

FIFTH SEASON INVESTMENTS 99 (PTY) LTD

AGREEMENT OF SALE

(UNPROCLAIMED LAND)

(PROPOSED STRUBENVALE EXTENTION 2 TOWNSHIP)

THIS IS AN AGREEMENT BETWEEN:

FIFTH SEASON INVESTMENTS 99 (PROPRIETARY) LIMITED
(No. 2005/008325/07)

herein represented by PETRUS JACOBUS DANIEL NEL or NICOLAAS JACOBUS NEL, duly authorised hereto by virtue of a resolution of the directors of the said company taken at Pretoria on the 19th day of NOVEMBER 2008

(the "seller")

Street Address: 204 Xcel Park, cor Rodericks & Lynnwood Roads, Lynnwood, Pretoria 0081
Postal Address: P O Box 75266, Lynnwood Ridge, Pretoria 0040
Telephone no.: 082 492 6464 (Nico Nel)
Fax No: 086 635 8454 or (011) 730-6920/1
E-Mail: nico@san.za.net

AND

.....
.....
.....

(the "purchaser")

The following information relating to the purchaser is recorded:

Street Address:
Postal Address:
Telephone no.: (a) Business: (b) Home:
Cell No: Fax No:
Income Tax Ref No: VAT No:
E-mail address:
Identity Number / Registration Number:
Date of birth:
Marital status of natural person:
Date of marriage:
Married In/out of community of property:
Spouse's full names:
Spouse's Identity number:

WITNESSETH

The seller hereby sells the "property" to the purchaser who purchases it, subject to the provisions contained herein or referred to in Annexure "A" which forms part of this document and has been initialed by the parties for identification purposes:

1. PROPERTY:

The "property" is ERF NO _____ (as indicated on the annexed Site Plan marked "B") (Phase _____) situated in the proposed township of STRUBENVALE EXTENSION 2 TOWNSHIP, Registration Division I.R., Province of Gauteng to be known as

GROOTVLEI RESIDENTIAL ESTATE

(which Erf Number appears on the approved general plan) the precise form and/or location and/or area of which property may be influenced by the later provisions contained in this document;

2. PURCHASE PRICE AND PAYMENT

The purchase price of the property (inclusive of Value Added Tax) is R.....

(.....)

The purchase price is payable as follows:

2.1 The Purchaser shall pay within 7 (seven) days from date of this agreement:

- 2.1.1 Either an amount of R _____ (_____ RAND) equivalent to 10% (Ten percent) of the purchase price should the property be a **VACANT ERF**, OR
- 2.1.2 the sum of R5 000,00 (FIVE THOUSAND RAND) should the property be **an Improved Property with a dwelling house** on it,

to the Sellers' Attorneys MICHAEL BURGER ATTORNEYS at ABSA BANK LIMITED Menlyn Branch Code: 335645 ACCOUNT No. 4047423671 with Reference No. _____, which amount will be invested in an interest-bearing investment account for the credit of the Purchaser and held in trust until date of transfer of the property into the name of the Purchaser. A copy of the deposit slip for any deposit made into the above Trust Account must be faxed to Fax No. (012) 348-3807, failing which such funds will be transferred into a Suspense Account and the said Attorneys accept no responsibility for not crediting the Purchaser's account with such payment, and which will be regarded as non-payment and non-compliance with the applicable contractual condition.

2.2 The balance of the purchase price in the amount of R _____ (_____ RAND) shall be payable in cash, free of bank charges on registration of the property in the name of the Purchaser, which payment shall be guaranteed by way of acceptable bank guarantee or other acceptable guarantee to be furnished to the Seller by not later than 31 January 2009 (Phase I & II) and 31 March 2009 (Phase III)

2.3 The Seller warrants that it is a registered VAT Vendor and that the transaction is subject to the payment of VAT by the Seller.

3. SUSPENSIVE CONDITION:

The parties agree that this Deed of Sale shall be subject to the suspensive condition that should the Purchaser be unable to obtain a loan from a financial institution payable against registration of a First Bond over the Property for an amount of R _____ (_____) which in the case of a VACANT ERF, shall consist of the erf price of the property less the deposit as set out in Clause 2 above, plus the BUILDING CONTRACT PRICE as set out in Annexure B (BUILDING CONTRACT) **OR** in the case of AN IMPROVED PROPERTY WITH DWELLING HOUSE THEREON the purchase price less deposit, within 30 (Thirty) days from date of signature hereof, this Deed of Sale shall lapse and no duty to take transfer of the Property shall rest upon the Purchaser.

4. BOND ORIGINATOR AGENTS

The transaction is subject to the further suspensive condition which must be complied with within 14 days of signature hereof:

- 4.1 The Purchaser hereby acknowledges that SafreBond will be the Bond Originator Agents appointed by the Seller in its discretion, to attend to the loan application(s) on behalf of the Purchasers for the financing of the Purchase Price in terms of this Agreement.
- 4.2 The Purchaser irrevocably undertakes to utilise this service provided to the Purchaser free of charge. The Purchaser furthermore undertakes to submit all relevant documents and/or information (personal, financial or otherwise) to the Consultant within 14 (Fourteen) days of date hereof so as to enable her to prepare a complete loan application for the financial institutions with which SafreBond is associated.
- 4.3 Upon approval of the various loan applications lodged by the Consultant, the Purchaser will be entitled to select which one of the approved bonds he will proceed with registration of;
- 4.4 The Seller reserves the right at any time in its sole discretion to terminate the services of the Bond Originator Agents appointed in terms of 4.1 above, and to appoint another Company. Should this be the case, Purchasers will be notified in advance and will still be bound to the stipulations of Clause 4.
- 4.5 Any bond granted to a Purchaser shall be attended to by the said Michael Burger Attorneys.
- 4.6 Should the Purchaser fail to do all such things necessary on request by SafreBond to enable them to make application for the bond/loan as provided for in Clause 4.1 or if such bond/loan is secured by the Purchaser directly or by the Agent or any other

mortgage originator, it shall be regarded that the suspensive condition has not been fulfilled and this Agreement shall automatically lapse and become null and void.

5. **COPIES OF DOCUMENTS TO BE HANDED TO THE PURCHASER:**

The Purchaser acknowledges having received copies of Architectural Guidelines, House Rules and Regulations and of the Constitution of the Homeowner's Association referred to in Annexure "A" hereto which form an integral part of this agreement.

SIGNED AT on this day of 200...
AS WITNESSES:

1. _____
On behalf of the SELLER

2. _____

SIGNED AT on this day of200.....
AS WITNESSES:

1. _____
PURCHASER

2. _____
PURCHASER'S SPOUSE

The benefits of this agreement accruing to ("the Agent") are hereby accepted by
..... on this..... day of20....., duly authorised thereto.

.....
On behalf of ("the Agent")

ANNEXURE "A"

1. LATE PAYMENT:

Without prejudice to and in addition to any other rights which the seller then may have, should there be any delay in effecting transfer by reason of the default of the purchaser, the purchaser shall be responsible for the payment of penalty interest on the outstanding balance of the purchase price calculated at the prime rate of Absa Bank Limited from date of default for the period of the delay.

2. OCCUPATION & POSSESSION:

The right to occupy and possess the property will pass to the purchaser on the date of registration of the property into his name. The seller does not warrant that the purchaser will be entitled to commence with the erection of any building/s on the property on the occupation date. In this regard the seller records that it will only be legally possible to build on the property once the consent of the Grootvlei Residential Estate Homeowners Association has been obtained after Ekurhuleni Metropolitan Municipality has taken over the township services after registration.

3. MUNICIPAL LEVIES, CONNECTION FEES & CONDITIONS IMPOSED BY LOCAL AUTHORITY:

As from the proclamation date the purchaser will be liable for payment of all municipal rates and taxes, sewerage fees, rubbish removal fees and all other levies which may be made by the local or any other competent authority in respect of the property. The purchaser shall pay the said amounts to the seller monthly by not later than the first day of every calendar month. Should any new levy or form of taxation be imposed in respect of the property by the local authority or any other competent authority after the date of this agreement, the purchaser shall likewise be liable for the payment thereof, which payment will be made direct to the seller by not later than the first day of every calendar month. The Purchaser shall be liable for Value Added Tax which may be payable in respect of any of the said levies for which the Purchaser is liable.

The purchaser is obliged to pay all amounts which are or may become payable in order to procure services from the local or any other authority in respect of the property. The said amounts are payable direct to the relevant local or other authority. The said amounts include, but are not necessarily limited to, sewerage connection fees and amounts payable for the provision of electricity and water for use on the property. The purchaser shall be liable for Value Added Tax which may be payable in respect of any of the said levies for which the purchaser is liable.

The seller is obliged to use its best endeavors to have the installation of services completed to the satisfaction of the local authority within a reasonable time, but the seller does not warrant or represent that the said installation will be completed by any date. The purchaser will not at any time be entitled to cancel this agreement or to claim a reduction in the purchase price of the property or to claim damages by virtue of the fact that the installation of services has not been commenced with or completed by any date.

The purchaser is obliged at his own expense to comply with all provisions imposed by the local or any other competent authority with regard to the provision of any services to the property or obtaining entry to or exit from the property to or from any road.

4. VOETSTOOTS:

The property is sold voetstoots as it now lies and is sold and will be transferred subject to all the conditions and servitudes mentioned or referred to in the Seller's title deeds, and especially subject to the conditions set out in the Conditions of Establishment declaring the Township approved and the approved General Plan of the township. The Purchaser waives all claims against the Seller from any defects therein, whether patent or latent. The Purchaser, furthermore, acknowledges that the Seller makes no warranty or representations as to the degree of compaction or suitability of the soil of the property for building purposes. The Seller however declares that a geological report indicates that the township is suitable for building purposes. Geological tests have been done in respect of the proposed township (Annexure "C"). The Seller further declares that due to construction activities in the township, certain areas have been excavated and duly compacted according to the requirements laid down by the Engineers, and trees were removed and the holes filled in and that the Purchaser will take this into consideration for foundation purposes, if applicable. It is recorded that should any further testing be required for any individual erf (for building foundations etc), the purchaser thereof shall be responsible therefor and shall have no claim against the Seller in regard thereto.

5. POSITION, EXTENT & CONDITION OF PROPERTY:

The seller records that the shape and/or position and/or extent of the property as indicated on the site plan may change after the date of this agreement should this be required by any relevant authority. Should the property have been erroneously described in this agreement then the correct description of the property shall be the description for the purpose of this agreement as later indicated on the approved general plan of the township.

Should the shape and/or position and/or extent of the property be changed after the date of this agreement the purchaser will not be entitled to cancel this agreement or to claim a reduction in the purchase price or any damages from the seller, but will be obliged to take transfer of the property in its changed shape and/or with its changed extent and/or in its changed position; provided that no such change will amount to an increase or decrease of more than 5% (five percent) in the extent of the property or in the length of any boundary line thereof. In the event of any such change the parties agree that the description of the property (as regards the erf number, its shape, extent and position) as described in the title deed under which it will be held by the seller after proclamation of the proposed township shall apply and be binding upon the parties. If need be, the seller will be entitled to rectify this document by written notice given to the purchaser.

The property is sold in its present condition provided the seller will not be liable for any change in the property's condition which may occur or be caused after the date of this agreement whether due to normal wear and tear, erosion, climatic conditions or otherwise. The parties agree that the seller will not be liable for any damage caused to the property due to the provision of the normal infrastructural services such as roads, curb stones, sewerage works, electricity, water and the like.

The purchaser is obliged at his own expense to keep the property neat and free of rubbish and excessive weeds and similar vegetation. The purchaser will be liable at its own expense to remove any building rubble or similar material which may at any time be dumped on the property. Furthermore, the purchaser is obliged at his own expense to comply with all provisions of the local or any other competent authority which relate to the condition or neatness of the property, whether such provisions exist now or may be imposed hereafter.

6. **SURVEYOR'S PEGS:**

The seller shall not be obliged to point out the surveyor's pegs which constitute the corners of the property to the purchaser after proclamation of the township. The Purchaser shall be liable for costs of locating same.

7. **NO IMPROVEMENTS PRIOR TO TRANSFER:**

Prior to the date upon which the ownership of the property is registered in the purchaser's name, the purchaser shall not be entitled to erect any building or other structure on the property whether or not such building or other structure is of a permanent nature, nor will the purchaser be entitled to dig foundations or otherwise prepare the property for building.

8. **PROHIBITION AGAINST ALIENATION PRIOR TO TRANSFER:**

Before ownership of the property is registered in the purchaser's name, the purchaser is not entitled without the seller's prior written consent, to sell, donate, exchange or in any other manner to burden or alienate the property. The seller is not entitled to unreasonably withhold its consent to any such alienation, but should the seller consent to such alienation, the purchaser shall remain bound to every provision of this agreement. Furthermore, the seller will be entitled to grant the said consent subject to such conditions as he in his discretion may deem fit. The alienation contemplated in terms of this clause shall not include any tripartite transaction.

9. **TRANSFER:**

- 9.1 The seller's conveyancers, Michael Burger Attorneys, of Ground Floor, Atrium Building 60 Glenwood Road, Lynnwood Glen, Pretoria (telephone number (012) 348 3578 – fax Number (012) 348-3807 – e-mail : sanra@michaelburger.co.za) will attend to the registration of ownership of the property in the purchaser's name.
- 9.2 The said Attorneys and Conveyancers shall, without exception, attend to the registration of all transfer of properties situate within the Development, as well as the registration of all mortgage bonds of the Purchasers.
- 9.3 Transfer of the property and registration of the mortgage bond(s) (where applicable) will be attended to by the Conveyancers nominated above, and shall be proceeded with :
- 9.3.1 upon the Purchaser securing the purchase price, including the furnishing of the required bank guarantees.
- 9.3.2 upon the Seller paying the attorneys costs plus VAT of the transfer of the property, and the Purchaser paying rates and taxes and levies incurred in respect of or incidental to the transfer of the property.
- 9.3.3 upon the Seller also paying all the costs of registration of the mortgage bond over the property, including tax and stamp duties (if applicable), conveyancers' fees and bank charges incurred in respect of or incidental to the registration of such bond.

10. **ENDOWMENT**

The parties record and agree that the seller will be liable for payment of any endowment which may be payable in respect of the proposed township.

11. **AGENTS COMMISSION:**

Commission including VAT in accordance with the Commission Agreement entered into between the Seller and ("the AGENT") shall be paid by the Seller to the Agent provided that should the Purchaser fail to carry out his obligations in terms hereof, the agent shall have the right to recover such commission from him. The commission shall be payable upon registration of transfer of the property into the name of the Purchaser.

12. **DOMICILIUM CITANDI ET EXECUTANDI & JURISDICTION:**

The parties respectively choose the street addresses appearing under their names on the first page of this document as their respective domicilia citandi et executandi. The parties respectively select the postal addresses appearing under their names on the first page of this document for purposes of notices and correspondence given in terms of this agreement. Any notice given by prepaid registered mail to the purchaser care of his postal address selected in terms hereof will be deemed to have been received by the purchaser and its contents to have come to the purchaser's notice on the 4th (fourth) day after the date on which it was posted in the Republic of South Africa, unless the contrary is proved. A party is entitled to amend its chosen street address or postal address by giving written notice of the amendment to the other party, which notice shall be delivered or sent by prepaid registered post to the other party and will become binding on the other party upon receipt thereof.

For the purpose of any proceedings hereunder the parties hereby consent to the jurisdiction of the Magistrate's Court notwithstanding that such proceedings are otherwise beyond its jurisdiction. Signature hereof by the Purchaser shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to section 45 of the Magistrate's Court Act of 1944 or any amendment thereof, provided nevertheless the Seller shall have the right at its sole option and discretion to institute proceedings in any other competent Court in respect of any claim which, but for the foregoing, would exceed the jurisdiction of the said Magistrate's Court.

13. **BREACH**

Should the Purchaser fail to comply punctually with any provision of this agreement, whether it be a material provision or not, the Seller will be entitled to notify the Purchaser in writing by prepaid registered post addressed to the Purchaser's address chosen or by letter handed to the Purchaser of the failure and make demand to the Purchaser to rectify the failure within 7(seven) days from the date on which the letter is handed to the Purchaser or is sent by prepaid registered post (as the case may be) and inform the Purchaser of the steps the Seller intends taking if the breach is not rectified and should the Purchaser fail to remedy the breach by the said date, the Seller will then be entitled, without prejudice to any other rights which it may have and without further notice:-

- 13.1 to cancel this agreement and to claim damages from the Purchaser and in such event the Seller will be entitled to retain all amounts already paid by the Purchaser in terms of this agreement as pre-estimated liquidated damages or roukoop, or alternatively to claim its actual damages from the Purchaser, in which latter event the seller will be entitled to retain all amounts already paid by the purchaser until its damages have been quantified and then to set off its damages against the said payments; or alternatively
- 13.2 to claim specific performance by the purchaser of all its obligations in terms of this agreement including the payment by the purchaser of the full outstanding balance of the purchase price and all interest in spite of the fact that the said balance of the purchase price may, but for this provision, not yet be due. In addition the seller will be entitled to claim damages from the purchaser.
- 13.3 If the seller in the same calendar year has so handed or sent to the purchaser two notices as contemplated above at intervals of more than 30 (thirty) days he may in any subsequent notice so handed or sent to the purchaser in such calendar year, make demand on the purchaser to carry out his obligations within a period of 7 (seven) days calculated from the date on which the notice was so handed or sent to the purchaser, as the case may be.

14. **COMPANY, CLOSE CORPORATION OR TRUST:**

- 14.1 Should the PURCHASER be signing this agreement as Trustee or Agent of a legal persona to be registered, or as stipulant on behalf of a third party, being a Trust about to be registered, it will be deemed that the PURCHASER has purchased the property in his personal capacity unless the legal persona has been incorporated or Trust has been formed within 30 (thirty) days from date of acceptance hereof, and that this agreement has been ratified.
- 14.2 Should the PURCHASER be a company, close corporation or trust, the signatory hereof guarantees that he/she is duly authorised to act and sign on behalf of such company, close corporation or trust. The signatory hereby binds himself/herself as surety and co-principal debtor to the seller and hereby renounces all benefits arising from the legal exceptions of division, excussion and cession of claims.

15. **SELLER'S RIGHT OF ACCESS:**

The seller and/or its authorised agent/s and/or contractors shall at all times have the right to enter upon the property for the purpose of inspection and to conduct such work and to make such excavations and to temporarily deposit such material as the seller may determine or require for all purposes in connection with the installation of services or otherwise.

16. **RESTRICTION ON RESALE OF PROPERTIES IN TOWNSHIP:**

Should the Sellers' consent be obtained for the resale of the property in terms of Clause 8 above, it is agreed that both separate transfers will be dealt with and registered by the Transferring Attorneys mentioned in Clause 9 above.

17. **ORDINANCE 15 OF 1986:**

The township establishment conditions have been approved and the Seller has to comply with such conditions.

The seller expects the township to be proclaimed by approximately between April and June 2009 but gives no warranty whatsoever in this regard and the recording of the seller's said expectation is not a factor which should induce the purchaser to enter into this agreement. An undertaking by the seller in this regard is contained below.

The conditions of establishment, which, as mentioned above, may already have been amended or may in future be amended prior to proclamation of the township and the existing title conditions and title conditions which may still be incorporated in the property's title deed in terms of the conditions of establishment are available at the seller's abovementioned address for inspection by the purchaser;

The land upon which the proposed township is to be proclaimed is registered in the seller's name.

The property will not become a separately registerable entity before proclamation of the proposed township in terms of the Ordinance has taken place and the purchaser acknowledges being aware of the fact that transfer of the property cannot be affected before proclamation.

The erf is not registerable at present as the township has not been proclaimed and the Seller undertakes not to, despite the provisions of Section 67 of Ordinance 15/1986, cancel this agreement at any stage. The Seller shall use its best endeavours to obtain consent from the Council in terms of Section 70 of the Ordinance enter into this Agreement. The Seller undertakes to take such steps as may be necessary to comply with the township establishment conditions as soon as possible.

18. **DELAY IN PROCLAMATION OF TOWNSHIP:**

Should the township not have been proclaimed an approved township by the said date, the purchaser will not be entitled to cancel this agreement or to claim a reduction in the purchase price or damages. If by 30 June 2009 the township has not yet been proclaimed an approved township, then either party to this agreement will be entitled to cancel it by giving written notice of cancellation to the other party. In the event of such cancellation the parties will mutually restore unto each other everything performed in terms of this agreement whereupon the parties will have no further claims against one another by virtue of the agreement or its cancellation. In spite of the foregoing provision of this clause, the seller will not be obliged to refund interest paid by the purchaser in terms of this agreement, to the purchaser.

19. **EXTENSION OF ESTATE:**

The Purchaser acknowledges that the Seller is also the Developer of the Residential Estate. The Purchaser further acknowledges that the Seller has the sole right to develop and/or extend the Estate in phases at his sole discretion and/or to include adjacent or sub-joining properties and townships.

20. **HOMEOWNERS ASSOCIATION:**

- 20.1 The Purchaser confirms that on registration of the property into his name he shall automatically become a member of GROOTVLEI RESIDENTAIL ESTATE Homeowners Association ("the GREHOA") and confirms that he shall obtain membership subject to the Memorandum and Articles, Statutes, Constitution and Rules of the GREHOA. For so long as he is the registered owner of the property he will remain a member of the GREHOA and be bound by its Memorandum and Articles of Association. The Purchaser and his successors in title shall not be entitled to sell or transfer the property without the written consent of the GREHOA. Should he sell the property he will ensure that his purchaser is made fully aware of the Memorandum and Articles of Association of the GREHOA. Prior to transfer he will not be entitled to sell, donate,

grant any option or pre-emptive right in respect of alienate or transfer, or in any way deal with the property without the prior written consent of the GREHOA that shall not be unreasonably withheld.

- 20.2 As from the date of proclamation, the Purchaser shall be liable for payment to the GREHOA of a levy as determined by the GREHOA and which levy shall be utilised inter alia towards maintenance of property belonging to the GREHOA and the security fence as well as payment of disbursements relating to security matters and for such other purposes as the Constitution of the GREHOA may prescribe. Such levy shall not include rates and taxes for which the Purchaser shall remain separately liable. For registration of transfer and levy clearance certificate purposes the levy shall be calculated at R200,00 per month for the first three months after proclamation, whereafter, the GREHOA shall determine the monthly levy.
- 20.3 Prior written consent of the GREHOA is required for any improvements or alterations to the property. Building plans for such improvements or alterations must be submitted and approved by the GREHOA before the commencement of any work.
- 20.4 The Purchaser of an Erf zoned "Residential 1" undertakes to commence building a dwelling house and outbuildings on the property to the satisfaction of the Architectural Committee of the GREHOA within 2 (TWO) years of registration of the property into his name or within such extended period as the Architectural Committee in their sole discretion may allow in writing, failing which the Seller and/or the GREHOA shall be entitled to increase all levies payable in respect of the property by 500% (Five Hundred Percent). Erven 1907 & 1908 (roads), Erven 1730, 1906 and 1906 (Parks) and amenities including swimming pool, squash courts etc, are excluded from this restriction. The Purchaser of any of Erven 1320, 1418, 1729, 1531, 1731 zoned "Residential 2" which are intended for sectional title development undertakes to erect the required number of units allocated to each specific erf to the satisfaction of the Architectural Committee of the GREHOA within 5 (FIVE) years of registration of the property into his name or within such extended period as the Architectural Committee in their sole discretion may allow in writing, failing which the Seller and/or the GREHOA shall be entitled to increase all levies payable in respect of the property by 500% (Five Hundred Percent). Erf 1528 is excluded from the aforementioned restrictive condition.
- 20.5 All building plans shall comply with the Architectural Guidelines applicable to the Township and must be approved by the Architectural Committee of the GREHOA in order to assure such compliance, after which the plans may be submitted to the Local Authority for approval. This applies to any additions or alterations to existing or future structures.

21. **GENERAL:**

- 21.1 This document contains the whole agreement between the parties and there are no prior or parallel agreements between them.
- 21.2 No warranty has been given or representation made by or on behalf of the seller which induced the purchaser to enter into this agreement. It is specifically agreed that no representation made by any estate agent in respect of the property or any other aspect of this agreement will be binding on the seller.
- 21.3 No alteration, addition, deletion or consensual cancellation of or to this agreement will be of any force unless reduced to writing and signed by the seller, the purchaser and the estate agent.
- 21.4 No indulgence granted by the seller in respect of the performance by the purchaser of any obligation undertaken in terms of this agreement will novate the agreement or prejudice the seller's rights in any manner and in spite of any such indulgence the seller will be entitled at all times to enforce prompt and proper compliance by the purchaser of each and every obligation undertaken in terms of this agreement.
- 21.5 The Roads and the Facilities such as the swimming pool, squash courts, parks etc are for the use of the Members of the GREHOA.