

# WATERLAKE FARM

## PURCHASE AND SALE AGREEMENT

### PARTICULARS OF PURCHASER:

**1     Individual:**

Surname: \_\_\_\_\_

Full Names: \_\_\_\_\_

Identity Number: \_\_\_\_\_

Marital Status \_\_\_\_\_

**2     Company / CC / Trust**

Name \_\_\_\_\_

Registration Number \_\_\_\_\_

Particulars of person signing \_\_\_\_\_

**3     Address of purchaser for domicilium purposes**

Address \_\_\_\_\_

Postal Address \_\_\_\_\_

Fax Number \_\_\_\_\_

E-mail address \_\_\_\_\_

Telephone \_\_\_\_\_

**4     Address of seller for domicilium purposes**

Address: \_\_\_\_\_ Brooklyn Courts, Block A – 1st floor, Veal str  
361, Brooklyn, Pretoria

Postal Address: \_\_\_\_\_ Box 2725, Pretoria 0001

Fax Number: \_\_\_\_\_ (012) 346-7197

E-mail address: \_\_\_\_\_ [antoINETTE@bhattorneys.co.za](mailto:antoINETTE@bhattorneys.co.za)

Telephone Number: \_\_\_\_\_ (012) 460-8047

**5     Particulars of Transferring Attorneys**

Borchardt & Hansen Incorporated \_\_\_\_\_

Postal Address: \_\_\_\_\_ P.O. Box 2725, Pretoria

Fax Number: \_\_\_\_\_ (012) 346-7197

E-mail address: \_\_\_\_\_ [antoINETTE@bhattorneys.co.za](mailto:antoINETTE@bhattorneys.co.za)

Telephone Number: \_\_\_\_\_ (012) 460-8047

# PURCHASE AND SALE AGREEMENT

I, \_\_\_\_\_

in my personal capacity

Or

In my capacity as the director/member of

\_\_\_\_\_

Duly authorised hereto

Or

In my capacity as the Trustee of the \_\_\_\_\_ Trust

(hereinafter referred to as "the Purchaser")

## DO HEREBY PURCHASE FROM:

### **BLUE HORISON PROP 4 (PTY) LTD**

Registration Number: 2003/029401/07

Herein represented by **LOUIS-FRANCOIS MULLER** he being duly authorised hereto

(hereinafter referred to as "the Seller")

Who hereby sells

## THE PROPERTY KNOWN AS:

**PORTION \_\_\_\_\_ (a portion of Portion 337) of the farm BOSCHKOP 369, Registration Division J.R., Province of Gauteng;**

**MEASURING 1000 (ONE THOUSAND) square metres as indicated on the annexed diagram Annexure "A" hereto.**

(hereinafter referred to as "the property")

## ON THE FOLLOWING TERMS AND CONDITIONS:

## 1. PURCHASE PRICE

1.1 The purchase price of the property is the sum of  
 R \_\_\_\_\_  
 ( \_\_\_\_\_ RAND)  
 (inclusive of VAT) which amount must be paid to the seller as  
 follows:

1.1.1 The amount of R \_\_\_\_\_  
 ( \_\_\_\_\_ RAND) as a  
 deposit on signature of this agreement by the purchaser, which  
 deposit must be paid into the trust account of the transferring  
 attorneys herein mentioned and to be invested in an interest  
 bearing account to the credit of the purchaser pending  
 registration of transfer. On date of registration the deposit will  
 be paid to the seller as part of the purchase price and the  
 interest will be paid to the purchaser.

1.1.2 The balance purchase price in cash upon registration of  
 transfer.

1.1.3 Should the seller have to repay the purchaser the deposit for  
 whatever reason, then the purchaser agrees to pay an  
 administrative fee of R2 500,00 to the transferring attorneys.

1.2 As security for the payment of the balance purchase price the  
 purchaser shall within 14 working days after the approval of the  
 hereinafter mentioned loan or, if a loan is not applicable within 30  
 (THIRTY) calendar days after signing hereof deliver to the said  
 attorneys approved bank guarantees which guarantees must be  
 payable in Pretoria upon registration of transfer free of charges and  
 bank commission; and must be payable in favour of the person or  
 instance so requested for by the transferring attorneys.

## 2. SUSPENSIVE CONDITION

- 2.1 This offer is subject to the suspensive condition that the purchaser or the seller on behalf of the purchaser, obtains a loan in principle in the amount of R\_\_\_\_\_ (\_\_\_\_\_ RAND) within 30 (thirty) days after date of signature hereof by the purchaser, unless the seller has extended this period in its discretion.
- 2.2 This condition will be deemed to have been complied with on notice by the Bank to the Bank Originators referred to in clause 2.3 or the agent or the purchaser, that the loan has been granted in principle on normal bank terms and conditions for a development such as this.
- 2.3 The purchaser is obliged, on request from the seller to apply for such loan through the Bond Originators of the Seller, Inhouse Bondbrokers (Gilda Lubbe: telnr: (012) 991-8402 / 082 595 0072) and undertakes to provide any relevant information required by the said Bond Originators to process the loan application. The purchaser shall also sign on request all necessary documents pertaining thereto.

## 3 TRANSFER, BOND REGISTRATION AND LEGAL COSTS

- 3.1 Transfer of the property and registration of the bond over the property (in the event of a loan being granted), shall be registered by the seller's transferring attorneys, after the purchaser has complied with the terms and conditions of this contract, and has paid all transfer and bond fees and costs and the costs hereof to the aforesaid transferring attorneys. The purchaser undertakes to pay such monies immediately upon demand.
- 3.2 The parties shall also be obliged upon request to sign all necessary documents in order to effect transfer of the property into the name of the purchaser and to register the bond.

- 3.3 The seller confirms that it is registered as a VAT Vendor and that the purchase price includes VAT which the seller will pay over to the South African Revenue Services.

#### **4 OCCUPATION RISKS AND TAXES**

- 4.1 Occupation of the property shall be given to the purchaser on date of registration of transfer.
- 4.2 Risk of profit or loss related to the property shall pass over to the purchaser upon registration of transfer.
- 4.3 From date of transfer the purchaser shall be liable for payment of all taxes, levies and other costs related to the property, and also as imposed on by the "Waterlake Farm Home Owner's Association" (hereinafter referred to as "the Home Owner's Association").

#### **5 VOETSTOOTS**

- 5.1 The property is sold voetstoots. The seller does not assume any responsibility for any obvious or hidden faults that may exist in the property, and the purchaser acknowledges that he buys the property voetstoots. The seller does not furnish any explicit or tacit guarantees with regard to the property.
- 5.2 The property is sold subject to all conditions or servitudes mentioned or referred to in the existing deed of transfer of the property or as imposed on by the seller as the developer of the development of which the property forms part, or as imposed on by the relevant governing authority, the Kungweni Local Municipality or the Tribunal in terms of the Development Facilitation Act 67/1995.

## 6 BEACONS

- 6.1 The seller shall not be responsible for the identification of the surveyor's beacons, pegs or boundaries, and shall also not be responsible for the related costs, for surveying the property.
- 6.2 In the event of there being a difference between the size of the property as described herein and as defined in the title deed, the description and extend in the title deed shall be followed and neither of the parties shall be entitled to any claim the one against the other, for whatever reason.

## 7 RIGHT TO TERMINATE

- 7.1 In terms of Sections 2A and 29A of the Alienation of Land Act, 68 of 1981 the PURCHASER may within five days (any Saturday, Sunday or public holiday excluded) after signature by him unconditionally terminate this contract by written and signed notice to the SELLER at his *domicilium citandi et executandi*; provided that the:
- 7.1.1 purchase price does not exceed R250 000,00 (two hundred and fifty thousand Rand);
- 7.1.2 PURCHASER is not a trust or a person other than a natural person;
- 7.1.3 PURCHASER has not purchased the PROPERTY at a publicly advertised auction;
- 7.1.4 SELLER and PURCHASER have not previously entered into a deed of alienation of the same PROPERTY on substantially the same terms;

7.1.5 PURCHASER has not reserved the right to nominate or appoint another person to take over his rights and obligations as stipulated in this agreement;

7.1.6 PURCHASER has not purchased the PROPERTY by the exercise of an option which was open for exercise for at least five days (any Saturday, Sunday or public holiday excluded); and

7.1.7 PROPERTY is used or intended to be used mainly for residential purposes.

7.2 Agreement is terminated as contemplated in clause 7.1 and every person who received any amount from the PURCHASER shall refund the full amount of such payment within 10 days of the date on which the notice referred in clause 7.1 was delivered to the SELLER.

## 8 ADDITIONAL ASSETS

8.1 The parties record that included in the purchase price of the property are the following assets, of which the purchaser by virtue of its membership with the Home Owners Association will be a partaker:

8.1.1 "Common Property" to which each purchaser will have access to. This will be those portions in the development which will be transferred to the Home Owners Association known as portions 668-670 and 660, as well as the roads known as portions 666 and 667. Certain "exclusive use areas or usage servitudes" are excluded from this, they being known as the servitude areas adjacent to portions 422 – 437; 498 – 509; 602 – 623 and 665. The above portions 668 – 670; 660 and 666 – 667 will only be transferred to the Home Owners Association simultaneously with the transfer of the last of the erven in the development.

8.1.2 Infrastructure and facilities on certain portions of the development as will be established by the Seller;

8.1.3 Existing Game on the development;

These assets will be the assets of the Home Owner's Association.

## 9 DEVELOPMENT

The purchaser acknowledges that he/she is fully conversant with the provisions of the following:

9.1 The Development Plan and Information document supplied by the Seller;

9.2 The Schedule and prices of properties being offered for sale;

9.3 The Geological Survey report;

9.4 The Articles of Association of the Home Owners Association to be incorporated;

9.5 The Rules of Conduct for the members of the Home Owners Association;

9.6 The Architectural, Landscaping and Building guidelines; and

9.7 The present levy is R2 050, 00 (VAT incl) per month per erf.

9.8 The Purchaser accepts that the power supply to the development Waterlake farm is not unlimited and that he will have to implement measures prescribed by the Waterlake farm Home Owners' Association from time to time in its sole discretion to limit the usage of power to his dwelling.



## 10 HOME OWNERS ASSOCIATION AND CONDITIONS OF TITLE

10.1 The purchaser acknowledges that it is aware that it is the seller's aim to achieve a high standard of development. The purchaser acknowledges further that as a consequence of the seller's aim, the seller established the Home Owners Association to control security and generally to manage and administer the communal interests of owners of properties in the development as well as the properties registered in the name of the Home Owners Association.

10.2 In order to enable the Home Owners Association to fulfil the function for which it has been established, the purchaser hereby acknowledges that by signing the offer to purchase, the purchaser shall be deemed to have automatically become a member of the Home Owners Association and will be subject to the Memorandum and Articles of Association, which membership shall be granted to the purchaser on registration of transfer of the property into the name of the purchaser;

10.3 The purchaser hereby agrees as follows:

10.3.1 To abide by the Memorandum and Articles of Association and adhere to any rules or regulations by the Home Owners Association, from time to time, pursuant to the Memorandum and Articles;

10.3.2 To ensure that all persons present on the property from time to time as visitors, family members, contractors, etc of the purchaser abide by the Memorandum and Articles of Association and adhere to any rules or regulations made by the Home Owners Association, from time to time.

- 10.3.3 To remain a member of the Home Owners Association and be bound to the Memorandum of Articles of Association as well as the rules and regulations of the Home Owners Association, for as long as he remains the registered owner of the property;
- 10.3.4 Should the purchaser sell the property he will be obliged to inform the new purchaser of the existence of the Home Owners Association and the new purchaser's obligations in terms of the provisions of the Memorandum and Articles of Association;
- 10.3.5 As from the date of this offer to purchase the purchaser shall be obliged to obtain the prior written consent of the Home Owners Association to sell or alienate the property, or the controlling interest or majority shareholding in the owner, which consent will not be unreasonably withheld.
- 10.3.6 The purchaser shall not sink any borehole on the property and shall not apply for the subdivision of the property, its rezoning or for consent use from the local authority without the prior written consent of the Home Owners Association being obtained.
- 10.4 The purchaser hereby agrees, in addition to all other conditions of title, to the registration of the following conditions, in this form or in such form as may be determined by the Registrar of Deeds, which conditions are imposed as conditions in favour of the Home Owners Association, against the title deed to the property, namely;
- 10.4.1 "Any owner of an erf, or any subdivision thereof, or any interest therein, or any unit as defined in terms of the Sectional Title Act thereon, shall automatically become and shall remain a member of the Home Owners Association and be subject to its Memorandum and Articles of Association

until it ceases to be an owner as aforesaid. No erf or any subdivision thereof, or interest therein, or any unit thereon, shall be transferred to any person who has not bound itself, to the satisfaction of the Home Owners Association, to become a member of the Home Owners Association";

10.4.2 "The owner of an erf or any subdivision thereof, or any interest therein, or any unit as defined in terms of the Sectional Title Act, shall not be entitled to transfer the erf or any subdivision or any interest therein, or unit thereon, without a clearance certificate from the Home Owners Association that all monies owing to it has been paid and that the transferring owner has complied with all the rules and regulations of the Home Owners Association."

10.5 The access roads to erven on the development and all other roads will be the property of the Home Owners Association and through its membership, the purchaser will have the right to use such roads.

10.6 Apart from the above and where necessary, certain servitudes for essential services may be registered in favour of the Home Owners Association and the purchaser herewith consents thereto, should it affect its property.

10.7 The purchaser is also aware of the fact that certain portions on the development as indicated on the development plan (portions 422 – 437; 498 – 509; 602 – 623 and 665), will have the exclusive use of certain pieces of land adjacent thereto and a servitude for usage may be registered in favour of such erf, and that this is an unchangeable rule of the Home Owners Association in order to protect such exclusive use. The purchaser consents thereto.

## **11 ARCHITECTURAL, LANDSCAPING AND BUILDING GUIDELINES**

- 11.1 It is specifically recorded that the purchaser is hereby bound to the architectural, landscaping and building guidelines prescribed by the seller and later the Home Owners Association from time to time.
- 11.2 All building works must be carried out in strict accordance of these guidelines.
- 11.3 Examples of the various styles allowed by the architectural guidelines, are indicated on the Information document.
- 11.4 All plans must be approved of by the Home Owners Association to ensure compliance with the guidelines.
- 11.5 The minimum size of the dwelling will be 300 square metres.

## **12 BUILDING CONTRACTOR AND ARCHITECT**

- 12.1 The purchaser is free to contract with its own appointed builder or architect but will ensure that they will comply with the guidelines as prescribed.

## **13 LEVIES**

- 13.1 As from date of transfer the purchaser shall be liable for payment to the Home Owners Association. The levy shall be utilised *inter alia* towards the maintenance of property belonging to the Home Owners Association, for communal interest and safety purposes and for such other purposes as the Memorandum and Articles of Association may prescribe.
- 13.2 The Seller shall not be liable for the payment of levies with regard to erven not yet being sold or transferred.

## **14 BUILDING PERIOD**

The purchaser acknowledges that he is aware of the fact that:

14.1 The purchaser is obliged to complete the dwelling on the property in accordance with the approved building plans within a period of 4 years from date of transfer of the property into its name, failing which the Waterlake farm Home Owner's Association may impose penalty levies in its discretion.

14.2 This clause is to the benefit of the Seller and may also be enforced against the Purchaser's successors-in-title.

14.3 For purposes of the above the purchaser consents to the registration of a title deed conditions that the property may not be alienated within the said period, without the written consent of the seller.

## **15 AGENT'S COMMISSION**

15.1 The seller shall be liable for the payment to the estate agent of agent's commission in respect of the purchase of the property, provided that, should the purchase hereunder be cancelled due to the purchaser's breach of contract or its failure to carry out any of its obligations under these conditions of sale, the purchaser shall be liable to pay any such commission incurred by the seller.

15.2 If this agreement is cancelled by virtue of the purchaser's default the seller shall be entitled to cede to the estate agent the seller's right in terms of this clause to claim payment of the agents commission from the purchaser.

## **16 COMPANY OR CLOSE CORPORATION TO BE FORMED**

Should the person signing the offer to purchase act or purport to act as agent or trustee for and on behalf of a company/close corporation to be incorporated:

- 16.1 Such person warrants that the company/close corporation for which he is acting will be formed within 30 (thirty) days of signature will, adopt and ratify this offer to purchase, without modification;
- 16.2 If the said company/close corporation is not incorporated or formed within the said period of thirty days or, having been incorporated or formed, does not adopt and ratify this offer to purchase within the above period, such person shall, in his personal capacity, be deemed to be the purchaser in terms of this agreement.
- 16.3 Should the company/close corporation be incorporated and should the terms of sale be properly accepted and be ratified by such company/close corporation, the signatory of the offer to purchase, by his signature thereon, binds himself as surety and co-principal debtor jointly and severally with the company/close corporation for the proper performance by the company/close corporation of all the terms and conditions of these conditions of sale and the offer to purchase.

## **17 COMPANY OR CLOSE CORPORATION IN EXISTENCE**

In the event of a registered company/close corporation being the purchaser, the signatory to the offer to purchase on behalf of the company/close corporation binds himself by his signature thereon as surety and co-principal debtor, jointly and severally, with the company/close corporation of all the terms and conditions of these conditions of sale and the offer to purchase.

**18 TRUST**

In the event of the signatory to the offer to purchase signing in his/her capacity as a trustee of a trust the signatory binds himself/herself, in his/her personal capacity, by his signature thereon as surety and co-principal debtor for the proper performance by himself/herself in his/her capacity as trustee, of all the terms and conditions of these conditions of sale and the offer to purchase.

**19 BREACH**

If any of the parties in this agreement should fail to comply with the conditions of this agreement the other party shall be entitled to give notice in writing of such failure, and to demand that the party concerned should remedy such breach of contract within 10 (ten) days of the date of dispatch of such notice in writing. Aforesaid notice in writing shall be sent by registered post, or delivered by hand, or be faxed or be e-mailed to the domicilium citandi et executandi of the party concerned, as indicated below. If the party concerned neglects to remedy the breach of contract after expiry of the period of 10 (ten) days as mentioned, the other party shall be entitled to:

19.1 Demand specific performance by the other party of the terms of this agreement; alternatively to

19.2 Cancel this agreement and to institute proceedings against the party concerned for damages, and to retain any moneys paid by the purchaser (in the event of his breach) as liquidated damages.

**21 CONDONATION**

Any condonation by any party in this agreement or any failure by the other party to fulfil his obligations in terms of this agreement shall not be regarded as being renouncement by such party of his rights in terms of this agreement, nor as novation thereof.

## **22 DOMICILIUM**

22.1 As domicilium citandi et executandi the parties choose the following addresses respectively:

The Seller: The addressed and particulars as appear from page 1 of this offer.

The Purchaser: The addressed and particulars as appear from page 1 of this offer.

22.2 Aforesaid domicilia may only be changed by means of notice in writing to the domicilium citandi et executandi of the other party.

## **23 WHOLE AGREEMENT**

23.1 This agreement is the entire agreement between the parties.

23.2 Neither party relies in entering into this agreement on any warranties, representations, disclosures or expressions of opinion, which have not been incorporated into this agreement as warranties or undertakings.

23.3 No variation or consensual cancellation of this agreement shall be of any force or effect unless reduced to writing and signed by both parties.

## **24 NON-WAIVER**

Neither party shall be regarded as having waived, or be precluded in any way from exercising, any right under or arising from this agreement by reason of such party having at any time granted any extension of time for, or having shown any indulgence to the other party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of any right of action against the other party.



THUS EXECUTED AND SIGNED at PRETORIA this the \_\_\_\_\_ day  
of \_\_\_\_\_ 20\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
PURCHASER

AND

ACCEPTED by the Seller at PRETORIA this the \_\_\_\_\_ day of  
\_\_\_\_\_ 20\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
on behalf of the SELLER