

CONDITIONS OF AUCTION:

AUCTION TO TAKE PLACE ON 16 October 2014 AT

8:30 to 11:30 FIRST TIME BUYERS

12:30 to 15:00 OPEN TO PUBLIC

VENUE: AUCOR HALL, c/o MICHELLE MCLEAN & PLATINUM STREET

PROSPERITA, WINDHOEK

UNIMPROVED RESIDENTIAL ERVEN IN PHASE 1 OF ACADEMIA EXTENSION 1

1. Contact Persons:

Customer Care Centre: +264 61 290 2608

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Or

Ms. Urip Kahorongo at 061– 229306 / 0810438633/ 0812719705/0816414116/0856142817

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CLOSING DATE FOR REGISTRATIONS:

9 October 2014

2. Legal Framework & Introduction

This document deals with the conditions of the sale of properties by way of auction under section 63(1) read with 63(2) of the Local Authorities Act 23 of 1992. The auction conditions deal with the sale of the unimproved Erven as per the attached auction Erf List which must be read together with the Auction Conditions.

2.1 Definitions:

“Auditor”: shall mean an officer of the Seller from the Internal Audit Division.

“Seller”: The Seller is the Municipal Council of Windhoek, a legal entity established in terms of section 6(3) of the Local Authorities Act 23 of 1992.

“Good Standing”: Good Standing shall mean that the Purchaser has no outstanding debts with the Council or alternatively that they have a sound credit rating by not having defaulted on any standing municipal account or have no previous defaulting erf sales records with the seller.

“Purchaser”: Purchaser shall mean the successful bidder who has been declared as such by the auctioneer and whose bid has been accepted by the auctioneer and verified by the auditor.

“Prospective purchaser” means a person interested in acquiring an erf during the scheduled auction:

- i. Who has a financial undertaking issued by a financial institution;

- ii. Any person who has been registered as such prior to the auction.
- iii. Who has been issued with a verification certificate (**auction bidding card**) by the City, during the registration process, which will entitle such a prospective purchaser to participate during the auction for the sale of single residential Erven;

“**Deposit**” shall mean cash payment of N\$10 000.00 (TEN THOUSAND NAMIBIAN DOLLARS) payable by the Purchaser who buys with a guarantee or pre-approval and payment should be made not later than the 27th of October 2014 at the Offices of the Appointed Conveyancers.

“**Appointed Conveyancers**” shall mean Dr Weder Kauta & Hoveka Inc. situated at WKH House, 3rd Floor, Jan Jonker Road.

“**First time purchasers or buyers**” for the purposes of the auction, a First time purchaser/buyer is a natural person or household who never owned or registered a property previously in his or her name in Windhoek District. For the avoidance of doubt First Time Purchaser must be a Namibian.

“**Household**”, for the purposes of the Auction, a household means married couples married in terms of Civil Law and or other marriages recognized in terms of the Constitution inclusive of customary marriages. For married couples the auction will be treated as one household irrespective of the marital regime and whether subsequently thereafter such a marriage was annulled by a divorce order.

“**First Session**” would be regarded as the first part of the auction proceedings where only first time buyers would be allowed to bid and where these bidders would only be allowed to buy one Erf per household.

“**Second Session**” would be regarded as the second part of the auction proceedings where any person, subject to that person having complied the registration requirements as provided for in Section B hereof, is allowed to bid but with restrictions of two properties per person, with further restriction of the qualifying amount as indicated in paragraph 2.1 of Section A herein.

“**Financial Institution**” means a banking institution as defined in terms of the applicable laws of Namibia.

“**Guarantee**”, means a formal undertaking by a financial institution that payment for the erf acquisition will be honored on date of transfer/registration of property in the name of the Purchaser and a Letter of Undertaking issued by an Attorney would be considered sufficient guarantee.

2.2 Various Sections contained in Conditions:

The auction conditions are divided into different sections namely:

- A) Auction Conditions – Section A;
- B) Auction Documentation and Registration Procedures – Section B;
- C) Auction Procedures: Section C;
- D) Financial Implications and legal Consequences: Section D
- E) Auction Conditions: General- Section E;
- F) Special Conditions : Deed of Sale – Section

SECTION A:

AUCTION CONDITIONS

All Prospective Purchasers are encouraged to read the following auction conditions which will be strictly applied. Non - adherence to the conditions may result in disqualification and the City of Windhoek will not be responsible for any damages incurred in failing to acquaint yourself with the auction conditions.

1. Credit Rating

- 1.1. The sale is subject to the conditions that the prospective Purchaser has a sound credit rating and no previous defaulting erf sales record with the Seller, and has been registered.
- 1.2. The Seller will treat the above information in strict confidence.
- 1.3. Should prospective Purchasers during the auction bidding exceed the qualifying purchase amounts, such prospective Purchasers will upon discovering of these facts be **disqualified** at the point of discovery and the relevant property/ties will be re-auctioned if discovered during the auction. Properties repossessed would either be offered for sale again at the end of the auction or at a following auction.

2. Pre-Approval

- 2.1. The Prospective Purchaser shall be required to present a pre-approval letter from a Banking /Financial institution indicating the maximum approved amount allowing for the acquisition /purchase of the erf /Erven.
- 2.2. The successful Bidder shall be required to pay a deposit of N\$10000.00 (TEN THOUSAND NAMIBIAN DOLLARS) before or on the 27th day of October 2014 at the offices of the Conveyancing Attorneys if paying by bank guarantee/loan.

The successful Bidder shall then be granted thirty (30) days to submit the bank guarantee following the date of auction. This deposit shall be paid at the following office:

Weder, Kauta & Hoveka Inc.
WKH House, 3rdfloor
Jan Jonker Road
WINDHOEK

Banking Details:

Dr Weder Kauta & Hoveka Inc.
Bank Windhoek Ltd – Independence Avenue
Trust Acc number: 1026643801
Branch Code: 481972

Should the successful Bidder fail to submit the guarantee within the thirty (30) day period, the failure shall be regarded as a material breach and the deposit (TEN THOUSAND NAMIBIAN DOLLARS) shall be forfeited to the Seller.

3. Disqualifications

The following persons shall NOT be allowed to participate in the auction:

- 3.1. Refugees;
- 3.2. Persons without their verification certificate (auction bidding card)

NOTE: The 50 residential Erven marked for sale in the first phase (as restricted for sale to first-time purchasers) will only be available for sale to first-time purchasers/buyers who are Namibian citizens.

4. Important Notices:

- 4.1 All interested purchasers must peruse the Conditions of Auction (and the Deed of Sale) before the commencement of the auction to familiarise themselves with its contents and consequences of same. The Deed of Sale will be available on the website of the City of Windhoek i.e. **www.windhoekcc.org.na**
- 4.2 The Conditions of Auction will apply to the Erven set out in the attached lists. The list of available unimproved Erven and the Conditions of Auction are available from the Customer Care Centre, Rev. Michael Scott Street, Windhoek, after payment of the non-refundable administrative fee of N\$500. The Deed of sale is available for access on the website of the City of Windhoek website i.e. **www.windhoekcc.org.na**
- 4.3 Should any discrepancies occur, the Deed of Sale should be given preference to interpret the intent of the parties concerned.
- 4.4 Prospective purchasers must note the Special Conditions of Sale as set out in the respective Clauses in the Deed of Sale and the attached Erf lists.

SECTION B:

AUCTION DOCUMENTATION AND REGISTRATION PROCEDURES FOR ALL ERVEN PRIOR TO THE AUCTION

1. Documentation required for registration:

- 1.1 Namibian Identity document of Purchaser and Spouse
- 1.2 Marriage certificate
- 1.3 Ante nuptial Contract if married out of community of Property;
- 1.4 Proof of Financial Capability i.e. pre-approval letter/ guarantee /letter stating funds available to settle erf price upon signature of Deed of Sale.
- 1.5 Power of Attorney if bidding is done on behalf of another person (See Section D paragraph 7, 8 and 9)
- 1.6 Proof of physical address i.e. municipal accounts or rental agreement where applicable.

2. Registration

- 2.1 All prospective purchasers must, prior to the auction, register their interest to participate during the auction. Registration will open from 17 September 2014 and close on the 9th of October 2014.
- 2.2 **No registration will be allowed after the set date or at or during the auction.**

3 **Payments and fees**

3.1 The registration shall be against the payment in **cash** or per **bank certified/guaranteed cheque** of:

3.1.1 **A non-refundable administration fee of N\$500.** The non-refundable administration fee would be inclusive of an auctioneering fee.

3.2 The payment must be made at the Cashiers of the City of Windhoek against the issuing of an official receipt that has to be presented for registration purposes.

3.3 An amount of N\$3000.00 (THREE THOUSAND DOLLARS) per erf which shall be credited towards the municipal account of the erf/Erven. This payment should be made on the 17th of October 2014 at the Cashiers, Municipal Building, Reverend Michael Scott Street.

4 **Purpose of pre-registration**

4.1 The purpose of the pre-registration process is to:

4.1.1 Expedite auction procedures;

4.1.2 Determine which method of payment shall be available to a prospective purchaser/s;

4.1.3 Determine the qualification or not of a prospective purchaser in terms of affordability as evidenced by Bank or Financial Institution Financial Undertaking;

4.1.4 Determine if the prospective purchaser is a first-time buyer or not;

4.1.5 Undertake an investigation into the financial credit history of the prospective purchaser with the City by the Strategic Executive: Finance. [These actions were prompted at the instruction of the Ministry of Regional Local Government, Housing and Rural Development that placed a moratorium on the sale of Erven to prospective purchasers who have an existing poor credit history with the relevant local authority. Thus no prospective purchaser (acting either as a natural person or as a member or shareholder of a legal entity, with a poor credit history with the City will be allowed to participate during the auction, until such arrears have been settled. For this purpose the Strategic Executive: Finance will issue a certificate under section 93A of the Local Authorities Act 23 of 1992].

4.2 Once the City has verified the good standing and eligibility to participate in the auction of the **First Time Buyer/Purchaser**, the First Time Buyers/Purchaser are required to uplift their Bidding Cards on the 13th and 14th of October 2014 at Customer Care Centre, Reverend Michael Scott Street, Windhoek.

4.3 All other Buyers will receive their Bidding Cards on the date of Registration.

5 **Bidding Card**

- 5.1 The City will issue the prospective purchaser with a registration number recorded on an **“auction bidding card”** which will be used as approval to submit a bid during the auction. See Paragraph 4 for the time/date of issuing of auction Bidding Card.
- 5.2 Two different ‘auction bidding cards’ will be issued respectively for first-time buyers (green) and non-first time buyers (yellow) , which cards will restrict the bidding for the 50 Erven earmarked for first-time buyers only to those prospective purchasers with those qualifying auction bidding cards.
- 5.3 The qualifying amount and qualifying method of payments must be recorded on the **“auction bidding card”**.

6 **Joint estate**

- 6.1 Prospective purchasers married in community of property, or where a marriage is governed under the Recognition of Certain Marriages Act 18 of 1991, **or** where the marriage is governed by the law of any country other than Namibia, should note that their spouses must **complete** prior to the auction date, **the applicable consent form for the registration as an interested purchaser and for acquisition of the property at the auction and before entering into the Deed of Sale** as provided in section 7(1)(a), (b), (c), (g) and (h) and 7(2) of the Married Persons Equality Act 1 of 1996.
- 6.2 The applicable information of their spouses as well as their identification numbers or birth dates is to be completed on the applicable form and Deed of Sale.

SECTION C

AUCTION PROCEDURES

This auction will be a competitive auction, with only a limitation on the maximum amount that each prospective approved purchaser will be allowed to spend at the auction on an erf.

The auction will be conducted in 2 (two) Sessions, Session 1 will start at 8h30 to 11h30 and this will only be open to First Time buyers/Purchasers.

Session 2 will start at 12h30 to 15h00 and this session will be open to all Purchasers.

- I. Each property is to be put up for sale and sold by the raising of the hand and indication of the purchaser’s registration number as reflected on the **auction bidding card**.
- II. In the event of any dispute arising as to any bid or a person’s entitlement to participate in the auction, the property shall be put up again for sale and be offered for sale again at the end of the auction.
- III. The auctioneer in consultation with the Project Team representatives (Council , Betula Nigra and Old Mutual) will have the sole discretion to determine if a property shall be put up for resale to avoid a dispute.
- IV. A bid once given, cannot be withdrawn unless it appears that the Auctioneer has made a material error, which shall be rectified on discovery.

- V. Only bids above the upset price of an erf will be considered.
- VI. The purchaser **shall**, on being declared the successful purchaser by the Auctioneer, **come forward immediately** and shall present his/her auction bidding card to the Auditor for verification and entry in the Erven register.
- VII. The purchaser must sign the Deed of Sale/indicating the appropriate method of payment immediately following the successful bid.

If the erf will be paid in cash, the Purchaser shall make payment of the full purchase price within 7 (seven) days following the date of auction at the offices of Weder Kauta & Hoveka Inc. Should the Purchase be by bank guarantee, the Purchaser shall submit the guarantee within 30 days.

- VIII. Any purchaser who default in signing the Deed of Sale on the day of auction; or fails to make the required payments; or fails to provide the guarantee in the prescribed time shall **be disqualified in future auction participations for such period as the Council may approve.**

SECTION D

FINANCIAL IMPLICATIONS AND LEGAL CONSEQUENCES OF AUCTION SALE OF RESIDENTIAL PROPERTIES

1. The acceptance of a bid during the auction will create a binding Agreement between Council and the purchaser.
2. The date of sale in respect of all transactions, whether payment is by cash or bank guarantee or letter of undertaking , shall be the date of the auction **from which date rates, basic levies, VAT (where applicable) and taxes shall become payable.**
3. The Council will be entitled to claim **damages or the additional amounts in terms of the penalty clause** as set out in the applicable Clause of the Deed of Sale.
4. The purchaser shall be liable for all expenses viz. legal costs, transfer costs, notarial conditions and servitude survey and registration fees, VAT (where applicable) and applicable registration costs.
5. The provision of the Transfer Duty Act (No. 14/1993) and specifically section 16 dealing with persons, who acquire property on behalf of others in the second or third phase of a residential auction or for the sale of Commercial properties should be noted, and such participation (by means of a Power of Attorney) will only be allowed if the actual Purchaser has registered and has issued a written Power of Attorney.

Section 16 provides as follows:

"(1) Where property is sold to a person who is acting for some other person, the person so acting shall disclose to the Seller or his or her agent the name and address of the principal for whom he or she acts -

- (i) If the sale is by auction, immediately upon acceptance by the Auctioneer of his or her offer; or

- (ii) If the sale is otherwise than by auction, immediately upon conclusion of the Agreement of Sale.
- (2) Any person who fails to comply with the provisions of subsection (1) shall, for the purpose of payment in respect of the acquisition, be presumed, unless the contrary is proved, to have acquired the property for himself or herself."
6. **Transfer duty is payable** in terms of the Transfer Duty Act 14 of 1993 as **from the date of sale** and shall be paid **within a period of six months** from such date to the Permanent Secretary of the Ministry of Finance. The prospective purchasers should take note of the **penalty amount** payable in terms of section 4 of the said Transfer Duty Act 14 of 1993 on late payments of transfer duty.
7. **Methods of Payment**
- The City offers the following methods of Payment in respect of the payment of the purchase price:
- 7.1. **Cash**
- The total purchase price in cash or per bank guaranteed cheque is payable not later than the 27th of October 2014 and such payment shall be made at the Offices of the Conveyancing Attorneys.
- 7.2. **Sale by means of a Bank Guarantee**
- 7.2.1. pay the prescribed **deposit of N\$10,000.00** (TEN THOUSAND NAMIBIAN DOLLARS) before or on the 27th day of October 2014 ; and
- 7.2.2. Provide the required guarantee within the period of 30 (thirty) days from the date of the auction.
- 7.3. **The method must be elected during the registration by the Purchaser.**
8. The property is sold according to the existing diagram attached to the Seller's Title Deed or the General Plan of the relevant Township as the case may be. The Seller does not hold itself responsible for any difference or deficiency, which may appear on measurement of the ground and renounces any excess.
9. The property is also sold subject to any servitude affecting the same and subject to any development restriction or limitation as set out in the special conditions or erf-lists.
10. Prospective purchasers must **before** bidding at the auction for an erf **acquaint** themselves of the special conditions pertaining to services or to any development restriction or limitation as set out in the applicable clause in the Deed of Sale or erf-lists. That any purchaser is deemed that they perused and understand the conditions of the Deed of Sale.
11. Failure by the purchaser to comply with any of the Auction conditions and/or the conditions in the Deed of Sale entered into on the day of the auction, entitles the Seller to cancel the sale and to re-sell the property, **in which event, the purchaser shall be liable towards the Council for damages suffered or alternatively for a penalty amount which may at the Council's option be:**

- 11.1. **to retain all such sum or sums of money** as the Purchaser may have paid in terms of the Deed of Sale, and/or
- 11.2. to claim an amount equal to **5% of the purchase price** as a penalty amount as set out in the applicable clause of the Deed of Sale; and/or
- 11.3. to **claim the difference between the purchase price** as per the auction and the resale price fetched at a following auction should the **resale price be less** than the purchase price (where applicable), plus the costs of re-advertising and any other charges incurred;

SECTION E

PART A: SPECIAL CONDITIONS: GENERAL

1. Prospective purchasers should note the special conditions contained in this section.
2. The zoning of residential Erven in terms of the Windhoek Town Planning Scheme allows the following primary uses:

TABLE B

USE ZONE (1)	PRIMARY USES (2)	CONSENT USES (3)	PROHIBITED USES (4)
I Residential	Dwelling units	Residential buildings, Places of public worship, Places of instruction, Social halls, Institutions, Special buildings, Bed-and-breakfasts, Resident occupations and Heritage buildings (For details refer to Table H)	Other uses not under columns 3 and 4

3. Any Prospective Purchaser who intends to use the PROPERTY FOR OTHER PURPOSES THAN ITS PRIMARY USE or a higher residential zoning should **beforehand** get the necessary consent of the Council for such a "consent use" or where a higher density or another zoning is required, follow the rezoning procedures to obtain such a higher density or zoning.
4. Although the auction erf lists may indicate that certain properties in Windhoek are situated in policy areas favouring higher residential densities or office rights, the Council's policy and the prescribed legal procedures under Planning Ordinance 18 of 1954 will still apply and must still be implemented. Rezoning procedures with applicable payment of betterment fees must still be followed by the successful purchaser. The upset prices for such Erven have been determined taking the current land use rights and density zone into consideration and not any higher land use rights or densities as per the policy zone. A rezoning to another zoning or to a higher density is not automatically included.

5. The attention of prospective purchasers is drawn to the condition that:
 - 5.1. Although the greatest care has been taken in the placing of erf number plates, the Municipality shall nevertheless not be responsible for the incorrect placing and/or the exchanging or removal of these plates.
 - 5.2. It is a special condition of this sale that it shall be the duty of all prospective purchasers to personally identify the Erven, which they are interested in.
 - 5.3. Every prospective purchaser, by making an offer on the erf, guarantees in favour of the Municipality that the erf/Erven in which he or she is interested in is/are the/those erf/Erven of which the erf number/s corresponds with the official maps of the Seller.
 - 5.4. By bidding or applying for any erf indicated on the attached list at the Municipal Offices, any prospective purchaser guarantees that it, he or she knows and understands these Conditions of Auction and the Deed of Sale and erf-lists

SECTION F:

SPECIAL CONDITIONS AS PER DEED OF SALE

1. The Special Conditions of Sale in this Part, as more fully described in clauses 21 to 24 of the Deed of Sale and Erf-Lists, will be applying.
2. **ELECTRICITY, TELEPHONE CONNECTIONS AND MUNICIPAL SERVICES**
 - 2.1. The Purchaser takes note of the fact that the Purchaser must make arrangements **directly during the planning stage** with the Strategic Executive: Electricity with regard to the provision of electricity and costs related to such provision. Electricity supply will be limited to 3x60 amps. Should more than 3 x 60 amps electricity be required, the purchaser should in that event provide at own cost an electricity substation building or make alternative arrangements with the Strategic Executive: Electricity.
 - 2.2. The Purchaser should make his own application/arrangement with regard to the method of electricity supply to be provided to the property (pre-paid or conventional method).
 - 2.3. The Purchaser undertakes to contact Telecom Namibia or the applicable telecom utility, during the planning stage with regard to the availability of services, supply and costs related to such supply as well as to the requirements of Telecom regarding plans, provision of exchanges (where relevant), as well as a requirement to submit site and electrical layout plans for approval indicating Telecom wire lines. The Seller can give no undertakings in this regard.
 - 2.4. The Purchaser takes note that where permanent structures such as tar roads, paving of pavements, bridges and/or accesses are to be effected on a property, Telecom Namibia or the applicable telecom utility, should be contacted **during the planning phase**, in order to install sleeves to accommodate possible future services.
 - 2.5. The Purchaser must **during the planning phase** clear the location **and availability** of electricity, water, sewer and other municipal services with the Departments of the Strategic Executive: Electricity and the Strategic Executive: Infrastructure, Water and Technical Services , respectively. The Purchaser must ascertain which of the existing municipal services may influence its future upgrading or development or design and on which point such services will be connected. Access points and parking layouts (where

applicable) should be cleared during the planning phase to the satisfaction of the Strategic Executive: Urban Planning and Property Management

- 2.6. The Purchaser should, where applicable, take note:
- 2.6.1. That municipal plans are only an indication of the location of individual Erven and should not be seen as a final erf diagram or general plan and the details regarding extent, topographic characteristics, access, exact location of Municipal services crossing Erven and servitudes must be clarified as set out in clause 2.5 of this Section.
- [No topographic characteristics, access or actual location of municipal services depicted on such plan are guaranteed].
- 2.6.2 Of existing and/or planned services or storm water on the Property, to be cleared with the Departments as set out in clause 2.5 of this Section.
- 2.6.3 That internal house service connection would be for the account of the Purchaser.
- 2.6.4 That, subject to the availability of funds, no street will be tarred, where applicable, until such time as plus minus seventy five percent (75 %) of the buildings adjacent to the street are completed. (This condition would not apply to areas where streets have already been tarred or where the development costs of the township did not include the tarring of internal streets in the upset prices). The Purchaser has to ascertain if costs for the provision of tarred roads have been included in the purchase price or not.
- 2.6.5 That if refuse, building materials, debris, rubble, motor wrecks etc. have been dumped on the Property the same must be removed by the Purchaser at own cost.
- 2.6.6 That the Purchaser shall take responsibility for extraordinary cost due to poor soil conditions, inclusive of the bearing capacity thereof.
- 2.6.7 That the sale of the Property is subject to the following servitudes and restrictions which shall, at the cost of the Purchaser, be registered against the title of the Property or by way of a power of attorney in favor of the Seller.:

"The Property shall be subject to the reservation by the Municipal Council of Windhoek of the right of access and use without compensation of the area 3 meters parallel with any boundary for the construction and maintenance of municipal services in respect of water, sewerage, drainage, electricity and gas, which right includes the right to place on such erf temporarily any materials that may be excavated or used during such operations on the erf or any adjacent erf, which reservation shall be registered in favor of the Municipal Council against the title of the Erven."

3 MINIMUM BUILDING VALUES; DENSITIES AND DEVELOPMENT CONDITIONS

- 3.1** The Purchasers should take note of clauses 39 and 22 of the Town Planning Scheme with regard to minimum building values and density zonings and that the density zoning or minimum building value of the Property in terms of the Town Planning Scheme should be cleared with the Urban Planner of the Seller.

3.2 Minimum Building Values in terms of the Town Planning Scheme

Clause 39 of the Town Planning Scheme with regard to minimum building values provides as follows:

Minimum building values

- (1) Unless otherwise determined by Council, the value of buildings, structure and improvements erected on any property shall not be less than the minimum building value specified for that property.
- (2) Minimum building values imposed in terms of this section are applicable to the value of a main building excluding any outbuilding or a single house in the case of a "residential" zoned erf, unless otherwise determined by Council.
- (3) For all new townships proclaimed from 1 January 1996, the minimum building value of any erf zoned "institutional", "restricted business", "garage" and "industrial" shall equal the current municipal valuation of the land comprising that erf.
- (4) For all new townships proclaimed from 1 January 1996, the minimum building value of any erf zoned "office", or "business" shall equal 4 times the current municipal valuation of the land comprising that erf.
- (5) For all new townships proclaimed from 1 January 1996, unless otherwise specified in this Scheme, the minimum building value of any erf zoned "residential", or "general residential" shall equal 2 times the current municipal valuation of the land comprising that erf.
- (6) Any erf zoned "residential" or "general residential" in the following townships shall have a minimum building value equal to 4 times 1000 times the municipal valuation of the land comprising that erf divided by the area in square meters (4000 times municipal valuation ÷ area): Provided further that the building value is not less than four times the municipal valuation of the erf.

3.3 The above definition should be read in conjunction with clause 22 of the Town Planning Scheme pertaining to density zonings which reads as follows:

Number of dwelling units which may be erected (density)

- (1) Not more than one dwelling house or residential building may be erected on any erf without the consent of the Council.
- (2) No building shall be so erected that the number of dwelling houses and dwelling units on an erf exceeds the number specified in Table E for the density zone in which the erf is situated;

Provided that in the case of a boarding house, residential club, hostel, hotel or similar use, Council may consent to a floor area not exceeding an area obtained by multiplying the permissible number of dwelling units by eighty (80) square metres in addition to a dwelling house.

Further, in case of a dwelling house, a 'supplementary dwelling' may be erected notwithstanding any restriction contained in Table E."

Table E: Density zones

DENSITY ZONE	DENSITY
1	One residential unit or dwelling unit per 100m ²
2	One residential unit or dwelling unit per 150m ²
3	One residential unit or dwelling unit per 250m ²
4	One residential unit or dwelling unit per 300m ²
5	One residential unit or dwelling unit per 350m ²
6	One residential unit or dwelling unit per 500m ²
7	One residential unit or dwelling unit per 700m ²
8	One residential unit or dwelling unit per 900m ²
9	One residential unit or dwelling unit per erf
10	One residential unit or dwelling unit per 50 000 m ²
ALL ZONES ARE INDICATED ON THE SCHEME MAP	

4. STORMWATER

4.1 Clause 35 of the Town Planning Scheme pertaining to storm water shall apply, which reads as follows:

"No storm water drainage pipe, canal, work or obstruction (except storm water drain pipes, canal or works which have been authorized in writing by the local authority or which have been or may be built, laid or erected in terms of any law) may be constructed on or over the property or located in such a way that:-

- (i) The flow of storm water from higher lying property to lower lying property is impeded or obstructed and through which any property is or may be endangered; or
- (ii) The flow of a natural watercourse (in which the local authority allows floodwater to run off, be discharged or to be canalized) is or can be changed, canalized or impeded.

The maintenance of such storm water pipe, channel or work shall be the responsibility of the owner of the concerned property."

4.2 In event of very flat terrain and if applicable, storm water of Erven lying on the upstream side must be accommodated on the Erven lower down, in which event clause 35 of the Town Planning Scheme shall also apply.

- 4.3 The following Erven are required to accept storm water from higher properties, inclusive of streets, which requirement of acceptance of storm water, if need be, will be registered by way of servitude or in such a manner as the seller's attorney may think fit to safeguard Council's interest, namely:

See attached auction lists for full descriptions.

[The special restrictive resale condition as set out in clause shall also apply]

- 4.4 Storm water drainage over the affected Erven (see auction list) must be affected at the cost of the owner to the satisfaction of the Chief Engineer (Roads and Storm water) of the Seller and storm water accommodation plans are to be submitted together with building plans if deviation of the natural storm watercourse is contemplated.
- 4.5 A proper drainage or storm water policy on Erven is in the above event to be maintained by the purchaser to the satisfaction of the Strategic Executive: Infrastructure, Water & Technical Services (Roads and Storm water).
- 4.6 No development may be effected in the 1:100 year flood zones of any adjacent watercourse.
- 4.7 As the upset price of storm water Erven reflected in the clauses and auction lists above were determined by taking the provision of storm water channeling into consideration, which must be provided at own cost by the Purchaser of the erf before resale, a restrictive sale condition would be registered against the title of the erf that the erf may not be sold without the approval of the Seller. Such approval for retransfer will be given upon the issuing of a certificate of the Strategic Executive: Urban Planning and Property Management that the storm water across the said erf was accommodated to his satisfaction.

5. ACCESS

- 5.1 The Purchaser must note:
- 5.2 That some Erven have access restrictions and barrier curbs as described per the attached auction erf lists;
- 5.3 That access must be at least 15 m away from any intersecting curb and no access be obtained over the catch pit for the Erven as described on the attached auction lists containing full descriptions.
- 5.4 That some Erven have panhandle accesses as described on the attached auction lists containing full descriptions.
- 5.5 That any height differences between the Property's street boundary and the pavement design levels as well as barrier curbs must be accommodated on the Property and the road fill or side walk or barrier curbs may not be disturbed or lowered for access purposes since this may lead to a damage of underground services which must be repaired at the purchaser's costs in event of damage.

- 5.6 That the accesses to the affected Erven must be affected at the costs of the Purchaser to the satisfaction of the Chief Engineer Roads and storm water must be constructed on the erf and ways to overcome the same are to be submitted together with building plans.

6. **ROADS AND PAVEMENTS**

- 6.1 In the eventuality that the roads and pavements have not been finally completed at date of sale of the Property, the Seller does not guarantee that the then existing levels shall necessarily be the final levels.

- 6.2 If this matter is material to the purchase of the Property by the Purchaser, the duty shall be on the Purchaser to determine with the Chief Engineer: Roads and storm water of the Seller what the final levels will be.

- 6.3 Any damages to the road and sidewalk due to building activities or construction of erf entrances by the Purchaser or the developer appointed by it, should be repaired by the Purchaser at own costs: Provided that should the Purchaser fail to do so the Strategic Executive: Infrastructure, Water and Technical Services may repair it and claim the costs from the Purchaser.

- 6.4 Purchasers should take note that where a **N\$10,000.00** fee pending the provision of a bank guarantee or Letter of Undertaking for payment is applicable, the Purchaser shall not be allowed to:

6.4.1 take occupation of the property, or

6.4.2 a subdivision of Erven, or

6.4.3 start excavations or

6.4.4 market its project or

6.4.5 give transfer to third parties,

unless the purchase price of the Property has been fully paid or the Purchaser has submitted to the Council a bank or financial institution guarantee for full payment of the purchase price and all municipal service and rates accounts.

7. **SEWERLINES**

- 7.1 The Purchaser must note the location of sewer lines and restrictions as described per the attached auction erf lists, which must be accommodated and no relaxation of building lines will be allowed. Sewer line must be protected as per paragraph 2.6.7.

8. **GENERAL**

- 8.1 The Seller will only provide municipal services to the boundary and all other internal municipal services need to be provided at own costs.

9. RESTRICTIVE RESALE

9.1 Prospective Purchasers should note that the unimproved residential Erven on the attached auction list are sold subject to a restrictive resale condition to be registered notarially, as more fully described in the special conditions of the Deed of Sale.

9.2 Subject to the provisions of this Agreement, the prospective purchaser notes that it shall not be entitled to resell, let, donate, cede, assign or in any other manner make over any of its liabilities, responsibilities, duties or obligations or its rights, title and interest:

9.2.1 in the Deed of Sale or the Property (with the exception of a mortgage bond in favour of a financial institution); or

9.2.2 the majority shares or membership or interests in respect of a company or closed corporation or trust or any other legal entity;

to any other third party, without the prior written consent of the Council having been obtained, which consent shall not be unreasonably withheld: Provided that the Purchaser and/or approved its successor-in-title and/or successors-in-name and/or in shareholding and/or members or assigns, (whichever may be applicable), duly complied or guaranteed compliance with all conditions under the Deed of Sale as well as with the conditions to be registered notarially in favour of the Council

9.3 The Seller will only provide such approval under clause 9.2 if the Purchaser has erected improvements equal to the minimum value as set out in the Town Planning scheme and in accordance with clause 9.4.

9.4 Should the Prospective Purchaser fail to erect improvements within 5 years from the date of sale, the unimproved property will revert to the Seller and the Seller shall be entitled to recover damages for the occupation of land for the duration of Agreement. The wording shall be determined by the Conveyancer appointed by the Seller.

9.5 The Prospective Purchaser takes note that no substitution of purchasers or names or majority of shareholding or membership (where applicable) will be allowed.

9.6 The Parties agree that the Seller will only waive its restrictive resale condition if and when the property is to be sold in execution by a financial institution who is a secured creditor: Provided further that should the Seller waive its restrictive resale condition in favour of the Purchaser, without improvements being erected, a penalty amount of TWENTY PERCENT (20 %) of the market value of the unimproved land at the date of resale as determined by the Manager Valuations of the Council will be payable to the Seller on the date of transfer to a successor-in-title or name.

9.7 The Purchaser agrees to register these conditions under clause 9 against the Title Deed in favour of the Seller at the purchaser's costs.

10. BOUNDARIES

10.1 Subject to the provisions of this clause, the Seller accepts the responsibility, after the date of sale, through its registered land surveyor to point out, free of charge, once only, to the Purchaser the surveyor beacons.

10.2 The pointing out of the surveyor beacons is a right in favor of the Purchaser only and may not be ceded to a successor/s-in-title and will only be undertaken, if-

- 10.2.1 The Purchaser applies in writing to the seller's Department dealing with the sale of land
- 10.2.2 The application is made in writing after approval of the purchaser's Building Plans,
- 10.2.3 The application is made at least thirty days prior to the start of the construction of the purchaser's improvements;
- 10.2.4 The application is made by the Purchaser him-, her- or itself or his or her or its representative who is in possession and who has submitted together with the application a special power of attorney to act on such purchaser's behalf; and
- 10.2.5 No excavations or mechanical clearing of the ground have taken place.
- 10.3 The Purchaser takes note that after the pointing out of the beacons or if any excavations or mechanical clearing of the ground have taken place, the Seller accepts no responsibility for pointing out or replacing surveyors' pegs or beacons and the Purchaser or its successor in title must thereafter appoint his, her or its own professional surveyor to point out or replace the surveyor beacons.
- 10.4 The Purchaser and its successor in title bind itself to keep in good repair, visible and maintain the surveyor's boundary beacons of the Property in such manner that the boundaries will always be distinguishable as prescribed under the Survey Act of 1994.
- 10.5 Should the Purchaser construct improvements in or on the Property or in or on a location using incorrect beacons (whether beacons were pointed out or not) or if a Purchaser elects to start with excavations or mechanical clearing of the ground or the erection of improvements, without the beacons having been pointed out, the risk of using incorrect beacons and any ensuing encroachment on neighbouring properties, would be for the risk and account of the Purchaser.