

Agreement of Sale

1. PARTIES

1.1 _____
Of

Address
"Seller"

1.2 _____
Of

Address
"Purchaser"

2. INTERPRETATION

In this agreement, unless the context indicates otherwise, the following expressions shall have the meanings assigned to them hereunder:

2.1 The Property: _____
Also known as: _____

2.2 The Conveyancer: Jan L Jordaan Inc. Attorneys 011 748 4500,
info@janljordaan.co.za

3. SALE

The Seller hereby sells to the Purchaser, who hereby purchases the Property.

4. PURCHASE PRICE

The Purchase Price amounts **R**_____ **.00**
(_____ **Rand**)
payable to the Seller on date of registration of transfer.

5. PAYMENT OF PURCHASE PRICE

Within _____ days of signature hereof, the Purchaser shall pay the amount of
R _____ **.00**
(_____ **(RAND)**)
to the Conveyancer to be held in trust pending registration of transfer.

The parties agree that the Conveyancer may deposit the amount on an interest bearing trust account, interest for the benefit of the Purchaser. This constitutes a mandate by the Purchaser as contemplated by Section 78 of the Attorneys Act No. 53 of 1979 as the case may be.

The Purchaser shall within **21 (Twenty One) days** from the date of fulfillment or waiver as the case may be, of the suspensive conditions contained in clause 6 furnish to the Seller or his nominee(s) bank guarantees approved by the Seller or the Conveyancer for the payment of **R**_____ **.00**
(_____ **Rand**) on date of registration of transfer, free of any deductions at Benoni.

6. SUSPENSIVE CONDITION

- 6.1 6.1.1 This agreement is conditional upon the Purchaser obtaining approval of a mortgage loan of R_____.**00**
(_____ **Rand**)
from a registered bank or other financial institution approved by the Seller or the Conveyancer by not later than **21 (Twenty One)** days from signature hereof upon such terms and conditions as may be stipulated by the bank or other financial institution. Failure by the Purchaser to sign any loan application/s or any other documents necessary for the procuring of such loan/s or to furnish information for purposes of the application shall constitute a breach of this agreement.
- 6.1.2 Should such loan/s from any financial institution not be granted within the said period (or any extension of time) this offer shall lapse and be of no further force or effect on either party.
- 6.2 Should any of the suspensive conditions not be fulfilled, this agreement shall lapse and restitution shall take place.
- 6.3 Notwithstanding the suspensive nature or any condition, the parties shall discharge all obligations which are to be discharged prior to the fulfillment of such condition.

7. OCCUPATION

- 7.1 Occupation of the Property shall be given to and taken by the Purchaser on date of registration of transfer or such other date as the parties may agree in writing.
- 7.2 If the Purchaser takes occupation before date of registration of transfer:
- The Purchaser shall not be entitled to make any alterations or additions to the Property before date of transfer without the prior written consent of the Seller. The Purchaser shall have no claims

whatsoever against the Seller in respect of any alterations or additions made to the Property by the Purchaser. In the event of cancellation or lapse of this agreement, the Purchaser shall be obliged to immediately vacate the Property and restore it to the Seller in the same condition as when occupation was given to him, it being agreed that no tenancy shall be created by such prior occupation.

- The Purchaser shall pay occupational interest to the Seller, monthly in advance at a rate of R_____ per month.

7.3 If the Seller remains in occupation of the Property after date of registration of transfer, the Seller shall accordingly pay occupational interest to the Purchaser.

7.4 Occupational interest shall be paid promptly on due date and neither party shall be entitled to withhold payment of occupational interest in respect of or pending:

- payment of any amount due or alleged to be due; OR
- fulfillment of any obligation or alleged obligation

by the other party.

8. POSSESSION

Possession of the Property shall be given to the Purchaser on date of registration of transfer from which date the of risk of the Property shall pass to the Purchaser and from which date the Purchaser shall be liable for the payment of assessment rates and other levies payable to the local authority and from which date the Purchaser shall be entitled to any benefits of the Property.

9. ACKNOWLEDGEMENT BY PURCHASER

The Purchaser acknowledges that:

- 9.1 he has thoroughly inspected and acquainted himself with the nature and condition, of the Property, the improvements thereon and all fixtures, fittings and equipment;
- 9.2 the Seller is under no obligation to point out the beacons of the Property;
- 9.3 he will have no claim whatsoever against the Seller for any deficiency in the size of the Property which may be revealed on any re-survey nor shall the Seller benefit from any possible excess; and
- 9.4 the Property is sold:
 - 9.4.1 to the extent as it now lies, *voetstoots*, without any warranties whether express or implied and the Seller shall not be liable for any defects whether latent or otherwise in the Property, the improvements thereon and all fixtures, fitting and equipment, nor for any damages suffered by the Purchaser by reason of such defects; and
 - 9.4.2 subject to all conditions and servitude's mentioned or referred to in the current and/or prior title deeds of the Property or any town-planning scheme applicable thereto.

10. BREACH

- 10.1 In the event of:
 - 10.1.1 the Purchaser failing to pay the amount referred to in 5 above and persisting in such failure for a period of 3 (three) days after receipt of

a written notice from the Seller calling upon him to make such payment; or

10.1.2 either one of the parties ("the defaulting party") committing a breach of any of the other terms of this Agreement and failing to remedy such breach within a period of 7 (seven) days after date of dispatch of a written notice from the other party ("the aggrieved party") or his agent calling upon the defaulting party to remedy the breach complained of,

then the aggrieved party shall be entitled at his sole discretion and without prejudice to any of his rights in law, either to claim specific performance of the terms of this Agreement or to cancel this Agreement forthwith without further notice claim and recover damages from the defaulting party.

10.2 In the event that the defaulting party is;

10.2.1 the Purchaser, the Seller will immediately upon cancellation of this Agreement be entitled to payment referred to in 5 above. The balance (if any) of such payment together with all the interest that has accrued thereon, shall be forfeited and paid to the Seller subject, however to any remedies in that regard which are available to the Purchaser at law:

10.2.2 the Seller, the Purchaser shall immediately upon cancellation of this Agreement receive from the Conveyancer the payment made by the Purchaser in terms of 5 above, together with all the interest that has accrued thereon.

10.2.3 should there be a dispute as to the determination of the defaulting party, the Conveyancer shall retain in trust under his control, the payment referred to in 5.1 until

10.2.4 such dispute is resolved either by agreement between the Purchaser and the Seller or by order of a competent Court.

11. JURISDICTION

For the purposes of all or any proceedings arising from this agreement the parties consent to the jurisdiction of the Magistrate's Court Act as amended, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the written consent conferring jurisdiction upon the said court pursuant to Section 45 of the said Act. Notwithstanding the foregoing, the Seller shall have the right at his option and discretion to institute proceedings in any other competent Court which might otherwise have jurisdiction.

12. TRANSFER AND COSTS

- 12.1 The Purchaser is liable for payment of the Conveyancer's fees in respect of the registration of transfer of the Property in the Purchaser's name, such fees being payable on demand by the Conveyancer. The Purchaser shall on demand pay all other expenses of and incidental to the registration of transfer of the Property into the name of the Purchaser, including transfer duty as well as the costs of registration of any bond referred to in this Agreement.
- 12.2 A Rates Clearance Certificate must accompany the documents for submission to the Deeds Office to effect registration. The Seller will be liable for the payment of this Certificate. The local council will issue a certificate valid for a four months period. Therefore the Seller will be requested by the Conveyancer prior to registration, for payment of an amount to cover the four months period of rates.
- 12.3 The Seller and the Purchaser shall within 3 (three) days after being requested to do so sign all documents at the offices of the relevant Conveyancers required to be signed in connection with the transfer, bonds and the cancellation of any bonds to be registered in terms of this Agreement.

12.4 Transfer of the Property shall be effected by the Conveyancer within a reasonable time after the provisions of 12.1 and 12.2 above, have been complied with.

13. MOVABLES

The Property is sold with all fixtures of a permanent nature.

14. ELECTRICAL CERTIFICATE OF COMPLIANCE

The Seller shall on or before the date of registration of transfer of the Property in the Purchaser's name, at his costs, deliver to the Purchaser a Certificate of Compliance issued by a qualified electrician in terms of the regulations promulgated under Act 6 of 1983. The Seller undertakes not to make any changes in respect of the electrical installation in the Property after delivery of such certificate.

15. COMPANY, CLOSE CORPORATION OR TRUST

15.1 If any of the parties is a company, close corporation or trust, the person who signs the agreement in the name of such company, close corporation or trust warrants that the company, close corporation or trust is registered in terms of the applicable legislation. Such person shall be personally liable as purchaser or seller as the case may be, in terms of this agreement if such company, close corporation or trust legally does not exist or for whatever reasons not bound to these agreements or fails to comply with the provisions thereof. The said person acting on behalf of the company, close corporation or trust by signing this agreement binds himself as surety and co-principal debtor *in solidum* with the Purchaser for the due fulfillment of all its obligations in favour of the Seller in terms of this agreement.

15.2 If the Purchaser signs this Agreement as agent for a company or close corporation to be incorporated the Purchaser in his personal capacity shall be regarded as Purchaser in terms of this Agreement unless the said company or close corporation is incorporated and duly adopts and ratifies this Agreement within 30 (thirty) days after the date upon which the Seller signs this Agreement, in which event the Purchaser by his signature hereto hereby interposes and binds himself in favour of the Seller as surety for and co-principal debtor *in solidum* with such company or close corporation for the due and timeous performance by it of all of its obligations as Purchaser in terms of this Agreement.

16. WHOLE AGREEMENT

This agreement constitutes the sole and entire agreement between the parties and no warranties, representations, guarantees or other terms and conditions of whatsoever nature not contained herein, shall be of any force or effect. No variation of the terms and conditions of this agreement, or consensual cancellation thereof, shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorized representatives.

17. GENERAL

17.1 The Purchaser may not cede any of his rights in terms of this Agreement to any third party without the prior written consent of the Seller.

17.2 The Purchaser hereby warrants that the Purchaser is not an alien with whom the Seller is prohibited from entering into this agreement by virtue of the Aliens Act.

17.3 Any latitude or extension of time which may be allowed by the Seller to the Purchaser in respect of any payment provided for herein, or any matter or thing which the Purchaser is bound to perform or observe in terms hereof, shall not in any circumstances be deemed to be a waiver or the Seller's rights at any time to

require strict and punctual compliance with each and every provision or term hereof.

- 17.4 Headings to clauses are for convenience only and shall not be taken into consideration in the interpretation of the agreement.

18 OTHER CONDITIONS

19 NON-RESIDENT WITHHOLDING TAX (ONLY FOR SALES OVER R2 MIL)

- 19.1 The parties understand that in terms of Section 35A of the Income Tax Act ("the Act"), the Purchaser is required by law to withhold a portion of the purchase price from the Seller, if the Seller is not a resident of the Republic of South Africa ("a Resident") and the sale price exceeds R2 000 000, 00 (two million Rand), and to pay such withheld amount to the SARS. In such case:

19.1.1 The Seller hereby warrants that it is / is not (delete as applicable) a Resident;

19.1.2 The Seller hereby indemnifies and holds the Purchaser and the Conveyancers harmless against any and all claims that may arise against any of them as a result of their having relied on the Seller's warranty of residency, and hereby waives any claims or rights of recourse against the Purchaser, Auctioneer and/or the Conveyancer as a result;

19.1.3 If the Seller warrants that he is a Resident, the Conveyancers may require the Seller to provide a SARS directive within 30 days confirming such residential status, failing which it will be deemed that the Seller is a non-Resident.

19.1.4 If the Seller is a non-Resident, or is deemed as such as per clause 1.3, then:

19.1.4.1 the Seller and the Purchaser hereby irrevocably authorize and instruct the Conveyancers to withhold the prescribed percentage of the purchase price and to pay such funds to SARS within the prescribed number of days of withholding of such funds, in accordance with Section 35A of the Act;

19.1.4.2 the Purchaser will sign all documentation required by the Act for submission with such payment;

19.1.4.3 despite the provisions of clause 1.4.1, the Seller shall be entitled to obtain a directive from the SARS and deliver it to the Conveyancer at any time prior to registration of transfer, in which event the Conveyancer will act and pay in accordance with such directive.

**THUS DONE AND SIGNED BY THE PARTIES ON
THE DATES AND AT THE PLACES STATED HEREUNDER**

DATE	_____	PLACE	_____
WITNESS	_____	SELLERS	_____

DATE	_____	PLACE	_____
WITNESS	_____	PURCHASERS	_____

SELLERS

FULL NAMES _____

IDENTITY NUMBER _____

MARITAL STATUS _____

TEL No. _____

E-MAIL _____

BONDHOLDER(S) _____

BOND ACCOUNT _____

FUTURE ADDRESS _____

PURCHASERS

FULL NAME _____

IDENTITY NUMBER _____

MARITAL STATUS _____

TEL No. _____

E-MAIL _____