

**AGREEMENT GRANTING A SOLE AND EXCLUSIVE MANDATE TO SELL
ENTERED INTO BY AND BETWEEN**

1.1 _____ (“SELLER”)
of (address) _____

Tel no: _____

1.2 _____ Estate Agent, herein represented by

(address) _____

Tel no: _____

2. INTRODUCTION

2.1 The property to be sold comprises the following:

situated at (street, erf address or description of unit in sectional title scheme):

in the township of _____

Held by Deed of Transfer / Certificate of Registered Sectional Title No:

_____ (Hereinafter referred to as “the Property”)

2.2 The SELLER is prepared to sell the Property on the following material terms:

2.2.1 Excluded in the sale of the Property are the following moveable items:

(Please note that the sale will include, unless specified, all objects which are actually attached to the structure, such as light fittings, pool filters, fitted carpets, burglar bars, etc. In order to ensure that no disputes arise, it is suggested that the mandate reflect all items which the SELLER intends to remove. This is sometimes more prudent than trying to list every possible item which has been attached to the structure.)

2.2.2 The purchase price is N\$_____

(_____ Namibian Dollar) or such lesser amount as the SELLER may be prepared to accept in the sales agreement and is payable against registration of transfer.

2.2.3 The following provisions shall apply in respect of the date of occupation of the Property:

Possessions and vacant occupation of the property shall be given to the PURCHASER on date of registration of transfer. Should occupation and possession of the property be taken by the PURCHASER before the effective date, the PURCHASER shall be liable for the payment of occupational interest in the amount of N\$_____ per month or any portion of a month. Such payment shall be made to the SELLER monthly in arrears before or on the final day of each respective month. Should occupation be given and taken before the date of registration, the PURCHASER is not allowed to do any renovation, altering, reconstruction, or painting work on the property without prior written agreement from the SELLER.

Occupation of the Property shall be affected only after acceptable and guarantees have been received for the full purchase price and costs.

The SELLER shall from date of signing of the sales agreement to date of occupation by the PURCHASER keep and maintain the property and all the buildings and often improvement thereof, including the garden in a good state of repair and condition to the satisfaction of the PURCHASER.

The SELLER shall remain liable to pay the monthly rates and taxes and/or levy up to and inclusive of the date of registration of transfer of the property in the PURCHASER's name, after which date the obligation to pay such rates, levies and taxes shall pass to the PURCHASER. The PURCHASER shall also refund to the SELLER a proportionate share of the rates, taxes and other local authority levies paid in advance by the SELLER in respect of the property beyond the date of transfer, and existing insurance cover over the property shall remain in force until date of registration of transfer, from which date the PURCHASER shall make his own arrangements for the necessary insurance cover. Should occupation be taken by the PURCHASER before the date of registration, the PURCHASER shall be liable to pay pro rate the share of rates and taxes.

2.2.4 All the benefits and risks of ownership of the Property shall pass to the PURCHASER on registration of transfer unless otherwise agreed in writing.

2.2.5 If so required by the PURCHASER the sale will be subject to the suspensive condition that the PURCHASER is able to obtain approval of a loan from a financial institution on the

security of a first mortgage bond to be registered over the Property, such loan to be approved within 21 (twenty one) days after the date of sale.

2.2.6 The commission payable by the SELLER shall be

_____%(_____%percent) of the purchase price. The said commission is to be regarded as VAT inclusive and shall be deemed to have been earned upon the signature of an agreement of sale by both the SELLER and the PURCHASER. The commission is payable upon registration of transfer of the Property into the name of such PURCHASER. The SELLER hereby agrees to irrevocably instructs the transferring attorneys mentioned herein to pay the commission to the Agent on the date of registration of transfer upon the fulfillment (or waiver, as the case may be) of all suspensive conditions contained herein as well as in the deed of sale.

2.2.7 Transfer of the Property shall be affected by Sauls Jacobs & Co, Bismarck Street no 36, Windhoek, Namibia. The full terms of the sale shall be a contained in a Namibia Real Estate (NRE) sale agreement (duly completed in terms of the foregoing). Provided that the SELLER may not be obliged to accept any new conditions not specifically contained herein.

3. GRANT OF MANDATE

The SELLER hereby grants to the Estate Agent, who excepts for the period commencing from date of signature and terminating at _____(time) on _____(date) (*"the mandate period"*) a sole and exclusive mandate to offer the Property for sale substantially in accordance with the provisions of 2.2 above.

Upon expiry of the mandate period or a valid sale of the Property being concluded, whichever occurs first, this agreement will automatically lapse and subject to 5.3 and 5.4 hereunder be of no further force or affect whatsoever.

4. ESTATE AGENT'S OBLIGATIONS

The Estate Agent hereby undertakes to:

4.1 Use his/her best endeavors to find a PURCHASER who is willing and able, both legally and financially, to purchase the Property from the SELLER on the terms stated above. Without in any way derogating from the generality of the a foregoing, the Estate Agent undertakes, at his sole cost and expense, to:

4.1.1 Advertise the Property for sale in the press at regular intervals on at least _____ occasions during the mandate period; and

4.1.2 Take all reasonable steps to put the Property on show on _____; and

4.1.3 Communicate with the SELLER at regular intervals during the mandate period to advise him regarding the progress concerning the sale of the Property, such communications to be in the format of the SELLERS written request; and

4.1.4 Furnish the SELLER with all written offers made to purchase the Property forthwith upon such offers being received by the Estate Agent;

4.2 Furnish the SELLER, forthwith upon the termination of this agreement, either by cancellation or effluxion of time, with a list of the names of all persons introduced by the Estate Agent to the Property or the SELLER as *bona fide* potential PURCHASERS.

In the event of the Estate Agent failing to comply substantially with the provisions of 4.1 above and persisting in such failure for a period of 7 (seven) days after receipt of a written notice from the SELLER calling upon the Estate Agent to remedy the failure complained of the SELLER shall be entitled to cancel this agreement in writing, subject however, to any rights and obligations which may have been accrued prior to such cancellation.

5. SELLER'S OBLIGATIONS

The SELLER hereby undertakes that;

5.1 He will not, during the mandate period, appoint or allow any other estate agent to sell or endeavor to sell the Property nor will he or any other party on his behalf sell or endeavor to sell the Property; and

5.2 He will not do anything which might prevent, frustrate or hinder the Estate Agent from effecting a sale of the Property in terms hereof. For the purpose hereof, "prevent, frustrate or hinder" shall, without in any way limiting the generality thereof, would include:

5.2.1 a refusal by the SELLER to accept a *bona fide* written offer submitted to him by the Estate Agent during the mandate period to purchase the Property on the terms state herein; and

5.2.2 leasing of the property or any other form of withdrawal (in circumstances other than those contemplated in 4.2 above or 6.1 below) of the Property from the market prior to the termination of the mandate period; and

5.2.3 a refusal to co-operate with the Estate Agent in the latter's endeavors to sell the Property, more particularly;

5.2.3.1 by denying him access to erect "For Sale" boards and/or "Show House" boards on the Property or removing such boards without good cause, if permission to erect such boards has been granted in terms of clause 9 of this mandate; or

5.2.3.2 by denying him access to the Property at reasonable times for the purpose of showing it to potential PURCHASERS of holding show days;

5.3 He will pay to the Estate Agent a commission based on _____% (_____ percent) of the purchase price at which the Property is sold during currency of this Agreement, subject to the specific terms (if any) in this regard in the relevant agreement of sale.

Such commission is payable by the SELLER in the event that a sale of the Property occurs:

5.3.1 within 30 (thirty) days after the termination of this Agreement (whether by effluxion of time or otherwise) to a person who was during the mandate period introduced to him or the Property, as a potential PURCHASER thereof, by the Estate Agent or any third party whatsoever; or

5.3.2 after the expiry of a period of 30(thirty) days after termination of this mandate (whether by effluxion of time or otherwise) and the Estate Agent was the effective cause of such sale:
Provided, however, that there will be no liability on the part of the SELLER to pay such commission in the event of the Estate failing to comply with the provisions of clause 4 and

5.4 if the SELLER commits a breach of any of provisions of:

5.4.1 5.1 above; or

5.4.2. 5.2 above and persists in such breach for a period of 7 (seven) days after receipt of a written notice from the Estate Agent calling upon the SELLER to remedy the breach complained of, then the SELLER will pay to the Estate Agent, as a genuine pre-estimate of the damages that the Estate Agent will sustain as a result of such breach, the amount of the commission referred to in 2.2.6 above.

6. **ACKNOWLEDGEMENT BY SELLER**

6.1 The SELLER acknowledges that he is not entitled to unilaterally withdraw from or terminate this Agreement prior to the expiry of the mandate period unless:

6.1.1 he can show that there is exists good cause arising out of circumstances beyond his control for such withdrawal of termination; and

6.1.2 he undertakes in writing that:

6.1.2.1 if he decides within a period of 6 (six) months after such withdrawal or termination to again sell the Property, he will forthwith furnish the Estate Agent with written notification of such decision together with the price at which he prepared to sell.

6.1.2.2 if the property is sold privately or through any other Estate Agent at any time within a period of 3 (three) months after the date of such withdrawal or termination, he will pay to the Estate Agent an agreed consideration of N\$_____ (_____ Namibian Dollar) in respect of such withdrawal or termination, which amount shall become due and payable by the SELLER to the Estate Agent immediately when such sale take place.

6.2 Notwithstanding anything to the contrary contained in clause 6.1 the SELLER acknowledges that he will not be entitled in any circumstances whatsoever to such a withdrawal or termination after the Estate Agent has submitted to him a bona fide written offer made by a willing and able PURCHASER and obtained by the Estate Agent during the mandate period to purchase the Property on the terms stated herein.

6.2.1 Should the SELLER not accept such offer as described in 6.2 above, he will be in breach of this mandate agreement and the Estate Agent shall be entitled to:

- give the SELLER 5 (five) days notice in writing to remedy such breach and/or failure, and
- if the SELLER fails to comply with such notice, then the Estate Agent shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which he/she may have in law, including the right to claim damages, to hold the SELLER to the contract and to

claim immediate performance and/or payment of all obligations in terms hereof specifically but not limited to the payment referred to in clause 2.2.6.

6.3 The SELLER agrees and confirm that he understands the legal implications of this mandate should he sell or let the property through the intervention of another estate agent. He furthermore acknowledge that he has specific obligations in respect of the marketing of the property that will be assumed by the Estate Agent in his/her endeavour to perform the mandate.

7. ERECTION OF BOARDS

The SELLER hereby grants the Estate Agent permission to erect a "For Sale" and/or "Show House" board on the Property during the period of this mandate, subject to local authority by-laws and the rules, and where applicable those of the scheme. The Estate Agent undertakes to remove such boards immediately on termination of the mandate.

If not prohibited by the local authority, or scheme, the agent is authorised to display a clearly visible SOLD Board/Sign on the property for 45 (Forty Five) days after the sale.

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

DATE: _____

PLACE: _____

WITNESS

SELLER

(Or duly authorised agent/representative)

DATE: _____

PLACE: _____

WITNESS

THE ESTATE AGENT

(Or duly authorised agent/representative)