



## OFFER TO PURCHASE – REAL ESTATE (AUCTION)

Entered into between:

**4 DIMENSION AUCTIONEERS**

(Hereinafter referred to as the “AUCTIONEER”)

And

The Joint Liquidators in the matter of Tsoga Developers (Pty) Ltd) being,

**KEVIN TITUS**

(Hereinafter referred to as the “SELLER 1”)

And

**CLIFFORD THABANG MAREDI**

(Hereinafter referred to as the “SELLER 2”)

And

**DIMAKATSO ARNOLD MICHAEL MOHASOA**

(Hereinafter referred to as the “SELLER 3”)

(Collectively SELLER1, SELLER2 and SELLER3 are hereinafter referred to as the SELLER)

And

**(Reg No/ID Number: \_\_\_\_\_)**

(Hereinafter referred to as the “PURCHASER”)

Enter into an agreement of purchase and sale for the property registered as:

(Hereinafter referred to as the “PROPERTY”)

ERF ID:	<u>Erven 7587 to 7624, Mothibistad-2, Northern Cape</u>
STREET:	<u>Unknown</u>
SUBURB:	<u>Mothibistad</u>
PROVINCE:	<u>Northern Cape</u>
IN EXTENT:	<u>17,015m<sup>2</sup> (cumulative)</u>
TITLE DEED:	<u>T1230/2007</u>



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## 1. INTERPRETATION AND DEFINITIONS

In this Agreement, unless inconsistent with the context and/or the contrary intention appears:

- 1.1. the head notes to the clauses of this Agreement are inserted for reference purposes only and shall in no way govern or affect the interpretation hereof;

an expression which denotes:

- 1.1.1. any gender includes the other genders;
- 1.1.2. a natural person includes an artificial person and vice versa;
- 1.1.3. the singular includes the plural and vice versa;
- 1.1.4. The following words and expressions shall have the following meanings when such words and expressions are used and cognate expressions shall have corresponding meanings, except where the context otherwise requires:
  - 1.1.4.1. **"acceptance date"** means the date of signature of this Agreement by the last party signing thereto.
  - 1.1.4.2. **"the/this Agreement"** means this Agreement which is entered into between the Auctioneer, the Seller and the Purchaser,
  - 1.1.4.3. **"business day"** means any calendar day excluding Saturdays, Sundays and recognized public holidays within the Republic of South Africa;
  - 1.1.4.4. **"parties"** means the Auctioneer, the Seller and the Purchaser collectively;
  - 1.1.4.5. **"Republic"** means the territory of the Republic of South Africa;
  - 1.1.4.6. **"SARS"** means South African Revenue Service;
  - 1.1.4.7. **"VAT"** means Value Added Tax;
  - 1.1.4.8. **"AUCTIONEER"** means the 4 Dimension Auctioneers' auctioneer or the 4 Dimension Auctioneers' online bidding system;
  - 1.1.4.9. **"buyer"** means a person, natural or juristic, who wishes to register to purchase on an auction sale.
  - 1.1.4.10. **"goods"** means any asset of value; movable or immovable.
  - 1.1.4.11. **"owner"** means a person, natural or juristic, who is the rightful owner of the assets, and who has the right to sell the assets.
  - 1.1.4.12. **"parties"** means the seller and purchaser.
  - 1.1.4.13. **"property"** means land, improvements, fittings and fixtures with regards to immovable assets or means all loose assets with regards to movable property.
  - 1.1.4.14. **"purchaser"** means the bidder who is the highest bidder on goods or lots offered on auction at the fall of the hammer.
  - 1.1.4.15. **"seller"** means a person, natural or juristic, who has the right to sell assets on auction, but is not necessarily the owner.
- 1.2. A reference to any Act of parliament or its amendment shall be a reference to that Act of parliament as it stands at the date of signature and all the amendments and/or replacement Acts of parliament after the date of signature.
- 1.3. Notwithstanding anything to the contrary contained in this Agreement, it is agreed that, in the event any of the provisions of this clause 1 create rights and obligations for any of the parties, such provision shall be deemed to constitute an integral part of the Agreement, and as a result and to that extent, it shall be fully binding on the parties even though it is contained in this clause 1.

## 2. AUCTION PROCEDURE

- 2.1. The sale of the PROPERTY is through the auction sales method. The auction procedure and conditions of sale are defined in the Rules of Auction as included in the bidders' registration card and auction catalogue.
- 2.2. All proceeds payable to the AUCTIONEERS as per this agreement must be paid to the AUCTIONEER's trust account.

## 3. RECORDAL

The PARTIES to this Agreement expressly acknowledge and agree that:

- 3.1. The PROPERTY was sold to the PURCHASER by the AUCTIONEER on behalf of the SELLER by public auction as advertised through the auction marketing campaign conducted by the AUCTIONEER;
- 3.2. The PARTIES negotiated this Agreement out of their own will and have not acted under any duress or compulsions, whether legal, economic or otherwise;
- 3.3. The PURCHASER has been encouraged to seek professional and/or legal representation regarding the inspection, examination and valuation of the PROPERTY and the interpretation and understanding of this Agreement;
- 3.4. The provisions of this Agreement have been expressly agreed to and were taken into consideration in determining the price offered and accepted;

- 3.5. The PURCHASER was expressly advised by the AUCTIONEER about the auction method prior to bidding, more specifically that the PURCHASER would be bound by this Agreement and the Rules of Auction if declared the highest bidder and that the PURCHASER should choose NOT TO BID IF THE PURCHASER HAD NOT READ AND AGREED TO BE BOUND BY THIS AGREEMENT AND THE RULES OF AUCTION;
- 3.6. The AUCTIONEER is the sole agent for this transaction and represents the SELLER exclusively and shall be paid a fee by the SELLER in terms of a separate agreement entered into between the SELLER and the AUCTIONEER.

#### 4. THE PROPERTY

The land, improvements and accessories collectively referred to as the ('PROPERTY') in this Agreement are described as:

**ERVEN 7587 to 7624 un-serviced vacant land.**

#### 5. PURCHASE PRICE

- 5.1. The PARTIES herein agree that the total purchase price for the PROPERTY is constituted as follows:

- 5.1.1. The **bid price**, plus VAT if applicable, offered by the highest bidder at the auction.
- 5.1.2. A buyer's premium of 10% plus VAT to be levied on the bid price, to be invoiced directly by the AUCTIONEER to the PURCHASER for payment.

- 5.2. As outlined in Sub-Clause 5.1 above, the total purchase price recorded is constituted as follows:

Bid price	0.00	
Bid price VAT	0.00	
<b>Total bid price</b>	<b>R 0.00</b>	<b>rand</b>
Buyer Commission @ 10%	0.00	
Commission VAT	0.00	
<b>Total Buyer Commission</b>	<b>R 0.00</b>	<b>Rand</b>
<b>Total purchase price</b>	<b>R 0.00</b>	<b>rand</b>

- 5.3. The total purchase price is payable as follows:

- 5.3.1. Sale Deposit of 15% of R0.00.

<b>Deposit of 15% (FIFTEEN PERCENT)</b>	<b>R0.00</b>	<b>rand</b>
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payable to the AUCTIONEER immediately upon signature of this offer by the PURCHASER.

- 5.3.2. Buyers' Premium payable to the AUCTIONEER immediately upon signature of this offer by the PURCHASER of R0.00, as per invoice submitted to the PURCHASER by the AUCTIONEER.

- 5.3.3. Balance of purchase price

<b>Balance of the purchase price</b>	<b>R0.00</b>	<b>rand</b>
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- 5.4. For the balance of the purchase price the PURCHASER shall within **30 (THIRTY)** days of acceptance of this sale, pay in cash by EFT or furnish the SELLER with a written Bank or other guarantee acceptable to the SELLER payable free of exchange to the appointed Conveyancer, against registration of transfer of the property into the PURCHASER'S name.
- 5.5. The PURCHASER, by his signature hereto, hereby authorises the Conveyancer to invest all sums received from the PURCHASER in respect of the purchase price in an interest-bearing account, and any interest thereon shall be for the credit and benefit of the Estate Agency Fidelity Fund in terms of Section 32(2)(c) of the Estate Agency Affairs Act, No. 112 of 1976.
- 5.6. All monies due and payable by the PURCHASER in terms on this Agreement and unpaid on due date shall bear interest at the rate of 2% (TWO PERCENT) above the prime rate per month calculated from the due date to the actual date of payment thereof (both days inclusive).

## **6. AUCTIONEER'S COMMISSION**

6.1.1. The PURCHASER, by signature hereof gives permission that the commission and the marketing costs of the AUCTIONEER may be deducted from the deposit as contemplated in clause 5.3.1 payable by the PURCHASER, which deductions may be reconciled and paid on date of acceptance.

6.2. Sellers Commission

6.2.1. There is no SELLER's commission payable in this transaction.

## **7. ACCEPTANCE**

7.1. The PURCHASER's offer shall be irrevocable and open for acceptance by the SELLER until 18h00 on the 14th (FOURTEENTH) day from date of signature of this agreement by the PURCHASER ("CONFIRMATION PERIOD").

7.2. The AUCTIONEER shall forthwith inform the PURCHASER of any written, higher offer, acceptable to the SELLER which is received during the CONFIRMATION PERIOD. The PURCHASER shall for a further period of 24 (TWENTY-FOUR) hours after having received such notice, have the option to purchase the PROPERTY at the same amount as the higher offer but subject otherwise to all the terms and conditions hereof. Should the SELLER elect to sell the PROPERTY for the higher amount and the PURCHASER matches the higher offer, the SELLER shall be obliged to accept the PURCHASER'S offer.

7.3. The date of sale shall, for purposes of this Agreement, be deemed to be the date of acceptance by the SELLER. The AUCTIONEER shall thereafter notify the PURCHASER in writing of such acceptance by pre-paid registered post or by hand delivery or facsimile or email, at the sole discretion of the AUCTIONEER.

7.4. Should the SELLER not accept the PURCHASER'S offer the AUCTIONEER shall repay to the PURCHASER any Buyer's Premium paid by him.

7.5. In the event of the sale requiring the consent of the Master of the High Court in terms of any law, or the consent of the Local Authority/Municipality to pass transfer, then this sale is subject to the Master or Local Authority giving such consent in writing.

## **8. TRANSFER**

8.1. Transfer of the PROPERTY shall be affected by the SELLER'S Conveyancers within a reasonable time after the PURCHASER has complied with the terms and conditions of this Agreement and paid to the SELLER'S Conveyancers transfer duty (or VAT whichever is applicable), and all other costs of transfer and generally all costs incidental to and for the registration of transfer, for all of which the PURCHASER shall be liable and obliged to pay on demand by the SELLER'S Conveyancers.

8.2. If SARS (South African Revenue Services) regards this as a transaction that is subject to VAT, then the PURCHASER shall pay the SELLER the amount of VAT at the standard rate on demand, it being specifically recorded that the bid price excludes VAT.

8.3. The PURCHASER and SELLER undertake to do all such things and to sign all such documents necessary to effect registration of transfer of the PROPERTY on demand by the SELLER'S Conveyancers and the SELLER shall have the right to cancel this Agreement should the PURCHASER unreasonably cause any delay of registration of transfer into the PURCHASER'S name.

8.4. The PURCHASER acknowledges and accordingly undertakes to comply with all the FICA (Financial Intelligence Centre Act) requirements as set out in Annexure A annexed hereto within 7 (SEVEN) days from date of acceptance of this Agreement by the SELLER and to supply the SELLER's Attorneys with all information and documentation required by the SELLER's Attorneys to enable the SELLER's Attorneys to fulfil their obligations in terms of FICA.

## **9. SELLER RESIDENCY AND WITHHOLDING TAX**

9.1. It is recorded that the SELLER, AUCTIONEER and PURCHASER are aware of an obligation on the part of the PURCHASER to withhold part of the purchase price from the SELLER, if he is a non- resident and pay such withheld portion to SARS in terms of Section 35A of the Income Tax Act, (hereinafter referred to as the "IT Act") and in that regard:

9.1.1. The SELLER warrants that he is a resident of the Republic of South Africa and hereby indemnifies and holds harmless both the AUCTIONEER and the SELLER's attorney attending to the transfer of the PROPERTY hereby sold, against any claim howsoever arising by virtue of them having acted in terms of the Act, on information supplied by the SELLER, or from any other source and the SELLER further waives any right of recourse he may have against the said SELLER's attorney and/or AUCTIONEER in respect of any action or inaction by them in terms of the Act, on information supplied to them by the SELLER, or any other source; and

- 9.1.2. In the event that the SELLER has warranted that he is a resident and information leads the AUCTIONEER or the SELLER's attorney to suspect that the SELLER is a non-resident, the AUCTIONEER or SELLER's attorney may; by notice, call upon the SELLER to obtain a directive from SARS within 30 (THIRTY) days as to his resident status, failing which the provisions of clause 9.2.1 herein shall apply.
- 9.2. In the event that SARS furnishes a directive wherein the SELLER is regarded as a Non-Resident for Income Tax purposes:
- 9.2.1. The PURCHASER hereby irrevocably instructs the SELLER's attorney upon registration of transfer to withhold the prescribed percentage of the purchase price and to pay same to SARS within 14 (FOURTEEN) days of registration of transfer; and
- 9.2.2. Notwithstanding the provision of 9.2.1 herein, the SELLER shall be entitled to obtain a directive from SARS for the non-withholding or a reduced withholding of tax, which directive shall be delivered to the SELLER's Attorneys within 21 (TWENTY-ONE) days of the date of acceptance of this agreement, failing which the SELLER shall be bound by the percentage as determined by the Income Tax Act.

## **10. INSPECTION AND NON-SUSPENSIVE CONDITIONS**

- 10.1. The PROPERTY is sold on a non-suspensive basis and therefore the purchase price payable in terms of clause 5 herein is not contingent upon any inspection, financing or any other condition. The PURCHASER acknowledges that the price and terms of this transaction were negotiated on a CASH basis and the PURCHASER shall be deemed to have arranged financing before the auction date.
- 10.2. Should the PURCHASER, after being declared the highest bidder, fail to effect payment of the total purchase price and/or additional costs stipulated in the clause 5 herein, such conduct shall constitute a breach of this agreement and the SELLER shall be entitled to enforce the breach conditions in clause 16 herein. A bid shall be taken as proof that the PURCHASER has read, understood and acquainted itself with the Rules of Auction.
- 10.3. The PROPERTY is sold "voetstoots" as it is and to the extent as it now lies and the SELLER shall not be liable for any defects, patent, latent or otherwise in the PROPERTY nor for any damage occasioned to or suffered by the PURCHASER by reason of such defect. The PURCHASER admits having inspected the PROPERTY to his satisfaction and that no guaranties or warranties of any nature were made by the SELLER or the AUCTIONEER regarding the condition or quality of the PROPERTY or any of the improvements thereon or accessories thereto.
- 10.4. The PROPERTY is sold subject to all the conditions and servitudes as are contained in the existing Title Deed and neither the AUCTIONEER nor the SELLER shall be answerable or liable for any deficiency in the extent of the PROPERTY. In the event of the description or area of the PROPERTY herein described being different from that in the Title Deed concerned, the description and area in such Title Deed shall be considered correct and deemed as if incorporated herein.
- 10.5. The PURCHASER specifically acknowledges that he has acquainted himself with the situation, nature, condition, beacons, extent and locality of the PROPERTY, the SELLER and/or the Agent being entirely free from any liability in respect thereof.
- 10.6. The PURCHASER acknowledges that he has not been induced or influenced to enter into this Agreement by any warranties and/or representations and/or statements made and/or information given by the SELLER and/or the AUCTIONEER. No warranties and/or representations and/or statements and/or information, express, implied or tacit, which are not set forth in this Agreement, shall be binding on the SELLER and/or the AUCTIONEER.

## **11. RISK AND CONTROL**

- 11.1. The sole risk in and control pertaining to the PROPERTY shall pass to the PURCHASER upon acceptance of this offer by the SELLER, and from date of acceptance the PURCHASER shall be liable for all imposts levied on the PROPERTY, inclusive of and without limiting the generality hereof, all rates and taxes, licenses and other official and/or municipal charges.
- 11.2. On date of acceptance all other benefits including rental in respect of the PROPERTY, if any, and risks of ownership in respect of the PROPERTY, shall pass to the PURCHASER who shall insure the PROPERTY and improvements thereon for its full replacement value against risk of loss or damage.
- 11.3. Any rates and taxes or other amounts paid after the date of acceptance by the SELLER shall be refunded proportionately by the PURCHASER on demand.

## **12. OCCUPATION AND TENANCIES**

- 12.1. The PURCHASER shall take occupation upon transfer of the PROPERTY into the PURCHASER's name.

- 12.2. The SELLER however gives no warranty or guarantee that the PURCHASER shall obtain vacant occupation of the PROPERTY on the date provided and the PURCHASER shall have no claim whatsoever against the SELLER should actual occupation not be obtained on the said date or at all.
- 12.3. The PROPERTY is sold subject to all existing tenancies and vacant possession of the PROPERTY is not given or guaranteed.
- 12.4. The PURCHASER shall be bound by the terms and conditions of all existing leases, of which he acknowledges he is fully apprised alternatively which he has elected to accept and abide by.
- 12.5. If the highest bid obtained at the auction for the sale of the PROPERTY subject to a lease, is insufficient to meet the amount owing under any Mortgage Bond registered over the PROPERTY, then the PROPERTY may be sold free of any lease which was entered into after registration of any mortgage bond over the PROPERTY or any lease entered into prior to the registration of any mortgage bond of which lease the holder of the mortgage bond had no knowledge.
- 12.6. The PURCHASER is aware of the provisions of:
- 12.6.1. the Restitution of Land Rights Act, No. 22 of 1994;
- 12.6.2. the Land Reform (Labour Tenants) Act, No. 3 of 1996;
- 12.6.3. the Extension of Security of Tenure Act, No. 62 of 1997; which regulate and/or secure the rights of tenure and occupation on land of any third party. Save as may be herein set out, the SELLER has not given any warranty or made any representations, whether express or implied, to the PURCHASER regarding the rights in law of any occupier or potential occupier or any third party in terms of the aforementioned Acts and more particularly, that such rights may not exist. The PURCHASER indemnifies the SELLER against any claim or action which any occupier may bring in terms of the PROPERTY.
- 12.7. The SELLER undertakes at the PURCHASER'S cost to do whatever is reasonably necessary and/or required of him by law to assist the PURCHASER in obtaining vacant occupation of the PROPERTY.
- 12.8. If the PROPERTY is leased this Agreement is entered into subject to the terms and conditions of the lease, with which the PURCHASER acknowledges himself to be fully acquainted, and the PURCHASER shall make his own arrangements with the lessee to obtain vacant occupation of the PROPERTY. The PURCHASER acknowledges being fully aware of the protection afforded under the Rental Housing Act in so far as same may be applicable to any tenant.
- 12.9. Should the PURCHASER take possession of the PROPERTY prior to registration of transfer, the PURCHASER shall pay occupational interest to the SELLER calculated at the rate of 12% (TWELVE PERCENT) per annum on the balance of the purchase price outstanding and capitalised monthly from date of possession to date of registration of transfer without deduction or set-off, on registration or transfer. Occupational interest will be charged in advance on the first day of every month, from the date of possession until the date of transfer, both days inclusive, payable directly to the SELLER's Attorney (reduced pro rata for any period less than a month).

### **13. COMPANY OR CLOSE CORPORATION TO BE FORMED**

- 13.1. In the event of the party signing as PURCHASER acting as Trustee for a Company/Close Corporation formed or to be formed, then that signatory binds himself in his personal capacity as co- principal debtor for all obligations herein created and shall be responsible to the SELLER as if he was the PURCHASER in terms of this agreement.
- 13.2. In the event of the Company/Close Corporation not being incorporated within 30 (THIRTY) days from the date of signature hereof then the signatory hereto as PURCHASER shall be treated in his capacity as PURCHASER and shall be liable for all the obligations herein contained as if he were the actual PURCHASER.
- 13.3. Notwithstanding the foregoing, the signatory shall be responsible in his capacity if;
- 13.3.1. The Company/Close Corporation to be formed is not incorporated/registered prior to the date on which the guarantees were to have been delivered.
- 13.3.2. The Company/Close Corporation to be incorporated does not ratify this agreement.
- 13.3.3. The Company/Close Corporation, despite ratification, fails to comply strictly with the terms of this agreement.
- 13.3.4. In the event of the signatory purchasing on behalf of a Trust and the Trust is not registered; all the above obligations shall apply to the signatory in his personal capacity.
- 13.4. In the event of there being more than one PURCHASER reflected on this agreement, such PURCHASERS shall be jointly and severally liable in solidum for the due and proper performance of all the parties' obligations in terms of this agreement and the parties hereto waive their rights under the exception de dubus vel pluribus reis debendi.

13.5. Should it transpire that the Power of Attorney in terms of which any PURCHASER signs this agreement is for any reason invalid, then the signatory shall be liable in his personal capacity for all the terms and conditions created in this agreement.

#### **14. SURETYSHIP, WHERE PURCHASER IS A COMPANY, CLOSE CORPORATION, OR PRINCIPAL FOR AN AGENT**

14.1. Should the PURCHASER be a Company, Close Corporation, Trust or Principal represented herein by an agent, the person/s signing this Agreement on behalf of the PURCHASER hereby interposes and binds himself/themselves as surety/ies for, and co-principal debtor/s with, the PURCHASER for the due and proper discharge of all the PURCHASER'S obligations arising from this Agreement.

14.2. If any person purports to be representing another person, including a company, close corporation, association, or trust, and signs this Agreement on that basis, then that individual shall, by signing this Agreement on behalf of such other person, be held personally liable for the due and proper discharge of all the PURCHASER's obligations in terms of this Agreement and that individual shall be deemed to be the PURCHASER where such other person does not exist at the time of signing this Agreement by that individual. This provision does not apply to instances contemplated in clause 13 herein.

#### **15. AGENT OR PROXY**

Where the PURCHASER is acting as an agent or proxy for a Principal, the PURCHASER shall be entitled, by notice in writing to that effect addressed to the SELLER, to nominate a proxy in his place as PURCHASER, upon the following terms and conditions:

15.1. The aforesaid notice shall be handed to the SELLER by not later than close of business on the day of acceptance of this offer by the SELLER, accompanied by copies of the documents so appointing the PURCHASER as agent or proxy;

15.2. The notice shall set out the name and address of the proxy so nominated as the PURCHASER;

15.3. The notice shall be accompanied by the proxy's written acknowledgement;

15.3.1. that it is fully aware of all the terms and conditions of this Agreement as if fully set out in such written acknowledgement; and

15.3.2. that it is bound by the provisions of this Agreement as the PURCHASER.

15.3.3. Should the PURCHASER nominate a proxy in terms of this clause 15, then:

15.3.4. all reference to the PURCHASER in this Agreement shall be deemed to be reference to its proxy; and

15.3.5. the PURCHASER by his signature hereto, hereby interposes and binds himself as surety and co-principal debtor in solidum, for and on behalf of all obligations of the aforesaid proxy as PURCHASER, to and in favour of the SELLER, for all the PURCHASER's obligations under this Agreement, including damages, and renounces the benefits of division and excision.

15.4. Should the PURCHASER fail to nominate a Principal in terms of this clause 15, then he shall be bound to perform all his obligations as PURCHASER in terms of this Agreement.

#### **16. BREACH AND CANCELLATION:**

16.1. Should the PURCHASER fail to comply with any of the terms or conditions of this Agreement within 7 (SEVEN) days of receipt of written demand, the SELLER shall on such breach be entitled without further notice, either;

16.1.1. to cancel this Agreement, take occupation of the PROPERTY and have the PROPERTY sold by auction or private treaty, in his sole discretion. The PURCHASER shall then be liable for all costs of such re-sale and any deficiency in price which results therefrom. All payments made by the PURCHASER to the SELLER and/or the AUCTIONEER pursuant to this Agreement shall then be regarded as "rouwkoop" and be forfeited by the PURCHASER in favour of the SELLER or be regarded as liquidated, pre-estimated damages; or

16.1.2. to hold the PURCHASER bound by this Agreement and to claim forthwith payment of the entire purchase price and any other damages caused because of such breach.

16.1.3. In the event of the cancellation of the sale following upon;

16.1.4. a breach by the PURCHASER, the PURCHASER shall forthwith become liable for and shall pay the AUCTIONEER'S commission and other costs and charges as herein set forth and the parties hereto agree that such commission and

charges shall constitute a first charge against the deposit, if any, paid by the PURCHASER and shall be paid wholly or in part there from;

16.1.5. a breach by the SELLER, the SELLER shall forthwith become liable for and shall pay the AUCTIONEER'S commission and other costs and charges as herein set forth;

16.1.6. an agreement between the SELLER and the PURCHASER to which agreement the AUCTIONEER is not party, the SELLER and the PURCHASER shall forthwith become jointly and severally liable for and shall pay the AUCTIONEER'S commission and other costs and charges as herein set forth and the parties hereto agree that such commission and charges shall constitute a first charge against the deposit, if any, paid by the PURCHASER and shall be paid wholly or in part there from.

## **17. REPAIRS AND IMPROVEMENTS AND VACATION ON CANCELLATION**

17.1. Should the PURCHASER make any repairs, alterations or improvements to the PROPERTY then, unless otherwise beforehand agreed to in writing between the parties, the PURCHASER shall not be entitled to any refund or compensation in respect thereof, whether on cancellation or at any other time.

17.2. The PURCHASER shall be obliged to vacate the PROPERTY upon cancellation of this Agreement for any reason whatsoever, it being agreed that no tenancy shall be created by any occupation prior to transfer.

## **18. COMPLIANCE CERTIFICATES**

18.1. The PURCHASER shall, prior to the date of registration of the transfer of the PROPERTY into the PURCHASER's name, and at his cost, deliver to the Conveyancer a Certificate of Compliance issued by a qualified electrician in terms of the Electrical Installations regulations of 2009 promulgated under the Occupational Health and Safety Act, No. 85 of 1993 as amended.

18.2. An Electrical Certificate of Compliance issued not more than 2 (TWO) years prior to the date of this Agreement shall be valid and effective for purposes of this clause 18.

18.3. The PURCHASER shall be responsible for the provision of, at the PURCHASER'S cost, any other compliance certificates required for the registration and transfer of the property from the SELLER to the PURCHASER.

## **19. LEVIES AND RATES AND TAXES**

19.1. Where applicable, all outstanding levies due to the body corporate or property association, of the property as stipulated in clause 4 of this agreement, are due and payable by the PURCHASER.

19.2. All outstanding rates and taxes due to the municipality or any other provider of such services, of the property as stipulated in clause 4 of this agreement, are due and payable by the PURCHASER.

19.3. All outstanding utility accounts, of the property as stipulated in clause 4 of this agreement, are due and payable by the PURCHASER.

19.4. The SELLER will not be responsible for any outstanding accounts for levies, rates and taxes, utilities or any other outstanding amounts for any services provided by third parties which are supplied as a direct service for the maintenance or serviceability of the property as stipulated in clause 4.

## **20. FIXTURES AND FITTINGS**

20.1. The PROPERTY is sold together with any buildings or other improvements thereon and to the extent as it now lies "voetstoots" and in the event of there being such buildings or other improvements, any stoves, anthracite heaters, electric fittings, venetian blinds, pumps, engines, electric scales, build in fridges, rails, fences, trees and shrubs, all shall be deemed to be included in the sale.

20.2. The SELLER shall however, not be liable for any claims of whatsoever nature by the PURCHASER should the aforesaid improvements, fixtures and fittings on date of occupation not be on the PROPERTY nor in the same condition as at the date of the auction.

20.3. The SELLER shall under no circumstances be liable for any defects of any nature whatsoever, whether patent or latent and which may be present in the aforesaid improvements, fixtures and fittings on acceptance hereof or on occupation or which may at any time become manifest.

## **21. MAGISTRATE'S COURT JURISDICTION**

For the purposes of all or any proceedings arising out of this Agreement, the parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under Section 28 of the Magistrates' Court Act, No. 32 of 1944, as amended; notwithstanding that the proceedings are otherwise beyond the jurisdiction of the Magistrate's Court, this clause 21 shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrates' Court Act, No. 32 of 1944, as amended. Notwithstanding the foregoing, the SELLER shall have the right, at the SELLER'S sole option and discretion to institute proceedings in any other competent Court which may otherwise have jurisdiction.

## 22. JOINT AND SEVERAL LIABILITY

Should there be more than one PURCHASER, the PURCHASERS shall all be liable jointly and severally for all the obligations in terms hereof as well as for the payment of all monies hereunder and for complying with all the terms and conditions of this Agreement in solidum.

## 23. WHOLE AGREEMENT, NO AMENDMENT

23.1. This entire Agreement constitutes the whole agreement between the parties relating to the subject matter hereof.

23.2. No amendments or consensual cancellation of this Agreement or any provision or term thereof or of any agreement or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement or other document issued pursuant to or in terms of this Agreement shall be binding unless recorded in a written document signed by the parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

23.3. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against the SELLER in respect of his rights under this Agreement, nor shall it operate so as to preclude the SELLER thereafter from exercising his rights strictly in accordance with this Agreement.

## 24. DOMICILIUM

24.1. The PURCHASER hereby chooses as his domicilium citandi et executandi for all purposes under this Agreement, whether in respect of Court process, notices or other documents or communications of whatever nature, the following address:

PHYSICAL ADDRESS	
FAX NO	
EMAIL	
CELL NUMBER	
TEL NUMBER	

24.2. Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax.

24.3. Any notice by the SELLER: -

24.3.1. sent by prepaid registered post in a correctly addressed envelope to the PURCHASER at his domicilium citandi et executandi shall be deemed to have been received on the fifth business day after posting (unless the contrary is proved);

24.3.2. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as the PURCHASER'S domicilium citandi et executandi shall be deemed to have been received on the day of delivery; and

24.3.3. sent by telefax to the PURCHASER'S chosen telefax number stipulated in clause 24.1 herein shall be deemed to have been received on the date of despatch (unless the contrary is proved).

24.4. Notwithstanding anything to the contrary herein contained, a written notice or communication received by the PURCHASER shall be an adequate written notice or communication to the PURCHASER notwithstanding that it was not sent or delivered to the PURCHASER'S domicilium citandi et executandi.



## **25. MATRIMONIAL PROPERTY ACT**

The PURCHASER warrants that all written consents required by the Matrimonial Property Act, No. 88 of 1984 in respect of this Agreement or any matters arising therefrom or in terms hereof have or will be given.

## 26. BUYER SIGNATURE/S

I, \_\_\_\_\_ (Full Names) the undersigned Identity No / Passport No: \_\_\_\_\_ (herein referred to as "the PURCHASER")

hereby offer to purchase the PROPERTY for the sum of R \_\_\_\_\_ ("the Purchase Price"),  
\_\_\_\_\_ **rand** (in words).

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

PURCHASER: \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

(Where Necessary)

Assisting/consenting insofar as need be by the Purchaser's spouse; binding myself to the Seller as surety and co-principal debtor *in solidum*.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

SPOUSE: \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_



**27. SELLER SIGNATURE/S**

SIGNED and ACCEPTED BY THE SELLER

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

SELLER1: \_\_\_\_\_ AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

SELLER2: \_\_\_\_\_ AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

SELLER3: \_\_\_\_\_ AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_



**28. AUCTIONEER SIGNATURE**

SIGNED and ACCEPTED BY THE AUCTIONEER

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

AUCTIONEER: \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_



## **29. ANNEXURE “A”**

### **FICA REQUIREMENTS Natural Persons**

- 1) South African Identity Document (Foreigners: Passport);
- 2) Utility bill addressed to your residential address less than 3 months old (accounts for mobile phones are not acceptable);
- 3) South African Income Tax reference number
- 4) Confirmation of marital status, i.e.; unmarried or married

If married:

- 5) Marriage Certificate.
  - If married IN community of property (no Antenuptial contract).
- 6) S.A. Identity document (Foreigner: Passport) of SPOUSE.
  - If OUT of community of property (by Antenuptial Contract (“ANC”))
- 7) Page 1 (and page 2 if necessary) reflecting the registered number and names of both parties.
  - If Marriage is governed by the Laws of another country/state
- 8) Name of the country/state governing marriage, i.e.; the country where the husband was living at the time of the marriage with the intention of staying there permanently.

### **Entities**

Person acting on behalf of the entity must comply with paragraphs 1 to 4 above.

All directors/members/trustees must also comply with paragraphs 1 to 4 above. PLUS, THE FOLLOWING:

Companies:

- 1) CM1.
- 2) CM22.

Close Corporations:

- 1) CK1;
- 2) And CK2, if application.

Trusts:

- 1) Letters of Authority/Master’s Certificate;
- 2) Trust Deed and all amendments thereto; and
- 3) Resolution to approve the purchase (and loan application, if applicable) taken before the Offer to Purchase was signed. (The only exception is where it is a cash transaction and all the Trustees have signed the Offer to Purchase.)

Detailed FICA requirements for Entities will be supplied to such Purchases, in due course. FICA requirements for Other Entities, if applicable, will be supplied to such purchasers.

**30. ANNEXURE “C”**

EXTRACT FROM MINUTES OF A MEETING OF THE

DIRECTORS OF \_\_\_\_\_

HELD AT: \_\_\_\_\_

ON: \_

RESOLVED THAT:

4. The COMPANY buys the following PROPERTY from

5. For the amount of \_\_\_\_\_ ( \_\_\_\_\_ )

6. That  
in his capacity as Director, be and is hereby authorised to execute and sign all documents necessary to give effect to the  
above resolution.

Certified a true copy;

\_\_\_\_\_  
DIRECTOR