



MARULA HILL
CORPORATE AND INDUSTRIAL PARK

OFFER TO PURCHASE

MEMORANDUM OF AGREEMENT OF SALE MADE AND ENTERED INTO BY AND BETWEEN:

BIG CEDAR TRADING 22 (PROPRIETARY) LIMITED

Registration number: 2002/027937/07

Herein represented by JOHN MARK DOVEY, duly authorized thereto by virtue of a resolution
(Hereinafter referred to as the SELLER)

AND

Identity /Company/Close Corporation/Trust No _____

Marital status: Married in/ Married out/ Unmarried/ Not applicable

Name of representative of entity: _____

Duly authorised thereto by virtue of a resolution

(Hereinafter referred to as the PURCHASER)

Relating to the following PROPERTY:

Erf _____ ROSSLYN EXTENSION _____ Township, Registration Division J.R.,

Province of GAUTENG

Extent: _____

And as indicated on the SITE LAYOUTPLAN attached hereto as Annexure "B"

(Hereinafter referred to as THE PROPERTY)



van der merwe du toit inc.

brooklyn place, cnr. bronkhorst & dey streets, brooklyn, pretoria

☎ 499, pretoria, south africa, 0001

➔ +27 12 452 1300

✉ +27 12 452 1302

WITNESSETH:

WHEREAS the SELLER is/will be the registered owner of the hereinafter mentioned LAND;

AND WHEREAS the SELLER intends to develop an Industrial Park on the hereinmentioned land;

AND WHEREAS the PURCHASER wishes to purchase THE PROPERTY as set out on page 1 of this OFFER TO PURCHASE;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

The SELLER hereby sells to the PURCHASER THE PROPERTY, subject to the following conditions, as well as the conditions of the AGREEMENT OF SALE as set out and contained in Annexure A hereto:

1. PURCHASE PRICE

The PURCHASE PRICE is the sum of R _____ (_____ RAND), which PURCHASE PRICE is based on a price of R _____ (_____) per m² (excluding VAT) of the final determined area of THE PROPERTY, as will appear from the SITE LAYOUTPLAN annexed hereto as Annexure "B" and as read together with clause 10.2 of the CONDITIONS OF THE AGREEMENT TO SALE, attached hereto as Annexure "A"; and payable by the PURCHASER/S to the SELLER against registration of transfer of THE PROPERTY hereby sold, into the name/s of the PURCHASER/S, payable as follows:

1.1A DEPOSIT of R _____ (_____ RAND) representing 10% (TEN PERCENTUM) of the PURCHASE PRICE, is payable within 7 (SEVEN) days from DATE OF SIGNATURE of this agreement and payable into the following account:

Account name: VAN DER MERWE DU TOIT INC
 Bank: NEDBANK BUSINESS PRETORIA
 Account nr: 149 710 4262
 Branch code: 149 745

Reference number to be quoted on confirming fax to 086 676 0984: _____ to be held in the SELLER'S ATTORNEYS' trust account on an interest bearing account in favour of the PURCHASER;

1.2 For the balance of the PURCHASE PRICE, the PURCHASER shall furnish the SELLER, or his/her Nominee, with a Bank guarantee or guarantees, which said guarantee(s) will be made payable free of charge at Pretoria, against registration of transfer of THE PROPERTY hereby sold; or the PURCHASER shall DEPOSIT the said amount, which said DEPOSIT shall be held in the SELLER'S ATTORNEYS' trust account on an interest bearing account in favour of the PURCHASER.

2. CONDITIONS OF SALE

The PURCHASER further acknowledges that he is aware that on acceptance of this offer by the SELLER, he will be bound by the conditions of sale contained in "Annexure A" hereto which has been initialed by the PURCHASER for identification purposes.

3. ADDRESS AND CONTACT DETAILS OF PARTIES

3.1 Seller's address: 27 Park Avenue North, Highway Business Park
 Old Johannesburg Road, Rooihuiskraal
 Contact details: Telephone: +27 012 661 6440
 Telefax: +27 012 661 5215



3.2 PURCHASER's Address:

Contact Details:

Telephone: _____

Telefax: _____

Cell No: _____

4. FURTHER CONDITIONS

SAMPLE



SIGNED at _____ on this _____ day of _____ 2007.

AS WITNESSES:

1. _____

2. _____

q.q.SELLER

SIGNED at _____ on this _____ day of _____ 2007

AS WITNESSES:

1. _____

2. _____

q.q. PURCHASER/S

SIGNED at _____ on this _____ day of _____ 2007.

AS WITNESSES:

1. _____

2. _____

AGENT



SCHEDULE OF ANNEXURES:

1. ANNEXURE A - CONDITIONS OF AGREEMENT OF SALE
2. ANNEXURE B – SITE LAYOUTPLAN
3. ANNEXURE C – MEMORANDUM AND ARTICLES OF OWNERS' ASSOCIATION
4. ANNEXURE D – DEVELOPMENT AND ARCHITECTURAL GUIDELINES, WITH
TYPICAL FEE PROPOSAL





MARULA HILL

CORPORATE AND INDUSTRIAL PARK

ANNEXURE A – CONDITIONS OF AGREEMENT OF SALE

1. DEFINITIONS

- 1.1 the ESTATE AGENT GARNETT-ADAMS MANAGEMENT CONSULTING (PROPRIETARY) LIMITED
- 1.2 APPROPRIATE AUTHORITY means any governmental, state, provincial, municipal or local authority empowered by law to act in respect of THE PROPERTY;
- 1.3 THE ACT Alienation of Land Amendment Act No. 103 of 1998, where applicable.
- 1.4 CONDITIONS OF ESTABLISHMENT means the conditions on which the TOWNSHIP is declared an approved township;
- 1.5 DATE OF SALE means the date of acceptance of the OFFER TO PURCHASE by the SELLER;
- 1.6 DEPOSIT means the sum as stated in Clause 1.1 of the OFFER TO PURCHASE;
- 1.7 DATE OF SIGNATURE means the DATE OF SIGNATURE of this OFFER by the PURCHASER;
- 1.8 ESSENTIAL SERVICES means services in respect of electricity and water supply, sewerage removal and waste disposal, and any other services deemed an essential service, by law;
- 1.9 GENERAL PLAN means the GENERAL PLAN of the TOWNSHIP, as approved by the Surveyor General.
- 1.10 THE LAND means the townships already / to be established, on a portion of portion 164(a portion of portion 1) of the farm KLIPFONTEIN No 268, Registration Division J.R., Province Gauteng, of which the TOWNSHIP in which THE PROPERTY hereby purchased is situated, forms a part.
- 1.11 MEMORANDUM AND ARTICLES means the Memorandum and Articles of Association of the THE OWNER'S ASSOCIATION, subject to any amendment thereto required by the Registrar of Companies;
- 1.12 OFFER TO PURCHASE means the OFFER TO PURCHASE to which these CONDITIONS OF SALE are attached, as entered into between the SELLER and the PURCHASER in respect of THE PROPERTY, the terms of which are construed as forming an integral part of these CONDITIONS OF SALE;
- 1.13 REGISTRATION OF TOWNSHIP means the registration of THE TOWNSHIP, on which the PROPERTY is situated, as an approved TOWNSHIP;
- 1.14 THE PROPERTY means the erf in the TOWNSHIP as described in the attached OFFER TO PURCHASE and indicated on the attached Site Layout Plan, marked as



- 1.15 PURCHASER includes Annexure B Hereto; means the PURCHASER named in the OFFER TO PURCHASE, and its successors-in-title and permitted assigns;
- 1.16 PURCHASE PRICE means the PURCHASE PRICE of THE PROPERTY as stated in the OFFER TO PURCHASE and, if applicable, adjusted according to clause 10.2 hereof;
- 1.17 THE OWNERS' ASSOCIATION means the MARULA HILL CORPORATE PARK OWNERS' ASSOCIATION;
- 1.18 SELLER means the seller named in the OFFER TO PURCHASE and includes its successors-in-title and permitted assigns;
- 1.19 SELLER'S ATTORNEYS, means Sonja Janse van Rensburg of the firm VAN DER MERWE DU TOIT INCORPORATED
Brooklyn Place
C/o Bronkhorst & Dey streets
Brooklyn
- 1.20 TOWNSHIP means the TOWNSHIP in which the erf as indicated in the OFFER TO PURCHASE annexed hereto is situated;
- 1.21 LOAN AMOUNT means the amount of R _____ for which the PURCHASER intends to apply for a loan;
- 1.22 LOAN DATE means 30 (THIRTY) days from date of this agreement;
- 1.23 GUARANTEE DATE means 21 (TWENTY ONE) days from date of certification by the consulting engineers to the TOWNSHIP of completion of services, or from date of written request thereto by the SELLER'S ATTORNEYS;
- 1.24 INITIAL LEVY R _____ (_____) per m² per month
- 1.25 AGENT'S COMMISSION For purposes of this agreement is payable by the SELLER.
- 1.26 TOWNSHIP DEVELOPER means BIG CEDAR TRADING 22 (PROPRIETARY) LIMITED, Registration number 2002/027937/07

2. PURCHASE PRICE

The PURCHASE PRICE shall be the sum as stated in the OFFER TO PURCHASE, and shall be payable as follows:

- 2.1 The PURCHASER shall pay the DEPOSIT to the SELLER'S ATTORNEYS as per the provisions of clause 1 of the OFFER TO PURCHASE.
- 2.2 The PURCHASER shall pay to the SELLER the balance of the PURCHASE PRICE against registration of transfer into the name of the PURCHASER. The balance of the PURCHASE PRICE shall be secured by guarantee(s) issued in favour of the SELLER or its nominee by a licensed financial institution acceptable to the SELLER in a form satisfactory to the SELLER, which guarantees shall be delivered to the SELLER'S ATTORNEYS on/or before the GUARANTEE DATE, or the balance of the PURCHASE



PRICE shall be Deposited as set out in clause 1.2 of the OFFER TO PURCHASE.

- 2.3 The guarantee referred to in clause 2.2 above shall be issued in favour of the SELLER or its nominee and shall contain an unconditional undertaking to pay the guarantee against registration of transfer of THE PROPERTY in the name of the PURCHASER.
- 2.4 Notwithstanding the provisions of clause 18, should the PURCHASER fail to deliver the guarantees in 2.2 timeously or fail to comply with the balance of the PURCHASER's obligations in terms of this agreement, then without notice, penalty interest shall accrue at 2% (TWO PERCENT) above the prime overdraft rate charged by the Seller's bankers from time to time, calculated on the PURCHASE PRICE as stated in the OFFER TO PURCHASE. The penalty interest shall accrue from the date on which the guarantee was due in terms of clause 2.2 until THE Actual date guarantees are delivered or to the date on which the PURCHASER complies with its obligations in terms of this agreement, whichever is the later, and shall be payable prior to registration of transfer.

3 SUSPENSIVE CONDITIONS

- 3.1 This agreement is subject thereto that the PURCHASER obtains and receives approval of a loan from a bank, or other recognised financial institution, acceptable to the SELLER, for the purchase of THE PROPERTY and for the LOAN AMOUNT, at prevailing rates and conditions, on/or before the LOAN DATE, or such longer period as to which the parties may agree whether before or after the LOAN DATE, failing which, this agreement shall be of no force or effect.
- 3.2 The PURCHASER undertakes to sign all and any documents relating to such application and to do all such things as may be required to make application for a loan to a financial institution. The PURCHASER acknowledges and declares that he is familiar with all the relevant requirements of financial institutions relating to the granting of a bond based, inter alia, on the PURCHASER'S income and liabilities, ability to pay, and the total exposure of the PURCHASER towards the relevant financial institution. The PURCHASER warrants that he qualifies in all aspects for the grant of a bond to him by the relevant financial institution in the amount set out in Clause 1 of the OFFER TO PURCHASE.
- 3.3 The PURCHASER undertakes to within 15 (fifteen) days from DATE OF SIGNATURE hereof:
 apply comprehensively and exhaustively for the said bond;
 obtain and receive the said bond in principle;
 inform the SELLER in writing immediately upon the grant of such bond to him.
- 3.4 The PURCHASER hereby irrevocably authorises and appoints the SELLER or its appointed AGENT in rem suam to make application on his behalf for the loan set out in Clause 3.1 and undertakes immediately to sign all or any documents relating thereto. The PURCHASER undertakes to accept such loan approval obtained as per standard banking conditions. In order to attain these objects the PURCHASER undertakes to furnish the SELLER or its appointed AGENT with all the required information and documents (and sign all required documents and/or forms) so that application may be made for and on behalf of the PURCHASER for such bond. The PURCHASER hereby irrevocably authorises the bank or financial institution that refuses/declines or qualifies the PURCHASER'S own application, to furnish all documents and supporting annexures, which the PURCHASER had supplied to such institution in support of his application, to the SELLER or its appointed AGENT and hereby expressly waives any privilege or bank-client fiduciary relationship, relating to the aforesaid loan application.

4 OCCUPATION AND POSSESSION

- 4.1 Occupation and possession of THE PROPERTY shall be delivered to the PURCHASER on the DATE OF REGISTRATION, from which date, all risk, profit and loss in respect of THE PROPERTY, shall pass to the PURCHASER.
- 4.2 The PURCHASER shall be liable for all rates, charges and taxes, whether presently payable or in the future, levied by any competent authority, from DATE OF REGISTRATION. Should any rates, taxes and



charges be paid in advance by the SELLER prior to the date of transfer, then the PURCHASER shall on demand reimburse such rates and charges to the SELLER.

- 4.3 Should the PURCHASER take occupation before the date of transfer no tenancy shall thereby be created and under no circumstances will the PURCHASER acquire any lien or be entitled to any compensation for any improvements effected to THE PROPERTY. Should this sale terminate for whatever reason prior to transfer, the PURCHASER shall be obliged to vacate THE PROPERTY immediately.

5 TRANSFER

5.1 The SELLER'S ATTORNEYS shall proceed to transfer THE PROPERTY into the name of the PURCHASER as soon as:

- 5.1.1 the PURCHASER has secured payment of the PURCHASE PRICE and shall have paid all other amounts due under these conditions of sale in accordance with the terms hereunder, including interest payable and rates and charges, if any; and
- 5.1.2 the PURCHASER has paid all costs in connection with the registration of transfer and registration of his bond (if applicable), including the conveyancing fees and transfer duty payable in terms of this Agreement, as well as the legal costs for the preparation of these Conditions of Sale. The PURCHASER undertakes to pay such costs and fees to the SELLER'S ATTORNEYS on demand; and
- 5.1.3 the PURCHASER has provided all information necessary for the purposes of the transfer to the SELLER'S ATTORNEYS and has signed all documentation relating to the transfer of THE PROPERTY on demand of the SELLER'S ATTORNEYS.

5.2 If the PURCHASER fails to comply with any of the provisions as set out in clause 5 as aforementioned within 7 (SEVEN) days of request therefore by the SELLER'S ATTORNEYS, the PURCHASER shall, notwithstanding the provisions of clause 18, be liable for penalty interest in terms of the provisions of clause 2.4 above.

5.3 For purposes of the registration progress, the PURCHASER agrees that the SELLER'S ATTORNEYS receive instructions from the financial institution approving its bond, to the registration of such bond, the registration costs of which will also be for the account of the PURCHASER.

6 OWNERS' ASSOCIATION AND CONDITIONS OF TITLE

6.1 The PURCHASER acknowledges that it is aware that it is the aim to achieve a high standard of development within the TOWNSHIP. The PURCHASER acknowledges further that as a consequence of this aim, an OWNERS' ASSOCIATION has been / will be established to control security and generally to manage and administer the communal interests of owners of erven in the TOWNSHIP, as will more fully appear from the MEMORANDUM AND ARTICLES of THE OWNER'S ASSOCIATION.

6.2 In order to enable THE OWNER'S ASSOCIATION to fulfil the function for which it was established, the PURCHASER hereby acknowledges that by signature of the OFFER TO PURCHASE, the PURCHASER shall be deemed to have applied for membership of THE OWNER'S ASSOCIATION and agrees so to do subject to the MEMORANDUM AND ARTICLES, which membership shall be granted to the PURCHASER on registration of transfer of THE PROPERTY into the name of the PURCHASER;

6.3 The PURCHASER hereby agrees as follows:

- 6.3.1 to abide by the MEMORANDUM AND ARTICLES and adhere to any rules or by-laws made by THE OWNER'S ASSOCIATION, from time to time, pursuant to its MEMORANDUM AND ARTICLES.
- 6.3.2 to remain a member of THE OWNER'S ASSOCIATION and be bound to its provisions for as long as he remains the registered owner of THE PROPERTY;
- 6.3.3 should the PURCHASER sell THE PROPERTY he will be obliged to inform the new PURCHASER of THE OWNER'S ASSOCIATION and the new PURCHASER'S obligations in terms of the provisions of the MEMORANDUM AND ARTICLES;
- 6.3.4 as from the date of this agreement the PURCHASER shall obtain the prior written consent of



THE OWNER'S ASSOCIATION to sell or alienate THE PROPERTY, or the controlling interest or majority shareholding within the PURCHASER, which consent will not be unreasonably withheld.

6.4 The PURCHASER hereby agrees that, in addition to all other conditions of title, to the registration of the following conditions, in this form or in such form as may be determined by the Registrar of Deeds, which conditions are imposed as conditions in favour of THE OWNER'S ASSOCIATION, and will be / have been registered against the title deed to THE PROPERTY, namely:

- i) Any owner of an erf, or any subdivision thereof, or any interest therein, or any unit as defined in terms of the Sectional Titles Act, shall automatically become and shall remain a member of THE OWNER'S ASSOCIATION and be bound by its Resolutions in terms of its powers as set out in the MEMORANDUM AND ARTICLES OF ASSOCIATION until such time as he/she ceases to be an owner as aforesaid. No erf or any subdivision thereof, or interest therein, or any unit thereon, shall be transferred to any person who has not committed himself/herself, to the satisfaction of THE OWNER'S ASSOCIATION, to become a member of THE OWNER'S ASSOCIATION and who has irrevocably agreed in writing to abide by the MEMORANDUM AND ARTICLES and Rules of such ASSOCIATION .
- ii) The owner of an erf or any subdivision thereof, or any interest therein, or any unit as defined in terms of the Sectional Titles Act, shall not be entitled to transfer the erf or any subdivision or any interest therein, or unit thereon, without a clearance certificate from THE OWNER'S ASSOCIATION that all monies owing to the ASSOCIATION have been paid, and that at the date of transfer the transferor is not in breach of any of the rules of the ASSOCIATION or any of the terms and conditions of this agreement."

6.5 A copy of the MEMORANDUM AND ARTICLES together with the House Rules imposed by THE OWNER'S ASSOCIATION, will lay open for inspection during office hours at the Sales Office of the TOWNSHIP DEVELOPER. The PURCHASER therefore acknowledges that he is fully acquainted with the duties imposed upon members of THE OWNER'S ASSOCIATION in terms of the MEMORANDUM AND ARTICLES attached as Annexure C.

7. ARCHITECTURAL GUIDELINES

7.1 It is specifically recorded that the PURCHASER is hereby bound to the

- Building plans, specification and schedule of finishes which have been submitted to and approved by the ASSOCIATION;
- minimum design criteria;
- the Development and Architectural Guidelines of MARULA HILL CORPORATE PARK (attached hereto as Annexure D);
- rules prescribed by THE OWNER'S ASSOCIATION from time to time,

in terms of the MEMORANDUM AND ARTICLES of THE OWNER'S ASSOCIATION.

7.2 THE PROPERTY is sold further subject to the following conditions imposed and enforceable by the SELLER or its nominee and which may be incorporated in THE PROPERTY's Title Deed in a form acceptable to the Registrar of Deeds:

"The PURCHASER undertakes to commence with construction on THE PROPERTY to the reasonable satisfaction of the SELLER within 3 (THREE) years of registration of THE PROPERTY into the name of the first PURCHASER of THE PROPERTY and to complete (which, for purposes hereof, shall be deemed to have occurred upon the issue of an occupation certificate) such building works within 1 (one) year after commencement of construction, or within such extended period as the SELLER at its sole discretion may allow in writing, failing which the SELLER shall be entitled (but not compelled) to:

- (i) claim that THE PROPERTY be re-transferred to the SELLER at the cost of the PURCHASER against either payment to the PURCHASER, within the sole discretion of the SELLER, of the original PURCHASE PRICE or the prevailing market price without adding any interest; and/or
- (ii) claim interest on the PURCHASE PRICE at a rate of 15% (FIFTEEN PERCENT) per



annum for the period that the PURCHASER is in default, which amount is to be calculated monthly in arrears and will be payable monthly on or before the seventh at each and every succeeding month.”

7.3 It is further recorded that notwithstanding the PURCHASER being granted membership of THE OWNER'S ASSOCIATION upon transfer of THE PROPERTY in it's name, and therefore being subject to the duties imposed on members in terms of the MEMORANDUM AND ARTICLES, should the PURCHASER commence with any building, walling, fencing, exterior lighting or signage prior to the registration of THE PROPERTY into it's name, the PURCHASER shall be bound by the MEMORANDUM AND ARTICLES of THE OWNER'S ASSOCIATION as if registration in it's name has already been effected.

7.4 No building works in terms of clause 7.3 may be erected on THE PROPERTY, prior to registration, without the written consent of the SELLER, first being obtained and which building works are to be carried out in strict accordance with the Architectural Guidelines.

8. **BUILDING CONTRACTOR**

8.1 The PURCHASER must ensure that the Building Contractor to be used by the PURCHASER to erect the building on THE PROPERTY, is registered and accredited by the TOWNSHIP DEVELOPER/OWNERS' ASSOCIATION.

8.2 The PURCHASER and/or Building Contractor will not be allowed to carry on any building works on THE PROPERTY unless he is in possession of the two abovementioned Registration Certificates.

8.3 The Registration Certificate issued by the TOWNSHIP DEVELOPER/HOME OWNER'S ASSOCIATION will only be valid for a period of 12 (TWELVE) months after the issuing of such certificate and the PURCHASER and Building Contractor will therefore have to apply for such registration certificate on a yearly basis.

8.4 The TOWNSHIP DEVELOPER / HOME OWNER'S ASSOCIATION shall be entitled to refuse re-registration of any building contractor, should the standard of work and adherence to the Architectural Guidelines and/or security rules and management and control of the employees of the Contractor or of any of its sub-contractors, not be to the satisfaction of the TOWNSHIP DEVELOPER / HOME OWNER'S ASSOCIATION.

9. **LEVIES**

As from date of transfer the PURCHASER shall be liable for payment to THE OWNER'S ASSOCIATION of a levy as determined by THE OWNER'S ASSOCIATION, and which levy shall be utilised inter alia towards maintenance of PROPERTY belonging to THE OWNER'S ASSOCIATION and the security fence as well as payment of disbursements relating to security matters and for such other purposes as the constitution of THE OWNER'S ASSOCIATION may prescribe. Such levy shall not include rates and taxes for which the PURCHASER shall remain liable as provided for in clause 3 hereof.

10. **VOETSTOOTS**

10.1 The PURCHASER acknowledges that he has inspected THE PROPERTY and the GENERAL PLAN as marked of the TOWNSHIP, and hereby acknowledges that he is fully acquainted with all relevant particulars relating to THE PROPERTY, including the situation and extent thereof on the GENERAL PLAN;

10.2 The parties place on record that the envisaged extent of the PROPERTY is as described in the OFFER TO PURCHASE. The exact extent and description of THE PROPERTY will only be confirmed on approval of the GENERAL PLAN. The parties agree to accept such final survey and description unless the deviation in extent is more than 5 % (FIVE PERCENTUM), in which case the PURCHASE PRICE will be adjusted (increased or decreased) on a pro-rata basis and the adjustment will be accounted for on registration of transfer.



- 10.3 The PURCHASER further acknowledges that from its examination of THE PROPERTY, he has satisfied himself as to the condition thereof and it is thus agreed that:
- 10.3.1 THE PROPERTY is purchased "voetstoots" and subject to all conditions, restrictions, and servitudes set out or referred to in the title deed/s in terms of which the SELLER holds THE LAND at date hereof, or which may apply to or exist in respect of THE PROPERTY at any time including all CONDITIONS OF ESTABLISHMENT, all conditions as set out in the Record of Decision for the approval of the township, and special conditions of title and the conditions of any applicable Town Planning Scheme which has been or may be laid down in respect of THE PROPERTY by any APPROPRIATE AUTHORITY.
- 10.3.2 The SELLER shall not be liable for any defects, latent or otherwise, in THE PROPERTY, nor for any damage occasioned to or suffered by the PURCHASER or any person by reason of such defects, if any. It is recorded that a geological survey has been compiled with regard to THE LAND and is available for inspection at the offices of the SELLER.
- 10.3.3 The SELLER will point out or indicate the position of any Surveyor's beacons or pegs in respect of THE PROPERTY once upon request after approval of the township, which pegs constitute the corners of THE PROPERTY and agree that the SELLER will not be liable to do so again, nor shall the SELLER be liable for costs of locating same again thereafter.
- 10.3.4 In the event of THE PROPERTY having been erroneously described herein, such error shall not be binding upon the parties, but the description of THE PROPERTY as set out in the title deed/s whereunder it is held by the SELLER, read with the CONDITIONS OF ESTABLISHMENT, shall apply and in such event the SELLER shall be entitled to rectify such error by written notice given to the PURCHASER of such error and the required rectification;
- 10.3.5 Should the Development not take place for whatsoever unforeseen reason such as decline of proclamation, unreasonable restrictions by a Financial Institute to the TOWNSHIP DEVELOPER, the PURCHASER will have no claim whatsoever against the SELLER, and the PURCHASER will be refunded with the Deposit paid and the Interest earned thereon, in accordance with the interest earned in the Lawyer's Trust Account.

11. **SUPPLY OF SERVICES AND MATTERS INCIDENTAL THERETO**

- 11.1 The PURCHASER acknowledges that he is aware that arrangements have been made to the satisfaction of the APPROPRIATE AUTHORITY for the provision of ESSENTIAL SERVICES and for the provision of roads, but that as at the date of transfer, such services may not yet be available.
- 11.2 The PURCHASER shall at all times, comply with all by-laws and regulations applicable to THE PROPERTY and to all buildings erected thereon, or improvements that have been effected and shall comply with whatever requirements may be legally imposed at any time by the SELLER and/or the APPROPRIATE AUTHORITY responsible for the provision of ESSENTIAL SERVICES, and other amenities and services to THE PROPERTY or such buildings or improvements.
- 11.3 The PURCHASER shall not be responsible for the installation of ESSENTIAL SERVICES and roads for the TOWNSHIP as may be required by the CONDITIONS OF ESTABLISHMENT, but the PURCHASER shall be liable for all service connection fees, including, but without derogating from the generality of the foregoing, all electricity, sewerage or water connections fees or charges.

12. **INCOMPLETE TOWNSHIP**

The PURCHASER acknowledges that he is aware of the fact that the TOWNSHIP is not fully developed, that building operations will be in progress on adjacent properties which may cause the PURCHASER a degree of discomfort, and that he will have no claim of whatsoever nature against the SELLER or any other party arising from any discomfort suffered.

13. **RIGHT OF ACCESS**

The TOWNSHIP DEVELOPER and or its duly authorised agent(s) and/or THE OWNER'S ASSOCIATION shall not with less than TWO (2) DAYS prior written notice to the PURCHASER (the times at which and the



names of persons to be advised), have the right to enter upon THE PROPERTY for purposes of inspection and to conduct such work as it may determine or require for all purposes in connection with installation of services or otherwise in connection with any legal purposes. The TOWNSHIP DEVELOPER or HOME OWNER'S ASSOCIATION shall use all reasonable efforts not to cause any interference with the business of the PURCHASER.

14. **AGENT'S COMMISSION AND RESALE OF LAND**

14.1 AGENT'S COMMISSION shall be deemed to be earned on date of fulfilment of all suspensive conditions and be payable on date of registration.

14.2 The SELLER shall be liable for the payment of AGENT'S COMMISSION to the AGENT introducing the PURCHASER to the SELLER in respect of the purchase of THE PROPERTY, provided that, should the purchase hereunder be cancelled due to the PURCHASER'S breach of contract or its failure to carry out any of its obligations under these Conditions of Sale, the PURCHASER shall be liable to pay any such commission incurred by the SELLER.

14.3 If this agreement is cancelled by virtue of the PURCHASER'S default the SELLER shall be entitled to cede to the AGENT the SELLER'S right in terms of this clause to claim payment of the Agents commission from the PURCHASER.

14.4 The parties place on record that in the event of the re-sale of THE PROPERTY as vacant land, or on the sale of the controlling interest, or the majority shareholding of the PURCHASER, whilst THE PROPERTY as such still remains vacant land, the PURCHASER agrees that the SELLER or its designated AGENTS will have the sole right to market and sell THE PROPERTY and that the SELLER'S ATTORNEY will effect transfer of THE PROPERTY into the name of the new PURCHASER.

14.5 Clause 14.4. will not apply any more once the building works on THE PROPERTY have been completed and the occupation certificate in terms thereof, issued.

15. **COMPANY OR CLOSE CORPORATION TO BE FORMED**

Should the person signing the OFFER TO PURCHASE act or purport to act as agent or trustee for and on behalf of a Company/Close Corporation to be incorporated:

15.1 such person warrants that the Company/Close Corporation for which he is acting will be formed within 7 (SEVEN) days of signature and will, within 7 (SEVEN) days of being incorporated or formed, adopt and ratify this agreement, without modification;

15.2 if the said Company/Close Corporation is not incorporated or formed within the said period of fourteen days or, having been incorporated or formed, does not adopt and ratify this agreement within the period of fourteen days, such person shall, in his personal capacity, be deemed to be the PURCHASER in terms of this agreement.

15.3 Should the Company/Close Corporation hereafter be incorporated or be nominated and should the terms of sale be properly accepted and be ratified by such Company/Close Corporation, the signatory of the OFFER TO PURCHASE shall by his signature thereon bind himself as surety and co-principal debtor jointly and severally with the Company/Close Corporation for the proper performance by the Company/Close Corporation of all the terms and conditions of these Conditions of Sale.

16. **COMPANY OR CLOSE CORPORATION IN EXISTENCE**

In the event of a registered Company/Close Corporation being the PURCHASER (other than one not yet incorporated or formed), the signatory to the OFFER TO PURCHASE on behalf of the Company/Close Corporation shall bind himself by his signature thereon as surety and co-principal debtor, jointly and severally, with the Company/Close Corporation for the proper performance by the Company/Close Corporation of all the terms and conditions of these Conditions of Sale.



17. **NUISANCE AND DISTURBANCE**

The PURCHASER shall not do or permit to be done on THE PROPERTY anything which shall be a public or private nuisance or disturbance to the other owners, tenants or occupiers of THE LAND in the neighbourhood of THE PROPERTY or to THE PROPERTY.

18. **BREACH**

Should the PURCHASER fail to make any payments in terms of these Conditions of Sale on the due date or should there be any other breach of any of the other terms hereof and should the PURCHASER fail to remedy such breach within 14 (FOURTEEN) days after written notice to the PURCHASER by the SELLER, then the SELLER shall be entitled to the following remedies:

- 18.1 To claim specific performance of the sale hereunder, whereupon the full PURCHASE PRICE shall immediately become due and payable within 7 (SEVEN) DAYS of written notice of specific performance being given to the PURCHASER, whether or not so provided in any other part of these CONDITIONS OF SALE; or
- 18.2 To cancel the sale hereunder, repossess THE PROPERTY and to retain all amounts paid as "roukoop" or pre-estimated damages. The parties hereto agree that any amount so retained as damages will represent the fair and reasonable damages suffered by the SELLER; or
- 18.3 To cancel the sale hereunder, repossess THE PROPERTY and to claim damages from the PURCHASER. The SELLER shall be entitled to hold all amounts received by him until such time as THE Actual amount of the SELLER'S damages have been determined by a Court of competent jurisdiction, and to set-off the amount so determined.
- 18.4 Upon this agreement being cancelled in terms of sub-clause 19.3 hereof, the PURCHASER shall immediately be dispossessed of THE PROPERTY and hereby agrees and binds himself forthwith to give up possession and vacate THE PROPERTY.
- 18.5 The SELLER'S remedies in terms of this clause are without prejudice to any other remedies which the SELLER may be entitled to in law.

19. **WARRANTY OF AUTHORITY**

The person signing this agreement on behalf of the PURCHASER expressly warrants his authority to do so.

20. **DOMICILIA AND NOTICES**

- 20.1 The parties choose as their *domicilium citandi et executandi* the addresses set out in clause 3 of the OFFER TO PURCHASE, provided that such domicilium of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice.
- 20.2 Any notice, acceptance, demand or other communication properly addressed by either party to the other party at the latter's domicilium in terms hereof for the time being and sent by prepaid registered post shall be deemed to be received by the latter on the fifth business day following the date of posting thereof. This provision shall not be construed as precluding the utilisation of other means and methods (including telefacsimile) for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption of delivery shall arise if any such other means or method is used.

21. **JURISDICTION**

For the purpose of all or any proceedings hereunder the parties hereby consent to the jurisdiction of the Magistrate's Court of SOUTH AFRICA having jurisdiction over the person of the defendant in terms of Section 28 of the Magistrates' Courts Act of 1944, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring



jurisdiction upon the court pursuant to Section 45 of the Magistrates' Courts Act of 1944, or any amendment thereof, provided, nevertheless, that the SELLER shall have the right at its sole option and discretion to institute proceedings in any other competent court in SOUTH AFRICA in respect of any claim which, but for the foregoing, would exceed the jurisdiction of the Magistrate's Court.

22. WARRANTIES, REPRESENTATIONS, GUARANTEES AND WHOLE AGREEMENT

22.1 This is the entire agreement between the parties:

22.1.1 Neither party relies in entering into this agreement on any warranties, representations, disclosures or expressions of opinion which have not been incorporated into this agreement as warranties or undertakings;

22.1.2 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

22.2 The PURCHASER acknowledges that:

22.2.1 save as provided herein, no warranties, undertakings or representations whatsoever have been made or given by the seller, whether expressly or impliedly, and

22.2.2 no person has authority to make any representations whatsoever on the seller's behalf.

23. NON-WAIVER

23.1 Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this agreement by reason of such party having at any time granted any extension of time for, or having shown any indulgence to, the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other party.

23.2 The failure of either party to comply with any non-material provision of this agreement shall not excuse the other party from performing the latter's obligations hereunder fully and timeously.

24. VAT

24.1 The Seller is liable for payment of VAT, which amount is included in the purchase price.

24.1 Should a change in the VAT ACT be promulgated allowing for an increase in the VAT rate, the Seller is entitled to add such amount to the purchase price, and the purchaser is liable to pay this amount before registration.

25. GENERAL

25.1 Each and every clause and paragraph of this agreement is severable from each and every other clause and paragraph of this agreement and should any clause or paragraph of this agreement, or any part thereof, be void or voidable for any reason, then the rest of this agreement shall remain in full force and effect.

25.2 Should there be more than one PURCHASER; the Purchasers shall be liable jointly and severally and in solidum for the payment of all monies hereunder and for the carrying out of all the terms of this contract.

25.3 Expressions in the singular also denote the plural, and vice versa.

25.4 Words and phrases denoting natural persons refer also to juristic persons, and vice versa.

25.5 Clause headings appear in these conditions of sale for purposes of reference only and shall not influence the proper interpretation of the subject matter.

25.6 These conditions shall be interpreted and applied in accordance with South African law.

