

22.10.2009
(SL3202)

AGREEMENT

between

("the Seller")

and

("the Purchaser")

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IT IS AGREED

1.

Definitions

Unless inconsistent with the context, the following expressions shall have the meanings set forth against them, namely:

1.1 "Conveyancers" means Cox Yeats, 13th Floor, Victoria Main, 71 Victoria Embankment, Durban 4001, E-mail pnel@coxyeats.co.za Telephone: +27 31 3042851.

1.2 "Conveyancers Trust Account" means:

Cox Yeats Trust Account No. 050113682
Standard Bank, Smith Street, Durban
Branch Code: 04002600

Confirmation of payment to be faxed to +27 31 3013540.

1.3 "Date of Signature" means the last day of signature hereto by one of the parties.

1.4 "Date of Transfer" means the date on which registration of transfer of the Property into the name of the Purchaser is registered in the Deeds Office.

1.5 "FICA" means the Financial Intelligence Centre Act No. 38 of 2001.

1.6 "Loan" means a loan required by the Purchaser to purchase the Property.

- 1.7 "Municipality" means the local municipality in which the Property is situate.
- 1.8 "SARS" means the South African Revenue Service.
- 1.9 "Savings Account" means a corporate saver account with Nedbank Limited, or a corporate cash manager with Investec Limited or account manager with Grindrod Bank Limited.
- 1.10 "VAT" means Value Added Tax in accordance with the provisions of the Value Added Tax Act of 1991.

2.

Sale

The Seller hereby sells to the Purchaser who hereby purchases the immovable property together with all improvements thereon described as:

situate at
(hereinafter referred to as "the Property").

3.

Purchase Price

The purchase price of the Property is the sum of R_____ plus VAT of R_____ which together amount to R_____ and which sum shall be payable in cash on the Date of Transfer and which sum shall be secured pending transfer in the following manner:

4.

Loan

4.1 This agreement is subject to and conditional upon the Purchaser confirming in writing to the Seller within a period of 14 (fourteen) days of the Date of Signature that a bank has granted the Loan to the Purchaser, such Loan to be secured by the registration of a first mortgage bond over the Property. If the Purchaser fails to obtain the Loan within the aforesaid period, or within such extended period as the parties mutually may agree upon, this agreement shall be null and void and of no further force or effect and any moneys held by the Conveyancers shall be refunded together with the accrued interest.

4.2 The Purchaser undertakes forthwith to apply for the Loan and to use its best endeavours to procure the Loan. The Purchaser shall be obliged to get copies of all correspondence to and received from its bankers in relation to the application for and grant or refusal of the loan immediately upon sending or receipt thereof.

5.

Possession and Occupation

5.1 Possession and vacant occupation of the Property shall be given to the Purchaser on the Date of Transfer from which date the risk in and to the Property shall pass to the Purchaser and from which date the Purchaser shall:

- (a) become entitled to all income from the Property; and
- (b) be liable for and pay rates and all other outgoings in respect of the Property.

Prepaid income and expenses and expenses which have accrued but have not been paid by the Seller shall be adjusted between the Purchaser and the Seller at that date.

- 5.2 The risk in and to the Property shall pass to the Purchaser on the Date of Transfer.

6.

Voetstoots

- 6.1 The Property together with all improvements thereon is sold voetstoots and subject to all defects whether patent or latent and subject to all servitudes and conditions whether contained in the title deeds or otherwise. The Purchaser acknowledges being fully acquainted with the Property, its locality, nature, extent, boundaries and beacons, the Purchaser not having relied upon any representations or warranties whatsoever.
- 6.2 To the best of the Seller's knowledge and belief, the Municipality has approved building plans for all buildings and structures situate on the Property.

7.

Agent

This agreement was concluded without the assistance of an estate agent and no selling commission is payable. The Purchaser warrants that no one introduced the Purchaser to the Seller in circumstances which could give rise to a claim for the payment of an introductory fee or selling commission.

8.

Transfer

- 8.1 Transfer of the Property shall be attended to by the Conveyancers and the costs of transfer including VAT, the costs of negotiation and preparation of this agreement and a proportionate share of the rates shall be paid by the Purchaser. The parties undertake to sign the transfer documents when called upon to do so and the Purchaser undertakes to pay the pro forma conveyancing account of the Conveyancers upon rendition thereof.
- 8.2 The Conveyancers are also the Seller's attorneys. If a dispute arises between the Seller and the Purchaser the Seller's attorneys, if requested by the Seller, will act for the Seller against the Purchaser. In such event the Purchaser should seek independent advice.
- 8.3 To facilitate compliance with FICA, the parties are required to supply the Conveyancers with a copies of the documents reflected on the Document Schedule annexed hereto.
- 8.4 The Purchaser acknowledges that in order for the Conveyancers to obtain a rates clearance certificate, it will be necessary to pay an estimate of future rates and of future utility charges to the Municipality. The Purchaser undertakes on request to pay to the Conveyancers the amount the Conveyancers estimate is likely to be the proportionate share due by the Purchaser. A final adjustment will be undertaken by the Conveyancers on the Date of Transfer.

9.

Delay in Transfer

Should transfer of the Property be delayed through any act of or omission on the part of the Purchaser, the Seller shall be entitled to send the Purchaser a letter

requiring the Purchaser to pay penalty interest on the purchase price from the date of issue of the letter until the date upon which the Purchaser ceases to be in mora. Subject to the provisions of the National Credit Act, the interest will be calculated at the rate of 18% per annum.

10.

Cession

Until the Date of Transfer, the Purchaser may not sell, cede or assign the Purchaser's rights under this agreement to any third party nor may the Purchaser sell the Property without the prior written consent of the Seller which consent will be subject to the Seller approving the terms of the subsequent sale agreement.

11.

Breach

11.1 Should the Purchaser breach any of the terms and conditions of this agreement and remain in breach after having received 7 (seven) days written notice to remedy such breach, the Seller shall be entitled either to sue for specific performance in terms of this agreement or to cancel this sale.

11.2 Should the Seller cancel this sale as aforesaid, the Seller shall be entitled to retake possession and occupation of the Property and in addition the Seller shall be entitled to declare all moneys paid by the Purchaser to the Seller or to the Conveyancers, including any interest earned thereon to be forfeited to the Seller or alternatively the Seller may claim from the Purchaser such damages as the Seller may have suffered. In such an instance the Conveyancers are irrevocably authorised by the Purchaser to continue holding such moneys in trust pending the determination of the damages.

- 11.3 Should the Seller instruct an attorney to take any action against the Purchaser arising from any breach of the Purchaser's obligations in terms of this agreement, the Purchaser shall be liable for and shall pay all such attorneys fees, including collection charges, as between attorney and own client.
- 11.4 Any latitude or extension of time which may be allowed by the Seller to the Purchaser shall not in any circumstances be deemed to be a waiver of the Seller's rights hereunder.

12.

Domicilia

- 12.1 The parties choose as their respective domicilia citandi et executandi in South Africa for the service of notices given in terms of this agreement and legal processes the following addresses:

Seller:

Purchaser:

- 12.2 Any notice sent to the above addresses by prepaid registered post shall be deemed to have been received 5 (five) days after the date of posting. Alternatively a notice may be delivered by hand at the above addresses which will be the date of receipt by the addressee.

13.

Purchaser as trustee for a company or close corporation to be formed

Should the Purchaser sign this agreement as trustee for a company or close corporation to be formed, the Purchaser agrees and undertakes by the Purchaser's signature hereof, in the Purchaser's personal capacity:

- 13.1 To effect registration of the company (which shall contain as one of its objects the adoption and ratification of this agreement) or close corporation within 30 (thirty) days of the date of signature.
- 13.2 To obtain the adoption and ratification, as the case may be, by the company or close corporation of this agreement not later than 7 (seven) days after the date of incorporation or registration as the case may be.
- 13.3 That should registration of the company or close corporation not be effected within the period of 30 (thirty) days aforesaid, or should the company or close corporation when so registered fail to adopt and ratify this agreement within the further period of 7 (seven) days aforesaid, or should the company or close corporation fail in any way whatever to implement the terms of this agreement, then the Purchaser in the Purchaser's personal capacity will be liable as Purchaser as if this agreement were made with the Purchaser in the Purchaser's personal capacity.
- 13.4 To be bound jointly and severally as surety for and co-principal debtor with the company or close corporation for the due and proper fulfilment of each and every term, condition and provision of this agreement. The Purchaser in that capacity waives the benefits of excussion and division.

14.

Representations

The Purchaser has not relied upon any representations or warranties given by any person other than those contained in this agreement.

15.

Variations

This agreement contains all of the terms and conditions of the agreement between the Seller and the Purchaser and is the whole and only contract between them. No variations to this agreement shall be of any force or effect unless recorded in writing and signed by the parties.

16.

Right of Revocation

16.1 Notwithstanding anything to the contrary contained herein, the Purchaser shall have the right, in terms of Section 29 (a) of the Alienation of Land Act of 1981 to revoke this agreement by written notice delivered to the Seller within 5 (five) days (excluding weekends and public holidays) of the date of signature by the Purchaser.

16.2 The aforesaid notice will be effective only if it:

- (a) is signed by the Purchaser or the Purchaser's agent acting on the Purchaser's written authority;
- (b) identifies this agreement as being the agreement to be revoked;
and
- (c) is unconditional.

16.3 Should the agreement be revoked pursuant to sub clause 16.1 above, the following provisions shall apply:

- (a) Any amount paid or deposited by the Purchaser shall be refunded to the Purchaser within 10 (ten) days.
- (b) No person shall be entitled to receive any remuneration or damages as a result of the revocation.
- (c) No penalty or cancellation fee shall be payable by either party to the other.

17.

Resolutions

17.1 The persons signing this agreement on behalf of the parties hereto warrant that they are authorised to sign on behalf of their principals.

17.2 The sale of the Property to the Purchaser will be authorised by a special resolution of the shareholders of the Seller to be passed in terms of Section 228 of the Companies Act of 1973 and to be registered with the Registrar of Companies prior to the Date of Transfer.

18.

Suretyship

By virtue of his signature hereto, the undermentioned surety binds himself, jointly and severally, as surety and co-principal debtor with the Purchaser for the due fulfilment of all of the obligations of the Purchaser contained in this agreement. The surety hereby waives the benefits of excussion and division.

19.

Period for acceptance

This agreement is subject to and conditional upon the Seller signing this agreement within _____ days of the date of signature hereof by the Purchaser.

SIGNED at _____ on this _____ day of
2009.

AS WITNESSES

1. _____

2. _____

Seller

SIGNED at _____ on this _____ day of
2009.

AS WITNESSES

1. _____

2. _____

Purchaser

SIGNED at _____ on this _____ day of
2009.

AS WITNESSES

1. _____

2. _____

Full Name of Surety