

# OFFER TO PURCHASE

**PURCHASER:** .....

IDENTITY NUMBER: .....

**and**

.....

IDENTITY NUMBER: .....

(the "PURCHASER")

**SELLER:** .....

IDENTITY NUMBER: .....

(the "SELLER")

**PROPERTY:**

**TITLE DEED DESCRIPTION:** Erf 5090 DAN PIENAAR 50 DAN PIENAAR MANGAUNG  
METROPOLITAN MUNICIPALITY FREESTATE

**TITLE DEED NUMBER:** T 2945/1984

**IN EXTENT:** 1 046 m<sup>2</sup>

together with all improvements thereon

(the "PROPERTY")

## 1. SALE AND PURCHASE

The **SELLER** hereby sells to the **PURCHASER**, which hereby purchases from the **SELLER**, the **PROPERTY**, subject to the terms and conditions of this Agreement.

**2. PURCHASE PRICE**

The Purchase Price of the **PROPERTY** is R .....

(.....)

The Purchase Price shall be paid in cash and secured, to the satisfaction of the **SELLER's** Attorneys, by a written guarantee from a registered financial institution, payable free of exchange, against registration of transfer of the **PROPERTY** into the **PURCHASER's** name. The **PURCHASER** may elect to secure the Purchase Price by payment in cash to the **SELLER's** Attorneys, who shall hold same in trust, pending registration of transfer into the name of the **PURCHASER**. The aforesaid guarantee shall be presented and/or cash shall be payable by the **PURCHASER** to the **SELLER's** Attorneys within **21 (Twenty One)** working days from date of signature of the Purchase to Offer.

**3. VALUE-ADDED TAX**

No "VAT" applicable.

**4. COMMISSION**

4.1 Sellers commission.

**5. RATES AND TAXES**

5.1 The **SELLER** shall be liable for all rates and taxes and other Municipal charges levied on the **PROPERTY** for the period PRIOR to registration of transfer and the **PURCHASER** shall be liable for all rates and taxes and other Municipal charges levied thereafter.

5.2 The **PURCHASER** shall refund to the **SELLER** a pro rata share of all rates and taxes and services paid in advance by the **SELLER** for the period after registration of transfer, which refund shall be paid upon registration of transfer.

**6. TRANSFER AND COSTS OF TRANSFER**

6.1 Transfer shall not be passed to the **PURCHASER**, notwithstanding anything to the contrary herein contained, until such time as the total Purchase Price and all other amounts, for which the **PURCHASER** may be liable in terms hereof, have been paid and/or payment thereof has been secured as herein provided.

6.2 Transfer of the **PROPERTY** shall be passed, by the **PURCHASER's** attorneys, as soon as possible after date of acceptance, providing the **PURCHASER** has complied with the provisions of the aforementioned sub-clause.

6.3 The **SELLER** hereby specifically authorises and agrees to the **PURCHASER's** attorneys preparing and completing the necessary forms with information provided by the **PURCHASER** herein, a transfer duty form required by SARS for the clearance of the **PROPERTY** for transfer; and specifically authorises and agrees to the **PURCHASER's** Attorneys on behalf of the **PURCHASER** signing and submitting such form to SARS for which preparation, completion, signature and submission this Agreement shall be sufficient authority.

6.4 Transfer of the **PROPERTY** shall be effected by the **PURCHASER's** attorneys, and all expenses of and incidental to the preparation and registration of transfer, the conveyancing fees,

disbursements and VAT (if applicable), in respect of such transfer, shall be borne by the **PURCHASER** including all expenses and legal costs incidental to the preparation and registration of any mortgage bond to finance the Purchase Price herein, including any disbursement levied by the financial institution approving the finance.

6.5 The **PURCHASER** acknowledges and accordingly undertakes to comply with all the FICA requirements within 1 (one) days from date of acceptance of this Agreement by the **SELLER** and to supply the **PURCHASER's** Attorneys all information and documentation required by the **PURCHASER's** Attorneys to enable the **PURCHASER's** Attorneys to fulfil their obligations in terms of FICA.

## 7. POSSESSION AND RISK

7.1 Possession of the **PROPERTY** shall only be given by the **SELLER** and taken by the **PURCHASER** on registration of transfer, provided that clause 2 above have been complied with, from which date all risks and benefits of ownership in respect of the **PROPERTY** shall pass to the **PURCHASER**.

7.2 Should the **PURCHASER** take and the **SELLER** allow possession of the **PROPERTY** prior to registration of transfer, the **PURCHASER** shall at its own expense insure the **PROPERTY** and improvements thereon for the full replacement value thereof from date of possession, against risk of loss or damage by any cause with an insurer acceptable to the **SELLER**. The **SELLER's** interest in the **PROPERTY** shall be endorsed against such policy for such period.

7.3 Upon the **PURCHASER** taking possession of the **PROPERTY** and pending transfer, the following further provisions shall apply –

7.3.1 the **PURCHASER** shall not sell, let or in any other manner dispose of or part with (whether temporarily or otherwise) the **PROPERTY** or his rights of occupation thereof, except with the written consent of the **SELLER**, which consent shall not be unreasonably withheld;

7.3.2 the **PURCHASER** shall be responsible for and pay all costs of electricity and water consumed in the **PROPERTY**.

## 8. OCCUPATIONAL INTEREST

Should the **PURCHASER** take possession of the **PROPERTY** prior to registration of transfer, the **PURCHASER** shall pay occupational interest to the **SELLER**, calculated at

R ..... per month, in advance on the first day of every month, from date of possession until date of transfer, both days inclusive, payable directly to the **SELLER's** Attorney (reduced *pro rata* for any period less than a month).

## 9. REPAIRS AND IMPROVEMENTS

9.1 Prior to registration of transfer, the **PURCHASER** shall not be entitled to affect any alterations to the **PROPERTY** without the prior written consent of the **SELLER**.

9.2 The **SELLER** shall not be obliged to compensate the **PURCHASER** for any authorised alteration effected in the event of the sale being cancelled.

9.3 The **PURCHASER** shall be liable for any damages suffered by the **SELLER** as a result of any alterations effected by the **PURCHASER**, not authorised by the **SELLER**.

## 10. VOETSTOOTS, EXTENT AND REPRESENTATIONS

- 10.1 The **PROPERTY** is sold “*voetstoots*” and subject to the terms and conditions and servitudes mentioned or referred to in the current and/or prior Title Deeds and to the conditions of establishment of the Township in which it is situated and to the zoning applied to it under any Town Planning Scheme. The **SELLER** shall not profit by any excess nor shall it be answerable for any deficiency in the extent thereof.
- 10.2 The **PURCHASER** acknowledges that he has not been induced into entering into this Agreement by any express or implied information, statement, advertisement or representation made or given any warranties in respect of the **PROPERTY** or anything relating thereto, by the **AGENT** or any other person, or by or on behalf of the **SELLER** and that is not contained in this Agreement.
- 10.3 The **PURCHASER** acknowledges that he has fully acquainted himself with the **PROPERTY** that he has purchased alternatively that he/she has elected to purchase the **PROPERTY** without fully acquainting him/herself therewith.
- 10.4 The **SELLER** will replace the electrical wiring in order to comply with the Certificate of Compliance in respect of the **PROPERTY**, in terms of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act (Act No. 85 of 1993, as amended).
- 10.5 The **SELLER** will repair the floor in the kitchen according to an agreement in writing between the **BUYER** and **SELLER**.

## 11. BREACH

- 11.1 If one of the Parties commits a breach of this Agreement or fails to comply with any of the provisions hereof, then the Aggrieved Party shall be entitled to give the Defaulting Party 7 (seven) days' notice in writing to remedy such breach or failure (unless such breach or failure occurs after the transfer documents have been lodged in the Deeds Office for registration, in which case the 7 (seven) day period may, at the election of the Aggrieved Party be reduced to 48 (forty eight) hours). If the defaulting party fails to comply with such notice then the innocent party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which it may have in law, including the right to claim damages:

11.1.1 to cancel this Agreement and upon cancellation: -

- 11.1.2 if the defaulting party is the **PURCHASER** the **SELLER** shall be entitled to retain all amounts paid by the **PURCHASER**, as *roukoop* or as a genuine pre-estimate of damage suffered by the **SELLER**, and furthermore the **PURCHASER** shall not be entitled to compensation from the **SELLER** for any improvements of whatsoever nature it may have caused on the **PROPERTY**, whether with or without the **SELLER**'s consent.

**OR**

- 11.1.3 to claim immediate performance and/or payment of all the defaulting party's obligations in terms hereof.
- 11.2 Upon cancellation of this Agreement for whatever reason, the **PURCHASER** hereby undertakes to vacate the **PROPERTY** and to procure that the **PROPERTY** shall be vacated by any persons who occupy the **PROPERTY** through the **PURCHASER**'s title or by his permission. Occupation shall be re-delivered in the same good condition as at the date of possession. Occupancy of the **PROPERTY** by the **PURCHASER** or persons on the authority of the **PURCHASER** shall not create a tenancy either in terms of any statutory provision or common law.

## 12. LEGAL COSTS

The Defaulting Party shall be liable for all legal costs incurred by the Aggrieved Party, the **AGENT** and Attorneys in enforcing the terms of this agreement, on an Attorney and own client scale, including collection commission.

## 13. ADDRESS / DOMICILIUM

13.1 The **PURCHASER** and the **SELLER** hereby choose their respective addresses / *domicilium citandi et executandi* for all purposes in respect of these Rules of Auction, including all notices and Court process to be delivered in terms hereof, the address recorded below his signature hereunder. Any notice sent by pre-paid registered post shall be deemed to have been received on the fifth day after posting; any notice delivered by hand shall be deemed to have been received on the day of delivery; any notice sent by telefax or electronically transmitted by email, shall be deemed to have been received on the first business day after date of despatch thereof.

13.2 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a Party to this Agreement shall be deemed to be adequate written notice or communication to him notwithstanding that it was not sent or delivered at the chosen address / *domicilium citandi et executandi* or transmitted to such Party's telefax number and/or email address as stipulated herein.

13.3 The terms of "writing" shall include communications by email or facsimile.

## 14. ELECTRICAL INSTALLATION CERTIFICATE OF COMPLIANCE

14.1 The **SELLER** hereby undertakes to furnish the **PURCHASER's** Attorneys, prior to transfer to the **PURCHASER**, with a Certificate of Compliance in respect of the **PROPERTY**, in terms of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act (Act No. 85 of 1993, as amended), issued by an electrical contractor who is registered in terms of the Regulations. All costs incurred in obtaining such a certificate, including costs of any repairs or replacements required in order for the certificate to be issued, shall be borne by the **SELLER**.

14.2 An Electrical Certificate of Compliance issued not more 2 (two) years prior to the date of this Agreement of Sale shall be valid and effective.

## 15. MAGISTRATES' COURT JURISDICTION

The Parties hereto consent to the jurisdiction of the Magistrates' Court in terms of Section 45 read with Section 28 of the Magistrates' Court Act of 1944 as amended. Notwithstanding the aforementioned, this shall not preclude either Party from approaching the High Court of South Africa for any relief sought. This Agreement shall further be governed in terms of the law of the Republic of South Africa.

## 16. GENERAL CLAUSES

16.1 The Offer to Purchase constitute the whole agreement between the Parties as to the subject matter hereof and no agreement, representation or warranty between the Parties other than those set out herein are binding on the Parties.

16.2 No extension of time, waiver, indulgence or suspension of any of the provisions of this agreement, which any Party hereto may have given, shall be binding unless recorded in a written document signed by all Parties.

- 16.3 No variation or alteration or cancellation of conditions or any of the terms hereof, shall be of any force or effect, unless in writing and signed by the Parties hereto.
- 16.4 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and words importing persons shall include partnerships and bodies corporate, and *vice versa*.
- 16.5 The Parties signing this document confirm that they have read and understood all of the terms and conditions contained herein and agree that they are bound hereto.
- 16.6 The **SELLER** and the **PURCHASER** warrant that they are duly authorised to sign the Offer to Purchase.

*WE, THE PURCHASER AND SELLER, HEREBY CONFIRM THAT THE FULL EXTENT OF OUR OBLIGATIONS AND RIGHTS HEREIN HAVE BEEN EXPLAINED TO US AND THAT WE HAVE BEEN GIVEN AN OPPORTUNITY TO MAKE THE NECESSARY ENQUIRIES IN RESPECT OF THE PROPERTY AND ALL MATERIAL ASPECTS RELATED TO THIS PROPERTY AND SALE AND THAT WE UNDERSTAND THE EFFECT OF THIS AGREEMENT.*

**SIGNED AT ..... ON THE ..... DAY OF ..... 2021**

.....  
WITNESS **PURCHASER**  
Witness name: ..... (and where applicable, the signatory binding him /  
her self as surety and co-principal debtor *in solidium*)

.....  
WITNESS **CO-PURCHASER**  
Witness name: ..... (and where applicable, the signatory binding him /  
her self as surety and co-principal debtor *in solidium*)

**SIGNED AT ..... ON THE ..... DAY OF ..... 2021**

.....  
WITNESS **SELLER**