

Confidentiality & Non-disclosure agreement

Between



ISMAIL GATTOO

REAL ESTATE (PTY) LTD.

**And or Subsidiaries
represented by**

(ID No. _____)

and

(ID No. _____)

(Collectively referred to as **"the parties"**)

1. Introduction

- 1.1. The parties are discussing certain matters that will require the disclosure to one another of information of a proprietary, secret and confidential nature.
- 1.2. For the purposes of this agreement, the party disclosing such information shall be referred to as "the disclosing party" and the party receiving such information shall be referred to as "the receiving party".
- 1.3. This agreement shall be fully binding on the parties' officers, employees, agents, legal successors-in-title, associates and associated companies, whether existing now or incorporated in the future. For the purposes of this clause "associate" shall mean any individual, firm or other unincorporated body which is associated with a party by partnership or other form of shared equity interest, including any company directly or indirectly controlled by such individual, firm or unincorporated body and "associated company" shall mean any company or other legal entity which is a subsidiary or holding

company of such company or a subsidiary of such holding company. Where any associated firm or company is in direct competition with the disclosing party, such firm or company shall be deemed a third party for the purposes of this agreement.

- 1.4. The parties wish to record the terms and conditions upon which they are prepared to disclose such information to one another.

2. The Information

"Information" shall for the purposes of this agreement mean any strategic, technical, commercial, scientific, marketing or business information and know-how, including without limitation the trade secrets, marketing strategies, processes, machinery, designs, drawings, technical specifications and data in whatever form relating to the disclosing party's business model or the promotion of the disclosing party's plans, business policies or practices, communicated to the receiving party or acquired by the receiving party from the disclosing party during the course of the parties' commercial discussions and negotiations with one another, whether formally designated as confidential or not.

3. Disclosure of Information

3.1. The parties agree to disclose the information to one another for the purposes of present negotiations.

3.2. The parties acknowledge that the information is valuable, special and unique asset proprietary to the disclosing party.

3.3. The parties agree that they will not, during the course of their association with one another or, thereafter, disclose the information to any third party for any reason or purpose whatsoever without the prior written consent of the disclosing party, save in accordance with the provisions of this agreement.

3.4. Notwithstanding anything to the contrary contained in this agreement the parties agree that the information may be disclosed by the receiving party to its professional advisors, agents and consultants, providing that the receiving party takes whatever steps are necessary to procure that such professional advisors, agents and consultants agree to abide by the terms of this agreement to prevent the unauthorised disclosure of the information to third parties.

3.5. The receiving party agrees: -

3.5.1. not to utilise, employ, exploit or in any other manner whatsoever use the information disclosed pursuant to the provisions of this agreement for any purpose whatsoever without the prior express written consent of the disclosing

party;

3.5.2. that the unauthorised disclosure of the information to a third party may cause irreparable loss, harm and damage to the disclosing party. Accordingly, the receiving party indemnifies and holds the disclosing party harmless against any loss, action, claim, harm or damage, of whatever nature, suffered by the disclosing party pursuant to a breach by the receiving party of the provisions of this agreement.

3.6. Receiving party acknowledges that monetary damages may not be sufficient remedy for unauthorised disclosure of confidential information and that disclosing party shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

4. Title

All information disclosed by the disclosing party to the receiving party is acknowledged by the receiving party:

4.1 to be proprietary to the disclosing party; and

4.2 not to confer any rights of whatever nature in such information to the receiving party.

5. Restrictions on Disclosure and Use of the Information

5.1. The receiving party may disclose the information only to its officers, employees and professional advisors and then only on a strictly need-to-know basis.

5.2. The receiving party undertakes not to use the information for any purpose other than:

5.2.1 that for which it is disclosed; and

5.2.2 in accordance with the provisions of this agreement

6. Standard of Care

The parties agree that they shall protect the information disclosed pursuant to the provisions of this agreement using the same standard of care that each party applies to its own proprietary, secret or confidential information and that the information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

7. Return of Information

7.1 The disclosing party, may at any time, request the receiving party to return

any material containing, pertaining to or relating to information disclosed pursuant to the terms of this agreement and may, in addition request the receiving party to furnish a written statement to the effect that, upon such return, the receiving party has not retained in its possession, or under its control, either directly or indirectly, any such material.

7.2 As an alternative to the return of the material contemplated in 7.1 above, the receiving party shall, at the insistence of the disclosing party, destroy such material and furnish the disclosing party with a written statement to the effect that all such material has been destroyed.

7.3 The receiving party shall comply with a request, in terms of this clause 7, within 7 days of receipt of such a request.

8. Excluded Information

The obligations of the parties pursuant to the provisions of this agreement shall not apply to any information that: -

8.1 is or was known to or in possession of the receiving party prior to disclosure thereof by the disclosing party;

8.2 is or becomes publicly known, otherwise than pursuant to a breach of this agreement;

8.3 is developed independently of the disclosing party by the receiving party;

8.4 is disclosed by the receiving party to satisfy the order of a court of competent jurisdiction or to comply with the request of any competent authority or the provisions of any law or regulation in force from time to time; provided that the receiving party will disclose only that portion of the information which it is legally required or is otherwise reasonably necessary to disclose for such purposes and the receiving party will use its reasonable endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;

8.5 is disclosed to a third party pursuant to the prior written authorisation from the disclosing party;

8.6 is received from a third party in circumstances that do not result in a breach of the provisions of this agreement.

9. Terms

This agreement shall commence, notwithstanding date of signature, upon the date

of first disclosure of any information by any party ("the effective date") to this agreement and shall continue to bind the parties indefinitely.

10. Representations and Warranties

10.1 Each party represents and warrants that it has the authority necessary to enter into this agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this agreement.

10.2 The disclosing party warrants that:

10.2.1 disclosure of the information to the receiving party will not result in a breach of any other agreement to which it is a party;

10.2.2 it will, to the best of its knowledge and belief, not infringe the rights of any third party, and the disclosing party hereby indemnifies and holds the receiving party harmless against any liability for third party claims on such a basis.

11. Additional Action

Each party to this agreement shall execute and deliver such other documents and do such other acts and things as may be necessary or desirable to give effect to the terms and provisions of this agreement.

12. Amendments

No amendment, interpretation or waiver of any of the provisions of this agreement shall be effective unless reduced to writing and signed by both the parties.

13. Enforcement

The failure to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of any party to enforce the provisions of this agreement.

14. Headings

The headings of the clauses in this agreement are used for convenience only and shall not affect the meaning or construction of the contents of this agreement.

15. Entire Agreement

This agreement contains the entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior agreements between the parties, whether written or oral, with respect to the subject matter of this agreement.

16. Governing Law and Jurisdiction

16.1 This agreement and the relationship of the parties in connection with the subject matter of this agreement shall be governed and determined in accordance with the laws of South Africa.

16.2 The parties consent to the non-exclusive jurisdiction of the Witwatersrand Local Division of the High Court of South Africa.

17. Postal Addresses

17.1 Any written notice in connection with this agreement may be addressed: -

17.1.1 in the case of Views to: -

Address:

Fax:

17.1.2

And is to be marked for the attention of:

in the case of to: -Address:

Fax:

And is to be marked for the attention of: -

17.2 The notice shall then be deemed to have been duly given.

18. Severability

In the event of any one or more of the provisions of this agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

Signed at _____ on the _____ of _____
20____

Witnesses: -

1. _____

2. _____ Title: _____

(who warrants that he/she is duly authorised thereto)

Signed at _____ on the _____ of _____
200__

Witnesses: -

1. _____

2. _____ Title: _____

(who warrants that he/she is duly authorised thereto)