets and Liabilities, including as to type, class and amount such that the Business NAV at the Completion Date shall have been zero (**Asset Adjustment Determination**) required to be made by the Vendor or the Purchaser. If before the Resolution Period expires, the disputed matters and the corresponding Asset Adjustment Determination are:
 - 5.1.5.1.1 resolved by the parties in writing, the Completion Assets and Liabilities Documents (revised as necessary) and the corresponding Asset Adjustment Determination (if any) shall be final and binding on the parties with effect from the date of their agreement; or
 - 5.1.5.1.2 not resolved by the parties in writing, then at any time following expiry of the Resolution Period, the disputed matters shall be referred to the Steering Committee for determination

and the Steering Committee's determination on any matters referred to them and its corresponding determination of the Asset Adjustment Determination shall be final and binding on the parties and the Completion Assets and Liabilities Documents inclusive of any adjustments, corrections or modifications necessary to give effect to the Steering Committee's determination, shall constitute the Completion Assets and Liabilities Documents for the purposes of this Agreement.

- 5.2 Following determination of the Completion Assets and Liabilities Documents and Asset Adjustment Determination in accordance with clause 5.1.5, on the Adjustment Date if:
- 5.2.1 the Business NAV at Completion was otherwise determined to be more than zero, the Purchaser shall be required to transfer to the Vendor those Sale Assets of such type, class and of such value pursuant to the Asset and Liability Adjustment Determination; or
 - 5.2.2 the Business NAV at Completion was otherwise determined to be less than zero, the Vendor shall be required to transfer to the Purchaser such assets of such type, class and of such value pursuant to the Asset and Liability Adjustment Determination; or
 - 5.2.3 any amounts indicated as income in the Completion Statement of Income and Expenditure which have not otherwise been accounted by the Vendor to the Purchaser at Completion in accordance with clause 13.2, the Vendor shall be required to pay to the Purchaser an amount equal to such shortfall; and
 - 5.2.4 any amounts indicated as expenditure in the Completion Statement of Income and Expenditure have not otherwise been reimbursed by the Purchaser to the Vendor at Completion as required in accordance with clause 13.3, the Purchaser shall be required to pay to the Vendor an amount equal to such shortfall.

6. **MATTERS PRIOR TO COMPLETION**

- 6.1 The Vendor undertakes to the Purchaser that it shall:
- 6.1.1 from the date of this Agreement until the date referred to in clause 6.1.2, continue to carry on the Business as a going concern in the normal and ordinary course of business in a similar manner as has been the case prior to the date of this Agreement; and
 - 6.1.2 from the date the parties (acting reasonably) agree in writing to be the date where: (i) receipt of all approvals from the Insurance Regulatory Authority for the Transaction are imminent; and/or (ii) Completion will, in the reasonable view of the parties, occur, carry on the Business as a going concern but with a view to: (a) there being a sale and purchase of the Business, the Sale Assets and the Sale Portfolio Assets to the Purchaser under this Agreement and the Portfolio Transfer Agreement, respectively; and (b) the eventual winding-up of the Vendor, upon and subject to the necessary approvals of all required Competent Authorities, following Completion.

7. COMPLETION

- 7.1 Completion shall take place on the date which is five (5) Business Days after all the Conditions have been fulfilled or waived (in accordance with clause 2), or such other date as may be agreed between the parties in writing (**Completion Date**).
- 7.2 On the Completion Date:
- 7.2.1 and with effect from the Effective Date, the Vendor shall as legal and beneficial owner transfer, assign and convey as a going concern, the benefit and the burden of the Business (comprising the Sale Assets) to the Purchaser, which transfer shall be deemed to have effect from the Effective Date (such transfer to include all dividends, interests, rents and profits accruing therefrom which shall not have been paid and any credits whatsoever arising in respect of the Business as at the Effective Date);
- 7.2.2 each of the parties shall deliver a duly executed Portfolio Transfer Agreement to the other;
- 7.2.3 the Vendor shall deliver to the Purchaser:
- 7.2.3.1 an extract from the minutes of a meeting of the directors of the Vendor authorising and/or ratifying the entry by the Vendor into this Agreement and the performance by the Vendor of its obligations hereunder;
- 7.2.3.2 physical possession of all the Sale Assets that are capable of being transferred by delivery with the intent that title in such Sale Assets shall pass to the Vendor by and on such delivery;
- 7.2.3.3 a duly executed deed of assignment in the form set out in Schedule 6 relating to the transfer of the Business (which on approval by the Insurance Regulatory Authority, is effectual to transfer to the Purchaser the Vendor's rights and obligations under the Sale Portfolio Assets);
- 7.2.3.4 all original documents of title in respect of all applicable Sale Assets together with (as applicable) all transfers, assignments and conveyances in respect thereof duly executed by the Vendor in favour of the Purchaser as shall be required to complete the sale and purchase of the Sale Assets and vest title of the Sale Assets in the Purchaser. Pending vesting of legal title to such Sale Assets in the Purchaser, the Vendor shall hold the same as trustee for the Purchaser;
- 7.2.3.5 the Transferred Contracts and the instruments of assignment, transfer or novation of each of the Transferred Contracts, executed by the Vendor and (if applicable) consented to by the counterparty to the Transferred Contract to enable the Purchaser to assume the benefit (subject to the burden) under each of the Transferred Contracts;
- 7.2.3.6 releases of all Encumbrances on or affecting the Sale Assets, to the extent there are any;
- 7.2.3.7 the Records, including all reports, documents and accounts submitted to the Commissioner of Insurance accompanying the application under the provisions of Part XI of the Insurance Act;
- 7.2.3.8 a Share Subscription Agreement in the agreed form duly executed by Allianz; and

- 7.2.3.9 duly executed tri-partite agreements in the form referred to in clause 8.2 and as referred to in clause 8.1 from all of the Employees, save for in respect of those Employees who have declined in writing the Purchaser's offer of employment, including the waiver of any and all claims that they may have against the Vendor or the Purchaser in respect of the transfer of their employment from the Vendor to the Purchaser.
- 7.3 Subject to the Vendor having complied with its obligations under clause 7.2:
 - 7.3.1 the Purchaser shall pay the Consideration in accordance with clause 4.1 and clause 4.3;
 - 7.3.2 the Purchaser shall deliver to the Vendor:
 - 7.3.2.1 an extract from the minutes of a meeting of the directors confirming the Purchaser's authority to enter into and execute this Agreement and all ancillary documents related thereto;
 - 7.3.2.2 a Share Subscription Agreement in the agreed form duly executed by JHL and the Purchaser; and
 - 7.3.2.3 an acknowledgment in writing (in a form substantively set out in Schedule 4 hereto) that the Purchaser accepts liability for the Liabilities.
- 7.4 The Purchaser shall within ten (10) days after the Completion Date, deposit with the Commissioner of Insurance in accordance with section 118(3) of the Insurance Act, certified copies of:
 - 7.4.1 statements of its respective assets and liabilities; and
 - 7.4.2 all of the documents under which the transfer of the Business was effected as required by that section.

8. **EMPLOYEES**

- 8.1 The Purchaser shall as soon as practicable following the date of this Agreement make to each of the Employees (save for the Chief Executive Officer) an offer of employment in writing in the terms set out in clause 8.2 (to which the Vendor shall be joined as a party) to engage the relevant Employee on the terms set out in a tripartite agreement providing for the transfer of the Employee's engagement, liabilities and benefits from the Vendor to the Purchaser on Completion and with effect from the Effective Date or, if later, the date of commencement of the relevant Employee's employment with the Vendor. The tripartite agreement will be entered into among the Vendor, the Purchaser and each Employee.
- 8.2 Every tripartite agreement in terms of clause 8.1 shall be in the form agreed in writing between the parties and shall be:
 - 8.2.1 such that the terms and conditions of employment of the Employee with the Purchaser will be on terms at least similar to the corresponding provisions of the Employee's existing employment contract; and
 - 8.2.2 subject to the express condition that in consideration of the Employee waiving, in respect of termination of his employment with the Vendor, any rights to redundancy severance payments

pursuant to Section 40 of the Employment Act the Purchaser shall treat the period of such Employee's service with the Vendor prior to such termination to be service with the Purchaser for the purposes of any future redundancy, provided always that nothing in this clause 8 shall prejudice or affect the statutory rights or other rights of any Employee in respect of any termination in the event that such Employee shall decline to accept any offer made by the Purchaser pursuant to this clause 8 and any claims concerning such statutory or other rights shall be for the account of the Vendor.

- 8.3 If any Employee shall decline to accept the Purchaser's offer of employment made in accordance with this clause 8, then the Vendor shall terminate such Employee's employment. The Vendor shall pay any termination dues to Employees who decline the Purchaser's offer of employment.

9. **CONTRACTS**

- 9.1 Subject always to the provisions of this Agreement, the Purchaser agrees with the Vendor on Completion and with effect from the Effective Date to assume the obligations of and become entitled to the benefits of the Vendor under the Transferred Contracts and the Purchaser shall carry out, perform and complete all the obligations and liabilities created by or arising under the Transferred Contracts and shall indemnify the Vendor and keep it fully indemnified from and against any and all claims, actions, proceedings, demands, liabilities, costs and expenses suffered or incurred by the Vendor in respect of the non-performance or defective or negligent performance by the Purchaser of the Transferred Contracts.
- 9.2 The Vendor shall on Completion transfer, assign or novate to the Purchaser or procure the transfer, assignment or novation to the Purchaser (such transfer, assignment or novation to be deemed to be effective from the Effective Date) of all the Transferred Contracts which are capable of assignment without the consent of other parties.
- 9.3 Insofar as the Sale Assets comprise the benefit of the Transferred Contracts which cannot effectively be assigned to the Purchaser without the consent of a third party and in relation to which such consent has not been obtained:
- 9.3.1 the parties shall use all their respective reasonable endeavours to obtain such consent to a transfer, assignment or novation of such Transferred Contracts on at least the same terms and conditions as applied to the Vendor;
- 9.3.2 unless and until consent is obtained as aforesaid the Purchaser shall, for its own benefit and to the extent that the Transferred Contracts permit, perform on behalf of the Vendor (but at the cost of the Purchaser) all the obligations of the Vendor arising after the Completion Date (insofar as they have been disclosed to the Purchaser) and the Vendor will (so far as it lawfully may) give all such assistance to the Purchaser and at the Purchaser's cost as the Purchaser may reasonably require to enable the Purchaser to enforce its rights under such Transferred Contracts and (without limitation) will provide access to all relevant books, documents and other information in relation to such Transferred Contracts as the Purchaser may require from time to time; and
- 9.3.3 if such consent required for a transfer, assignment or novation is not obtained, the Vendor will co-operate with the Purchaser and at the Vendor's cost in any reasonable arrangements designed to

provide for the Purchaser the benefits under any of such Transferred Contracts including enforcement at the cost and for the account of the Purchaser of any and all rights of the Vendor against the other party to any such Transferred Contracts arising out of any cancellation or non-performance by such other party or otherwise howsoever provided always that if and to the extent that in respect of any such Transferred Contracts any such arrangements cannot be made neither the Vendor nor the Purchaser shall have any further obligation to each other.

9.4 To the extent that any payment is made to the Vendor in respect of the Transferred Contracts on or after the Effective Date, the Vendor shall receive the same as trustee, shall record such payment separately in its books and shall account to the Purchaser for the same within fourteen (14) days of receipt of payment.

9.5 For the avoidance of doubt, nothing in this clause 9 shall apply to the Sale Portfolio Assets to which section 118 of the Insurance Act shall apply and which shall transfer by operation of law.

10. SALE PORTFOLIO ASSETS

10.1 Upon Completion, the rights and liabilities of the holders of the Sale Portfolio Assets and all persons claiming through or under them on the one hand and the Purchaser on the other hand shall be the same in all respects as they would have been if the proposals for such policies or contracts had *ab initio* been made to and accepted by the Purchaser and such Sale Portfolio Assets had been issued or contracts entered into by the Purchaser instead of the Vendor.

10.2 Upon Completion, pursuant to section 118(1)(b) of the Insurance Act, the transfer and assignment of the Sale Portfolio Assets to the Purchaser and the amalgamation of the Sale Portfolio Assets with the JK Portfolio Assets shall secure the continuation by or against the Purchaser of any and all legal proceedings whether civil or criminal (which shall include any and all arbitral proceedings of whatsoever nature) by or against the Vendor which relate to any of the rights and/or obligations of any party under or in connection with the Sale Portfolio Assets.

11. LIABILITIES

11.1 Liabilities

The Purchaser agrees to assume on Completion and with effect from the Effective Date, the Liabilities and undertakes to discharge the same and to indemnify and keep indemnified on a full and unqualified indemnity basis, the Vendor fully at all times from and against any and all claims, actions, proceedings, demands, liabilities, costs and expenses suffered or incurred in connection with any of the Liabilities.

11.2 Excluded Liabilities

11.2.1 Nothing in this Agreement shall pass to the Purchaser, or shall be construed as acceptance by the Purchaser of any liability, debt or other obligation of the Vendor (whether accrued, absolute, contingent, known or unknown) for anything done or omitted to be done before the Effective Date in the course of or in connection with the Business or the Sale Assets (save to the extent that any such liability is included in the Liabilities) and the Vendor shall:

- 11.2.1.1 indemnify the Buyer against: (i) all losses suffered or incurred by the Purchaser, including the Excluded Liabilities, arising out of or in connection with any such thing or (ii) any liabilities incurred in the Business by the Vendor before the Effective Date that have transferred to the Purchaser pursuant to the Transfer of Business Act (Chapter 500 of the Laws of Kenya), save to the extent that any such liability is included in the Liabilities (**Transferred Liabilities Indemnity**); and
- 11.2.1.2 perform any obligation falling due for performance or which should have been performed before the Effective Date, including the Excluded Liabilities.
- 11.2.2 The Transferred Liabilities Indemnity shall not be subject to the limitations set out in Schedule 8, however, the parties hereby acknowledge and agree that:
 - 11.2.2.1 it is the intention, upon and subject to the necessary approvals of all required Competent Authorities, to wind-up the Vendor as soon as possible after the Completion;
 - 11.2.2.2 prior to the winding up of the Vendor, the obligations under the Transferred Liabilities Indemnity may be novated or otherwise transferred to Allianz at any time without the prior written consent of the Purchaser; and
 - 11.2.2.3 on each anniversary of the Completion Date, the parties shall consult in good faith with a view to agreeing to: (i) terminate the Transferred Liabilities Indemnity; and (ii) the Purchaser releasing and discharging the Vendor from any and all liabilities under the Transferred Liabilities Indemnity.

12. LITIGATION

12.1 On-going Litigation

- 12.1.1 The Purchaser shall:
 - 12.1.1.1 become entitled to any proceeds due to the Vendor under the On-going Litigation; and
 - 12.1.1.2 indemnify the Vendor and keep it fully indemnified against all costs and expenses incurred by the Vendor in respect of the On-going Litigation and/or any amount determined to be payable by the Vendor under the On-going Litigation.

12.2 Future Litigation

- 12.2.1 It is agreed and acknowledged by the parties that the Purchaser shall bear the benefit and burden of any Future Litigation and any claims arising from the Sale Portfolio Assets and brought against the Vendor to which the provisions of clause 10 above shall apply.
- 12.2.2 If the Vendor is or may be entitled (whether by reason of a right to take legal action, insurance, a payment discount or otherwise) to recover from some other person any sum in respect of any Future Litigation, the Vendor shall:
 - 12.2.2.1 promptly notify the Purchaser and provide to it such information as it may require relating to such matter and the steps taken or to be taken by the Vendor in connection with it; and
 - 12.2.2.2 keep the Purchaser informed of the progress of any action taken.

- 12.2.3 If the Vendor:
- 12.2.3.1 recovers from any person a sum in relation to Future Litigation then the Vendor shall immediately pay to the Purchaser an amount equal to the recovered amount less any reasonable out-of-pocket costs and expenses incurred by the Vendor in recovering such amount and any tax suffered on receipt; and
- 12.2.3.2 incurs any cost or liability arising from any Future Litigation or any claims arising from the Sale Portfolio Assets, the Purchaser undertakes to discharge the same and to indemnify and keep indemnified the Vendor on a full and unqualified basis.

13. **INTERIM ARRANGEMENTS**

- 13.1 Subject to the satisfaction (or waiver in accordance with the provisions of clause 2) of the Conditions, the Vendor shall as from the Effective Date until the Completion Date and thereafter, until the Business shall be transferred or possession thereof shall have been given to the Purchaser, be deemed to have been and to be carrying on the Business on behalf of the Purchaser and shall account to the Purchaser and be entitled to be indemnified by the Purchaser accordingly.
- 13.2 Without prejudice to the generality of clause 13.1, the Purchaser shall be entitled to receive and the Vendor shall account to the Purchaser for all moneys received by or due to the Vendor on or after the Effective Date with regard to:
- 13.2.1 premiums on the Sale Portfolio Assets;
- 13.2.2 revival fee received to reinstate lapsed Sale Portfolio Assets;
- 13.2.3 any incidental amounts received by the Vendor on or after the Effective Date such as by way of example and not limited to amounts paid as deposits towards premiums on the Sale Portfolio Assets; and
- 13.2.4 amounts paid to or due to the Vendor pursuant to and in the course of undertaking the Business.
- 13.3 Without prejudice to the generality of clause 13.1, the Purchaser shall reimburse the Vendor for all disbursements and other expenses properly incurred by the Vendor on or after the Effective Date in respect of the Business with regard to:
- 13.3.1 premium payments to reinsurers due on or after the Effective Date in respect of Reinsurance Policy Contracts;
- 13.3.2 Taxes in Kenya in respect of the Business with effect from the Effective Date;
- 13.3.3 commissions paid to agents on or after the Effective Date and which relate to the Business; and
- 13.3.4 any incidental amounts or sundry disbursements whatsoever incurred by the Vendor on or after the Effective Date which properly relate to and were incurred in the ordinary course of undertaking the Business, save to the extent comprised within the Liabilities.
- 13.4 The amounts to be accounted by the Vendor to the Purchaser in accordance with clause 13.2 and reimbursed by the Purchaser to the Vendor in accordance with clause 13.3, shall be finally determined

on the basis of the Completion Statement of Income and Expenditure and where any adjustments are required to be made following Completion they shall be made in accordance with clause 5.2.

14. **RESTRICTIVE COVENANTS**

14.1 Subject to Applicable Law, the Vendor agrees that upon the earliest to occur of:

14.1.1 Completion;

14.1.2 final and non-appealable rejection of the application for approval of the Transaction by the Insurance Regulatory Authority; or

14.1.3 the Vendor's decision not to effectuate the Transaction either because it chooses not to accept a condition imposed by the Insurance Regulatory Authority in order to grant its approval to the Transaction or otherwise,

the Vendor shall immediately cease to underwrite new Business and shall run off or otherwise transfer its existing Business, the Sale Assets and Sale Portfolio Assets.

14.2 The covenant in this clause 14 is considered fair and reasonable by the parties.

15. **VENDOR WARRANTIES**

15.1 The Vendor warrants to the Purchaser that:

15.1.1 each of the Warranties is accurate in all material respects and not misleading as at the date of this Agreement; and

15.1.2 each of the Warranties will be accurate in all material respects and not misleading as at the Completion Date as if repeated immediately before Completion by reference to the facts and circumstances subsisting at that date.

15.2 The Vendor shall ensure that no act shall be performed or omission allowed in the period between the date of this Agreement and Completion which would result in any of the Warranties being breached or misleading at the time of that Completion.

15.3 The Vendor undertakes to disclose in writing to Purchaser anything which is or may constitute a breach of or be inconsistent with any of the Warranties immediately upon it coming to its notice both before and/or at the time of Completion.

15.4 The Vendor undertakes (in the absence of fraud) that if any Claim is made against it in connection with the sale of the Business (comprising the Sale Assets) or the Sale Portfolio Assets it shall not make any Claim against any director, employee, agent or adviser of the Vendor on whom it may have relied before agreeing to any term of this Agreement or the Portfolio Transfer Agreement or authorising any statement in the Disclosure Letter.

15.5 Each of the Warranties shall be construed as being separate and independent and (except where expressly provided to the contrary) shall not be limited or restricted by reference to or inference from the terms of any other Warranty.

- 15.6 The Purchaser shall not be entitled to claim that any fact, matter or circumstance causes any of the Warranties to be breached or renders any of the Warranties misleading if it has been Disclosed in the absence of any fraud or dishonesty on the part of the Vendor or its agents or advisers and only those matters so Disclosed shall qualify the Warranties.
- 15.7 No liability shall attach to the Vendor in respect of Claims under the Warranties if and to the extent that the limitations in this clause 15 or set out in Schedule 8 apply, in the absence of any fraud, wilful misconduct or dishonesty on the part of the Vendor or the Vendor's group or its agents or advisers.
- 15.8 Warranties qualified by the expression "**so far as the Vendor is aware**" (or any similar expression) are deemed to be given to the best of the knowledge, information and belief of the Vendor after it has made reasonable enquiries of the following individuals:
- 15.8.1 the Chief Executive Officer of the Vendor; and
- 15.8.2 the Chief Financial Officer of the Vendor.
- 15.9 If, the Purchaser becomes aware (whether it does so by reason of any disclosure made pursuant to the remainder of this clause 15 or not) that any of the Warranties is or was materially inaccurate or misleading or that there has been any material breach or breaches of any of the Warranties or any other term of this Agreement, the Purchaser shall not be entitled to terminate this Agreement but shall be entitled to claim damages or exercise any other right, power or remedy under this Agreement or as otherwise provided by Applicable Law.

16. PURCHASER WARRANTIES

- 16.1 The Purchaser warrants and represents to the Vendor that, as at the date of this Agreement:
- 16.1.1 it is validly incorporated, in existence and duly registered under the laws of its jurisdiction of incorporation;
- 16.1.2 it has the requisite capacity, power and authority to enter into and perform the Transaction Documents to which it is a party and that its obligations under the Transaction Documents to which it is a party will, when executed and delivered, constitute valid and binding obligations of the Purchaser in accordance with their respective terms; and
- 16.1.3 it has access to sufficient available funds to satisfy its obligations to pay the Consideration and the source of such funds complies with Anti-Corruption Law.

17. TAX INDEMNITY

- 17.1 Subject to the provisions of this Agreement, the Vendor hereby covenants with the Purchaser and undertakes to indemnify the Purchaser against all Losses which may be suffered or incurred by the Purchaser which arise (in both cases) directly in connection with any Tax Liability which is awarded by a Tax Authority against the Vendor or which the Vendor actually suffers in respect of any periods on or prior to the Completion Date (**Tax Indemnity**) as a result of:
- 17.1.1 any capital gains tax arising as a result of the Transaction;

- 17.1.2 any business carried on by the Vendor prior to the Effective Date; and
- 17.1.3 any retroactive imposition of VAT on commissions for the period prior to the Effective Date.
- 17.2 This Tax indemnity shall:
 - 17.2.1 not be subject to the limitations set out in Schedule 8, however, the parties hereby acknowledge and agree that:
 - 17.2.1.1 it is the intention, upon and subject to the necessary approvals of all required Competent Authorities, to wind-up the Vendor as soon as possible after the Completion Date;
 - 17.2.1.2 prior to the winding-up of the Vendor, the obligations under the Tax Indemnity may be assigned, novated or otherwise transferred to Allianz at any time without the prior written consent of the Purchaser; and
 - 17.2.1.3 on each anniversary of the Completion Date, the parties shall consult in good faith with a view to agreeing to: (i) terminate the Tax Indemnity; and (ii) the Purchaser releasing and discharging the Vendor from any and all liabilities under the Tax Indemnity; and
 - 17.2.2 not cover any Tax Liability or claims to the extent that:
 - 17.2.2.1 a specific provision or reserve has been made in the Accounts for such Tax Liability; or
 - 17.2.2.2 such Tax Liability would not have arisen but for a new type or form of Tax Legislation or a statutory variation under any new type or form of Tax Legislation resulting in methods of applying or calculating rates of Tax in each case occurring after the Completion Date with retrospective effect in force after Completion and which applies retrospectively.

18. RETENTION OF ALL OTHER ASSETS AND LIABILITIES

For the avoidance of doubt, nothing in this Agreement shall operate to transfer any assets, rights or liabilities of the Vendor other than those specifically referred to in the definitions of Sales Assets and Liabilities and without limiting the generality of the foregoing, any such assets, rights or liabilities which are not referred in the definitions of Sales Assets and Liabilities, shall be expressly excluded and excepted from the sale and purchase.

19. FURTHER ASSURANCE AND TITLE

- 19.1 At its own expense and for the purposes of giving full effect to this Agreement, each party shall (and shall use all reasonable endeavours to) procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required by the other or by law to ensure that the Purchaser obtains the full benefit of the Business and, further, for vesting in the Purchaser all the Vendor's right, title and interest in and to the Business (comprising the Sale Assets).
- 19.2 The parties agree to co-operate and take all reasonable steps to ensure that the holders of the Sale Portfolio Assets are not negatively impacted by the sale and purchase of the Business as envisaged under this Agreement.

- 19.3 Subject to compliance by the parties with their respective obligations hereunder, title and risk in the Sale Assets shall be deemed to have passed to the Purchaser (and the sale and purchase will be deemed to have effect) on the Completion Date but with effect from the Effective Date.

20. EFFECT OF COMPLETION

Any provision of this Agreement which is capable of being performed after but which has not been performed at or before Completion and all indemnities and other undertakings contained in or entered into pursuant to this Agreement shall remain in full force and effect notwithstanding Completion.

21. CONDITION OF THE SALE ASSETS

The Vendor shall until the Completion Date, at its own expense, maintain and keep the Sale Assets substantially in the condition and state of repair and working order as they are at the date hereof (the occurrence of events insured against and fair wear and tear excepted).

22. ANNOUNCEMENTS AND CONFIDENTIALITY

22.1 Announcements

- 22.1.1 No announcement concerning the sale and purchase of the Business (comprising the Sale Assets) under this Agreement or the Sale Portfolio Assets under the Portfolio Transfer Agreement or any ancillary matter shall be made by either party without the prior written approval of the other. Such approval shall not be unreasonably withheld or delayed. This clause 22.1.1 does not apply in the circumstances described in clause 22.1.2.

- 22.1.2 A party may (after, to the extent possible under Applicable Law, consultation with the other parties) make an announcement concerning the sale and purchase of the Business (comprising the Sale Assets) under this Agreement or the Sale Portfolio Assets under the Portfolio Transfer Agreement or any ancillary matter if required by:

- 22.1.2.1 Applicable Law; or

- 22.1.2.2 requested by any securities exchange or Competent Authority or governmental body or any Tax Authority to which that party is subject, wherever situated,

in which case the party concerned shall take all such steps as may be reasonable and practicable in the circumstances to agree the contents of the announcement with the other parties before making the announcement.

- 22.1.3 The restrictions contained in this clause 22.1 shall continue to apply for a period of ten (10) years after the Completion Date.

22.2 Confidentiality

- 22.2.1 Subject to clause 22.2.2:

- 22.2.1.1 each party shall treat as confidential and not disclose or use any information received or obtained as a result of entering into or performing this Agreement and the Portfolio Transfer Agreement which relates to:

- 22.2.1.1.1 the provisions of such documents; or
- 22.2.1.1.2 the negotiations relating to such documents;
- 22.2.1.2 the Vendor shall treat, as confidential and not disclose or use any information concerning the Purchaser obtained or received as a result of the negotiation and entering into of this Agreement or the Portfolio Transfer Agreement; and
- 22.2.1.3 the Purchaser shall treat as confidential and not disclose or use any information obtained or received concerning the Vendor as a result of the negotiation and entering into of this Agreement and the Portfolio Transfer Agreement.
- 22.2.2 Notwithstanding the provisions of clause 22.2, a party may disclose or use any such confidential information if and to the extent:
 - 22.2.2.1 required by the Applicable Law of any relevant jurisdiction or for the purposes of any proceedings;
 - 22.2.2.2 required or requested by any securities exchange or Competent Authority or governmental body or any Tax Authority to which that party is subject wherever situated, whether or not the requirement or request for information has the force of law;
 - 22.2.2.3 such disclosure is made by sharing such information on a confidential basis with a Tax Authority in the course of dealing with its Tax affairs or the Tax affairs of any member of its group;
 - 22.2.2.4 required to vest the full benefit of either this Agreement or the Portfolio Transfer Agreement or any document or agreement referred to therein in that party;
 - 22.2.2.5 the disclosure is made to the professional advisers, auditors and bankers of that party on a 'need to know basis' and provided they have a duty to keep such information confidential;
 - 22.2.2.6 the information has come into the public domain through no fault of that party; or
 - 22.2.2.7 the other parties have given prior written consent to the disclosure,provided that any such information disclosed pursuant to clauses 22.2.2.1, 22.2.2.2 and 22.2.2.3 shall be disclosed (where reasonably practicable and not otherwise prohibited by Applicable Law) only after notice has been given to the other party of such requirement with a view to agreeing the content and timing of such disclosure.
- 22.2.3 The restrictions contained in this clause 22.2 shall continue to apply after Completion or the termination of this Agreement without limit in time.

23. LEGAL AND OTHER COSTS

23.1 Except as otherwise stated in any other provision of this Agreement:

- 23.1.1 each party shall pay its own costs and expenses in relation to the negotiations leading up to the sale and purchase of the Business and the preparation, execution and carrying into effect of this Agreement, the Portfolio Transfer Agreement and all other documents referred to in this Agreement;
- 23.1.2 the costs and expenses associated with making the applications to the Insurance Regulatory Authority under section 113 of the Insurance Act and undertaking all actions required under clauses 2.1.2 and 2.1.3 shall be borne by the parties on a 50:50 basis;
- 23.1.3 each party shall pay its own costs and expenses associated with obtaining any necessary corporate approvals to enter into and perform this Agreement, the Portfolio Transfer Agreement and any documents referred to therein; and
- 23.1.4 if any capital gains tax, stamp duty, VAT or similar transfer tax or duty is payable as a result of the sale and purchase of the Business (comprising the Sale Assets) and the Sale Portfolio Assets, such tax or duty shall be borne by the party primarily responsible for the same under the Applicable Law.

24. NOTICES

- 24.1 Any notice or communication under or in connection with this Agreement shall be in writing and shall be delivered by hand or sent by post or e-mail to the relevant addresses below or otherwise notified by the parties to each other from time to time. In the absence of evidence of earlier receipt, any notice or communication shall be deemed to have been received, if delivered by hand, at the time of delivery or, if sent by post, seven (7) days (inclusive of the date of posting) after the date on which it is put in the post and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted by registered post, or if sent by e-mail on receipt by the recipient's server. Notices between the parties shall be delivered to the address(es) or e-mail address(es) specified below and should be to the attention of the person(s) specified below:

For the Vendor:

Attention: Demba Sy

Physical Address: Allianz Plaza, 5th Floor, 96 Riverside Drive, Nairobi, Kenya

Postal Address: Post Office Box Number 66257-00800, Nairobi, Kenya

Email: Demba.sy@allianz.co.ke

Copied to:

Attention: Nandini Wilcke

Physical Address: Königinstrasse 28, 80802, Munich, Germany

Postal Address: Königinstrasse 28, 80802, Munich, Germany

Email address: nandini.wilcke@allianz.com

and

Attention: Sylv ester Nzioka

Email: sylv ester.nzioka@allianz.com

For the Purchaser:

Attention: Catherine Igathe¹

Physical Address: Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257 – 00800, Nairobi, Kenya **Postal Address:** Post Office Box Number 66257 - 00800, Nairobi, Kenya

Email: : Catherine.Igathe@jubileekenya.com

Copied to:

Attention: [to be inserted]

Physical Address: [to be inserted]

Postal Address: [to be inserted]

Email address: [to be inserted]

- 24.2 A notice or other communication received on a day other than a Business Day, or after business hours, in the place of receipt shall be deemed to be given on the next following Business Day in such place.

25. ENTIRE AGREEMENT

This Agreement and the Portfolio Transfer Agreement (together with any documents referred to in such agreements) constitute the whole agreement between the parties relating to the sale of the Business, the Sale Assets and the Sale Portfolio Assets by the Vendor to the Purchaser and the purchase of the Business, the Sale Assets and the Sale Portfolio Assets by the Purchaser and no party has relied on any representation made by any other party which is not a term of this Agreement.

26. STATUS OF AGREEMENT AND INVALIDITY

- 26.1 If there is an inconsistency between any of the provisions of this Agreement and the provisions of the Portfolio Transfer Agreement, the provisions of this Agreement shall prevail as between the parties.
- 26.2 If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected thereby.

¹ Jubilee and Allianz to confirm

27. **REMEDIES FOR BREACH**

Any remedy conferred on either party for breach of this Agreement shall be in addition and without prejudice to all other rights and remedies available to such party and the exercise of or failure to exercise any remedy shall not constitute a waiver by such party of any of its other rights and remedies.

28. **SET-OFF**

Each party waives and relinquishes any right of set-off or counterclaim, deduction or retention which it might otherwise have in respect of any payment which it may be obliged to make or procure to be made to the other party pursuant to this Agreement or any other document pertaining to the Transaction or otherwise.

29. **GOVERNING LAW AND DISPUTE RESOLUTION**

29.1 This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Kenyan law.

29.2 The parties intend to amicably resolve and settle any dispute or disagreement arising out of or in connection with this Agreement through discussions amongst the members of the Steering Committee (as defined in the Framework Agreement) from time to time.

29.3 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, that is not resolved pursuant to the foregoing shall be referred to and finally resolved by arbitration under the rules of arbitration of the London Court of International Arbitration (the **LCIA Rules**), which are deemed to be incorporated by reference into this clause 29. In such arbitration:

29.3.1 the number of arbitrators shall be three (3);

29.3.2 the seat, or legal place, of arbitration shall be London;

29.3.3 for convenience only, the venue of the arbitration shall be Nairobi;

29.3.4 the language to be used in the arbitral proceedings shall be English;

29.3.5 the governing law of this arbitration agreement shall be the substantive law of Kenya; and

29.3.6 the parties agree that in so far as any provision contained in the LCIA Rules is incompatible with applicable Kenyan law, that provision or relevant part of that provision is to be excluded.

29.4 The three (3) arbitrators shall be selected as follows:

29.4.1 the Vendor shall nominate one (1) arbitrator within ten (10) Business Days of the matter being referred to arbitration;

29.4.2 the Purchaser shall nominate one (1) arbitrator within ten (10) Business Days of the matter being referred to arbitration;

- 29.4.3 the two (2) arbitrators so nominated shall nominate the presiding arbitrator within ten (10) Business Days of the nomination of the second arbitrator; and
- 29.4.4 if an arbitrator or presiding arbitrator is not nominated within the time periods specified in clause 29.4.1 to 29.4.3, the LCIA, at the request of any party to the arbitration, shall appoint the arbitrator or presiding arbitrator.
- 29.5 Each of the parties consents that if more than one (1) arbitration is commenced pursuant to this clause 29 (irrespective of whether those arbitrations are brought by different parties), and those arbitrations relate to substantially similar issues, then those arbitrations should be consolidated into a single arbitration. Where it cannot be agreed between the parties, the LCIA Court shall determine whether multiple arbitrations relate to substantially similar issues. This clause 29.5 shall be taken as consent for the purposes of Article 22.1(ix) of the LCIA Rules.

30. NO WAIVER OF RIGHTS

The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents the further exercise of the right or remedy or the exercise of another right or remedy. The rights and remedies provided by this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

31. VARIATION

This Agreement shall not be varied, amended or cancelled and no such amendment, variation or cancellation shall be effectual or binding, unless such variation, amendment or cancellation shall be expressly agreed in writing by each party.

32. ASSIGNMENT AND OTHER DEALINGS

- 32.1 The benefits of this Agreement shall inure for the benefit of the successors and assigns of each of the parties.
- 32.2 Subject to the remainder of this clause 32, clause 11.2.2.2 and clause 17.2.1.1.2 the obligations of each party under this Agreement shall not be transferred to any other person or be assignable except with the prior written consent of the other party.
- 32.3 The Vendor may at any time assign, novate or otherwise transfer to Allianz any of its rights or obligations under this Agreement.
- 32.4 Without prejudice to the generality of clause 32.3, subject to clause 11.2.2.3 and clause 17.2.1.1.3 and unless otherwise agreed in writing between the parties, automatically upon the winding-up of the Vendor but with effect immediately prior to such winding-up, the Vendor shall, at such time, be deemed to have transferred all of its then surviving rights and obligations under this Agreement and Allianz shall, at such time, enjoy all the then surviving rights and benefits of the Vendor under this Agreement and hereby agrees to perform the Agreement (to the extent of those provisions of this Agreement still in force) and be bound by its then surviving terms in every way as if it were the original party to it in place of the Vendor.

33. GENERAL

- 33.1 All payments due to be made by the Purchaser hereunder and all costs, charges, expenses or remuneration shall, unless expressly stated otherwise, be deemed to be exclusive of any VAT or similar tax charged or chargeable in respect thereof and for which the Purchaser shall be liable to account.
- 33.2 The rights and remedies of the parties provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 33.3 Nothing in this Agreement shall create a partnership or joint venture between the parties and save as expressly provided in this Agreement, no party shall enter into or have authority to enter into any agreement or make any representation or warranty on behalf of or pledge the credit of or otherwise bind or oblige the other party.
- 33.4 This Agreement does not confer any rights on any person or party (other than the parties to this Agreement).
- 33.5 Each of the parties hereby agrees and confirms for the purposes of the Law of Contract Act (Chapter 23 of the Laws of Kenya) that it has executed this Agreement with the intention to bind itself to the contents hereof.

34. COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same document and shall take effect from the date set forth above.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties as of the day and year first above written.

Signed for and on behalf of)

ALLIANZ INSURANCE COMPANY OF KENYA LIMITED)

in the presence of)

)

)

)

Witness Name:

)

Director's name:

Address:

)

Date:

Occupation:

)

Date:

)

Signed for and on behalf of)

JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED)

in the presence of)

)

)

)

)

Witness Name:

)

Director's name:

Address:

)

Date:

Occupation:

)

Date:

)

Signed for and on behalf of)

ALLIANZ AFRICA HOLDING GMBH in the presence) _____

acting by Coenraad Vrolijk and Nandini Wilcke)
who, in accordance with the laws of the territory) Authorized Signatory

in which **ALLIANZ AFRICA HOLDING GMBH** is)
incorporated are acting under the authority of) Name:

ALLIANZ AFRICA HOLDING GMBH)
Date:

)

) _____

) Authorized Signatory

) Name:

) Date:

SCHEDULE 1
SUMMARY OF SALE ASSETS

1. INTANGIBLE ASSETS

Summary of the intangible assets is set out below:

##NOTE: PLEASE SEE FLASHDRIVE OR LINK.]

Full details of the intangible assets are set out in Annex A annexed hereto.

2. RECEIVABLES ARISING OUT OF DIRECT INSURANCE ARRANGEMENTS

A summary of the receivables arising out of the direct insurance arrangements is set out below:

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

Full details of the receivables arising out of the direct insurance arrangements are set out in Annex B annexed hereto.

3. REINSURERS' SHARE OF INSURANCE LIABILITIES AND RESERVES

A summary of the reinsurers' share of insurance liabilities and reserves is set out below:

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

Full details of the receivables arising out of the direct insurance arrangements are set out in Annex C annexed hereto.

4. DEFERRED ACQUISITION COSTS

A summary of the deferred acquisition costs is set out below:

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

Full details of the deferred acquisition costs are set out in Annex D annexed hereto.

5. GOVERNMENT SECURITIES HELD TO MATURITY

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

6. DEPOSITS WITH FINANCIAL INSTITUTIONS

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

SCHEDULE 2
WARRANTIES

1. Capacity, authority and title

1.1 The Vendor:

1.1.1 is validly incorporated, in existence and duly registered under Applicable Law; and

1.1.2 has the requisite capacity, power and authority to enter into and perform the Transaction Documents to which it is party and any other documents which are to be entered into by it at Completion.

1.2 The obligations of the Vendor under the Transaction Documents to which it is party constitute, and under each document to be delivered by it at Completion will, when delivered, constitute binding obligations of the Vendor in accordance with their respective terms.

1.3 The execution and delivery of, and the performance by the Vendor of its obligations under, the Transaction Documents to which it is party, and each document to be delivered by it at Completion, shall not:

1.3.1 result in a breach of any provision of its memorandum or articles of association;

1.3.2 result in a breach of, or constitute a default under, any instrument by which it is bound;

1.3.3 result in a breach of any Applicable Law by it is bound; or

1.3.4 require the consent, other than a consent that is set out in clause 2 of this Agreement, of its shareholders or of any other person.

2. Insolvency

No Insolvency Event is occurring or has occurred in relation to the Vendor and there are no circumstances which are likely to give rise to such an Insolvency Event.

3. Assets

The Vendor is the owner and has good title to all the Sale Assets.

4. Licences and consents

4.1 All Regulatory Permits required for or in connection with the carrying on of the Business have been obtained, are in full force and effect and their respective terms have been complied with by the Vendor.

- 4.2 So far as the Vendor is aware, no notice has been received by the Vendor that any Regulatory Permit may be suspended, cancelled, made subject to conditions or revoked and as far as the Vendor is aware there is no fact or circumstance which is reasonably likely to result in the suspension, cancellation, modification or revocation of any such licence, consent, permission or approval or that such will be made subject to any conditions.

5. Employment

- 5.1 There have been no proposals to materially amend the terms of employment or the service agreement of any Employee.
- 5.2 The Vendor regularly discharges its obligations in full in relation to salary, wages, fees commission, bonuses, overtime pay, holiday pay, sick pay and all other benefits and emoluments relating to its Employees in accordance with Applicable Law.
- 5.3 All amounts payable to any Tax Authority in respect of any Employee (including Tax deductible from an amount paid to such Employee and any social security or similar contributions required to be made in respect of employees) payable by the Vendor have been paid in due course and the Vendor has made all such deductions and retentions as should have been made under Applicable Laws.
- 5.4 There are no current claims, and, so far as the Vendor is aware, there are no pending or threatened claims, against the Vendor by any Employee.
- 5.5 The details of a provident/pension fund to which the Vendor is a party and by which it is bound or under which it has an obligation or liability (whether actual, contingent or prospective) to contribute or to provide funding for the provision of life assurance, retirement, death disability or other like benefits have been Disclosed.

6. Tax

- 6.1 All notices, returns, reports, accounts, computations, statements, assessments, claims, disclaimers, elections and registrations and any other necessary information which have, or should have, been submitted by the Vendor to any Tax Authority for the purposes of Tax have been made on a proper basis, were submitted within applicable time limits and were accurate and complete in all material respects.
- 6.2 Save for any delays caused by any applicable Tax Authority, all Tax for which the Vendor has been liable to account has been duly paid (insofar as such Tax ought to have been paid) and the Vendor has not received notice that any penalties, fines, surcharges or interest have been incurred.
- 6.3 The Vendor maintains materially complete and accurate records, invoices and other information in relation to Tax that meet all material legal requirements and enable the Tax Liabilities of the Vendor to be calculated accurately in all material respects.
- 6.4 Other than as may be required by Applicable Law or common practice, the Vendor is not liable to make to any person (including any Tax Authority) any payment in respect of any liability to Tax which is primarily or directly chargeable against, or attributable to, any other person.

6.5 The Accounts make full provision or reserve within generally accepted accounting principles for all Tax for which the Vendor is accountable at that date. Proper provision has been made and shown in the Accounts for deferred Tax in accordance with generally accepted accounting principles.

SCHEDULE 3
SUMMARY OF LIABILITIES

1. PAYABLES ARISING OUT OF DIRECT INSURANCE ARRANGEMENTS

This is premium paid at 31 December 2020 yet not allocated to identified policies as at 31 December 2020.

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

2. OTHER PAYABLES

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

3. REINSURANCE SHARE OF DAC

Please see below for a summary of the reinsurance share of the deferred acquisition costs:

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

4. ONGOING LITIGATIONS

Full details of the Ongoing Litigation instituted or threatened against the Seller are out in Annex E annexed hereto.

The following claims with the Seller as claimant are pending resolution:

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

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SCHEDULE 4
ACKNOWLEDGEMENT OF LIABILITIES

This **DEED of ACKNOWLEDGMENT** is made on _____ by **JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED**, a private limited liability company incorporated under the laws of the Republic of Kenya with registration number PVT-8LUYEXV and whose address for the purposes hereof is Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257 – 00800, Nairobi, Kenya (hereinafter referred to as the **Purchaser** which expression shall, where the context so requires, include the Purchaser's successors in title and assigns thereto).

WHEREAS

- A. By a Business and Asset Transfer Agreement and a Portfolio Transfer Agreement (the **Agreements**) dated _____ and _____ respectively and made by and between the Vendor and the Purchaser agreed that on Completion, the Vendor as legal and beneficial owner would transfer, assign and convey free of any encumbrances whatsoever the Business to the Purchaser which would be deemed to have effect from the Effective Date.
- B. The approval of the Insurance Regulatory Authority to the requirements of the Insurance Act (Chapter 487 of the Laws of Kenya) was published in the Kenya Gazette on the _____ and the other conditions precedent referred to in clause 2 of the Business and Asset Transfer Agreement having been satisfied or waived on terms mutually acceptable to the Vendor and the Purchaser.
- C. Words and phrases not otherwise defined herein shall have the meaning ascribed to them in the Agreements.

NOW THIS DEED WITNESSETH that in pursuance of the said Agreements, the Purchaser hereby irrevocably acknowledges that it has assumed as from the Effective Date all the Liabilities of the Vendor whatsoever and wheresoever arising under the Sale Assets, Sale Portfolio Assets, the Liabilities and the Sale Portfolio Liabilities pursuant to the Agreements **AND** covenants to observe and perform all the obligations arising thereunder.

IN WITNESS WHEREOF the Purchaser has executed this deed on the day and year first before written.

EXECUTED as a deed by

JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED

acting by _____

in the presence of _____

Witness Name:

Address:

Occupation:

Date:

SCHEDULE 5
EMPLOYEES

SCHEDULE 6
DEED OF ASSIGNMENT

This Deed of Assignment is made on _____ by **ALLIANZ INSURANCE COMPANY OF KENYA LIMITED**, a private limited liability company incorporated under the laws of the Republic of Kenya with registration number CPR/2014/129953 and whose address for the purposes hereof is Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257-00800, Nairobi, Kenya (hereinafter referred to as the **Vendor** which expression shall, where the context so requires, include the Vendor's successors in title and permitted assigns).

WHEREAS

- A. By a Business and Asset Transfer Agreement and a Portfolio Transfer Agreement (the **Agreements**) dated _____ and _____ respectively and made between the Vendor and **JUBILEE ALLIANZ GENERAL INSURANCE (K) LIMITED**, a private limited liability company incorporated under the laws of the Republic of Kenya with registration number PVT-8LUYEXV and whose address for the purposes hereof is Allianz Plaza, 5th Floor, 96 Riverside Drive, Post Office Box Number 66257 – 00800, Nairobi, Kenya (hereinafter referred to as the **Purchaser** which expression shall, where the context so requires, include the Purchaser's successors in title and assigns thereto) agreed that on the **Completion**, the Vendor as legal and beneficial owner would transfer, assign and convey free of any encumbrances whatsoever the general insurance business of all classes (excluding class 12 (*medical*)) of the Vendor (the **Business**) to the Purchaser which would be deemed to have effect from the Effective Date.
- B. The approval of the Insurance Regulatory Authority to the requirements of the Insurance Act (Chapter 487 of the Laws of Kenya) was published in the Kenya Gazette on the _____ and the other conditions precedent referred to in clause 2 of the Business and Asset Transfer Agreement having been satisfied or waived on terms mutually acceptable to the Vendor and the Purchaser.
- C. Words and phrases not otherwise defined herein shall have the meaning ascribed to them in the Agreements.

Now in pursuance of the Agreements and in consideration of the premises thereunder, this Deed witnesses as follows:

1. on Completion the Vendor as beneficial owner hereby transfers, assigns and conveys unto the Purchaser the Business and all rights and interests therein which transfer shall be deemed to have taken effect from the 31 December 2020 (now past) being the Effective Date;
2. the Vendor further covenants to deliver to the Purchaser all documents of title in respect of the Sale Assets and Sale Portfolio Assets and to execute all such documents and do all such assurances and things as the Purchaser may reasonably require of the Vendor to perfect the effective legal transfer, conveyance and assignment of the Business to the Purchaser; and
3. the Vendor hereby declares that until such time as the transfer, assignment and conveyance of the Sale Assets and the Sale Portfolio Assets has become fully effective, the Vendor shall hold that part of the Sale Assets and the Sale Portfolio Assets remaining untransferred for the time being upon trust and as trustee for the Purchaser.

IN WITNESS WHEREOF the Vendor has executed this deed on the day and year first before written.

EXECUTED as a deed by)

ALLIANZ INSURANCE COMPANY OF KENYA LIMITED)

acting by _____)

a director)

in the presence of)

_____)

_____)

Director's name:

_____)

Date:

Witness Name:)

Address:)

Occupation:)

Date:)

SCHEDULE 7
TRANSFERRED CONTRACTS

SCHEDULE 8

LIMITATION OF LIABILITY AND CONDUCT OF CLAIMS LIMITATION OF LIABILITY

- 1.1 The Vendor shall be under no liability in respect of any Claim unless it shall have received written notice thereof from the Purchaser: (i) in the case of a Claim under the Tax Warranties, no later than five (5) years after the relevant Tax Warranty was made ; and (ii) in the case of any other Claim, no later than two (2) years after the relevant Warranty was made, provided that the Claim shall (if not previously satisfied, settled or withdrawn) be deemed to have been waived or withdrawn at the expiration of: (i) six (6) months after the sixth (6th) anniversary of the relevant Tax Warranty being made; or (ii) the second (2nd) anniversary of the relevant Warranty being made (as applicable), in each case unless legal proceedings in respect thereof shall then already have been commenced against the Vendor.
- 1.2 The Vendor shall be under no liability in respect of any Claim:
- (a) to the extent such liability would not have arisen but for something voluntarily done or omitted to be done by the Purchaser after Completion except where such aforesaid voluntary action or omission was as a consequence of:
 - (i) something done or omitted to be done in the ordinary course of business of the Purchaser;
 - (ii) any act or omission of the Purchaser or any shareholder or director, officer or employee thereof or any associate or connected person of all or any of the foregoing, after Completion; or
 - (iii) a legally binding commitment created on or before the occurrence of Completion;
 - (b) to the extent that specific provision for or a specific reserve in respect of such liability was made in the Accounts;
 - (c) to the extent that such liability arises or is increased as a result only of any change in legislation (or the introduction of new legislation) enacted after the date on which the relevant Warranty is made;
 - (d) if such liability arises in respect of Tax for which the Vendor is primarily liable and which arose in the ordinary course of business of the Vendor between the Accounts Date and the Completion Date;
 - (e) to the extent that the Purchaser has received indemnity (less any Tax thereon and all reasonable costs, charges and expenses incurred by the Purchaser in recovering that sum from its insurers (including but not limited to any increases in premium)) in respect of the loss or damage suffered by it which gives rise to the Claim under the terms of any insurance policy of the Purchaser; and
 - (f) if the Claim has previously been satisfied in full pursuant to any other provision of this Agreement or any agreement entered into pursuant hereto.
- 1.3 The total aggregate liability of the Vendor under the Warranties that it gives pursuant to clause 15 shall not exceed an amount equal to thirty-five per centum (35 %) of the Consideration.

1.4 In the event that the Vendor irrevocably and unconditionally satisfies in full its liability in respect of a Claim and subsequently: (i) the Purchaser recovers or receives from a third party, a sum which is referable to the subject matter of such Claim; or (ii) after the occurrence of Completion, the Purchaser recovers or receives from a third party a sum which is referable to the subject matter of such Claim, the Purchaser shall promptly after the receipt of such sum pay to the Vendor the net amount received after deducting:

- (a) any costs and expenses reasonably incurred by the Purchaser in recovering such sum from the third party (including any Tax payable by reason of the receipt thereof); and
- (b) any amounts for which the Vendor remains liable in respect of such Claim,

but not in any event exceeding the amount originally paid to the Purchaser by the Vendor in respect of the Claim concerned.

1.5 The Purchaser shall not be entitled to recover any loss or damages:

- (A) in respect of any individual Claim (or series of related Claims with respect to related facts or circumstances) unless the amount of such individual Claim is in excess of Kenya Shillings one million (KES 1,000,000); and
- (B) in respect of any Claim or Claims unless the aggregate amount of all such Claims exceeds Kenya Shillings ten million (KES 10,000,000).

1.6 The Purchaser shall be entitled to make a Claim and other claims by reference to the same subject matter, but any payment made by the Vendor to the Purchaser pursuant to a Claim shall *pro tanto* satisfy any other claim which is capable of being made by the Purchaser under this Agreement in respect of the same subject matter.

1.7 If any potential Claim under the Warranties or the Tax Indemnity shall arise by reason of a liability which, at the time such Claim is notified to the Vendor, is contingent only, then the Vendor shall not be under any obligation to make any payment pursuant to such Claim until such time as the liability ceases to be contingent and becomes actual.

1.8 Nothing in this Agreement or otherwise shall be deemed to relieve the Purchaser from any common law duty to mitigate any loss or damage incurred by it.

2. CONDUCT OF CLAIMS

2.1 If, at any time after Completion, any claim is made by a third party or any liability to a third party (actual or contingent) comes to the notice of the Purchaser which causes or would cause the Vendor to be liable under the Warranties or the Tax Indemnity (a **Third Party Claim**), then the Purchaser shall forthwith notify the Vendor of the same in writing and:

- (a) if the Vendor makes a request in writing within thirty (30) calendar days after such notification by the Purchaser, the Vendor shall be entitled (at its own expense) to:
 - (i) take sole conduct of the Third Party Claim; or

- (ii) instruct the Purchaser to take such action as the Vendor may reasonably require to avoid, contest, dispute, resist, appeal, compromise or defend the Third Party Claim (including, but without limitation, making counter-claims and exercising all rights of set-off against third parties),

provided that: (i) this sub-paragraph (a) shall not apply to a Third Party Claim that involves or may involve any Competent Authority or Tax Authority; and (ii) the Vendor shall not take any act or make any omission which has or is likely to have a detrimental effect on the Purchaser (and, if the Vendor takes such an act or makes such an omission, the Purchaser shall be entitled immediately to take back conduct of the Third Party Claim and the Vendor shall have no further conduct in respect of such Third Party Claim);

- (b) subject to the Vendor providing any undertaking of confidentiality that the Purchaser reasonably requires, the Purchaser shall provide the Vendor with all such information concerning the Third Party Claim as the Vendor may reasonably request in writing;
- (c) the Third Party Claim shall not be compromised or settled by the Purchaser, without the consent of the Vendor (such consent not to be unreasonably withheld, conditioned or delayed); and
- (d) the Vendor shall in any event keep the Purchaser informed promptly as to all the steps which are being taken in connection with the Third Party Claim,

provided that this paragraph 2.1 shall only apply if Completion has occurred.

ANNEX A
INTANGIBLE ASSETS

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.

ANNEX B
PREMIUM RECEIVABLES

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.

ANNEX C

REINSURERS' SHARE OF INSURANCE LIABILITIES AND RESERVES

[##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

Internal

ANNEX D

DEFERRED ACQUISITION COSTS

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.]

ANNEX E
ONGOING LITIGATION

##NOTE: PLEASE SEE FLASH DRIVE OR LINK.