

NOTIFICATION OF EXPROPRIATION

TO: MISHIL INVESTMENTS CLOSE CORPORATION

(Registration number 1994/009422/23)

(hereafter referred to as "the land owner")

Registered Address: 24 Emily Hobhouse Street

KLERKSDORP

and:

C/O Jassat Mitchell Incorporated Attorneys

Corner of Andrew & Yusuf Dadoo Streets,
Wilkoppies

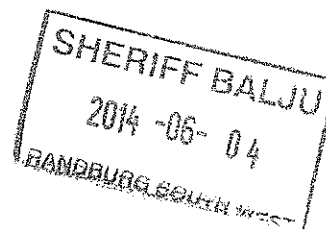
KLERKSDORP

(to be served on the land owner by delivering the original copy of this notice by hand to the land owner and by sending a true copy of it by means of registered post to the land owner)

FROM: THE CITY OF MATLOSANA

(hereafter also referred to as "the local authority")

(A copy of this notice of expropriation must also be delivered by hand to the office of the municipal manager of the CITY OF MATLOSANA)



**IN RE: NOTIFICATION THAT PROPERTY IS TO BE EXPROPRIATED
IN TERMS OF THE PROVISIONS OF SECTION 7, READ WITH
SECTION 5 OF THE EXPROPRIATION ACT, ACT 63 OF 1975
AND SECTION 79(24)(a)(i) OF THE LOCAL GOVERNMENT
ORDINANCE (TRANSVAAL), ORDINANCE 17 OF 1939**

WHEREAS THE CITY OF MATLOSANA is a local authority which has the power to expropriate property for public purposes, as contemplated in section 5(1) of the Expropriation Act, Act 63 of 1975 (hereafter "the Expropriation Act"), read with the provisions of section 79(24)(a)(i) of the Local Government Ordinance (Transvaal), Ordinance 17 of 1939;

AND WHEREAS THE LAND OWNER is the registered owner of Portion 63 of the Farm Palmietfontein No. 403-IP, North West Province, measuring 1 hectare in extent and depicted by figure AHBCDMEA on Annexure "A" annexed to this notice (hereafter referred to as "the Land");

AND WHEREAS THE CITY OF MATLOSANA requires ownership and thus the unrestricted use of a portion (measuring 2 180 square meters in extent and depicted by the figure HBCDMLKJH on Annexure "A" hereto and hereafter referred to as "Portion A") of the Land for public purposes and more specifically for the construction of and the use as a road, linking the N12 national road with Buffeldoorn Road in Klerksdorp;

NOW THEREFORE THE CITY OF MATLOSANA herewith and in terms of the provisions of section 7(1) of the Expropriation Act gives the following notice of expropriation:

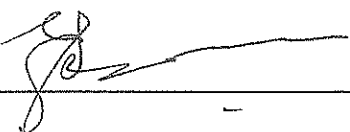
1. The CITY OF MATLOSANA herewith expropriates Portion A, measuring 2 180 square meters in extent and depicted by the figure HBCDMLKJH on Annexure "A" hereto.
2. The date of the expropriation, as contemplated in terms of the provisions of section 7(2)(b) of the Expropriation Act, is 10 June 2014.
3. The date upon which the CITY OF MATLOSANA will take possession of the property is 10 June 2014.
4. The attention of the owner of the property is specifically drawn to the following provisions of the Expropriation Act, being:
 - 4.1 section 9(1), the contents of which is set out in Annexure "B" annexed hereto;
 - 4.2 section 12(3)(a)(ii), the contents of which is set out in Annexure "C" annexed hereto.
5. The amount of compensation offered for Portion A is as follows:

PRIMARY OFFER, INCLUDING ANY AND ALL RIGHTS TO COMPENSATION SET OUT IN SECTION 13(1) OF THE EXPROPRIATION ACT:

The local authority herewith offers to exchange certain land for Portion A. The details of the said offer to exchange and the terms and conditions upon which the local authority is offering the exchange are set out in Annexure "D" annexed hereto. This offer is made by the local authority on the express condition that it includes any and all rights to compensation referred to and set out in section 13(1) of the Expropriation Act.

6. Take notice that in terms of the provisions of section 8(1) of the Expropriation Act ownership of Portion A shall vest in the local authority from the date of expropriation (i.e 10 June 2014). The land owner is hereby informed of the fact that the local authority is of the intention to commence with the construction of a road on Portion A as from 10 June 2014, and as such the land owner is hereby notified and directed to remove any and all movable and/or immovable structures from Portion A which may in any way or manner prevent or impede the local authority (or its authorised agent(s)) from constructing the public road upon/over Portion A. Should the land owner fail to so remove any such structures, the local authority shall proceed to remove such structures and the land owner will be held liable for any and all costs so incurred by the local authority.

BY ORDER



THE MUNICIPAL MANAGER OF THE CITY OF MATLOSANA

2014 – 05 – 27

ACKNOWLEDGEMENT OF RECEIPT

TO: MISHIL INVESTMENTS CLOSE CORPORATION

(Registration number 1994/009422/23)

Received a copy of this

Expropriation Notice on

_____ day of May 2014

at ____:____ by _____

AND TO: THE MUNICIPAL MANAGER

THE CITY OF MATLOSANA

Received a copy of this

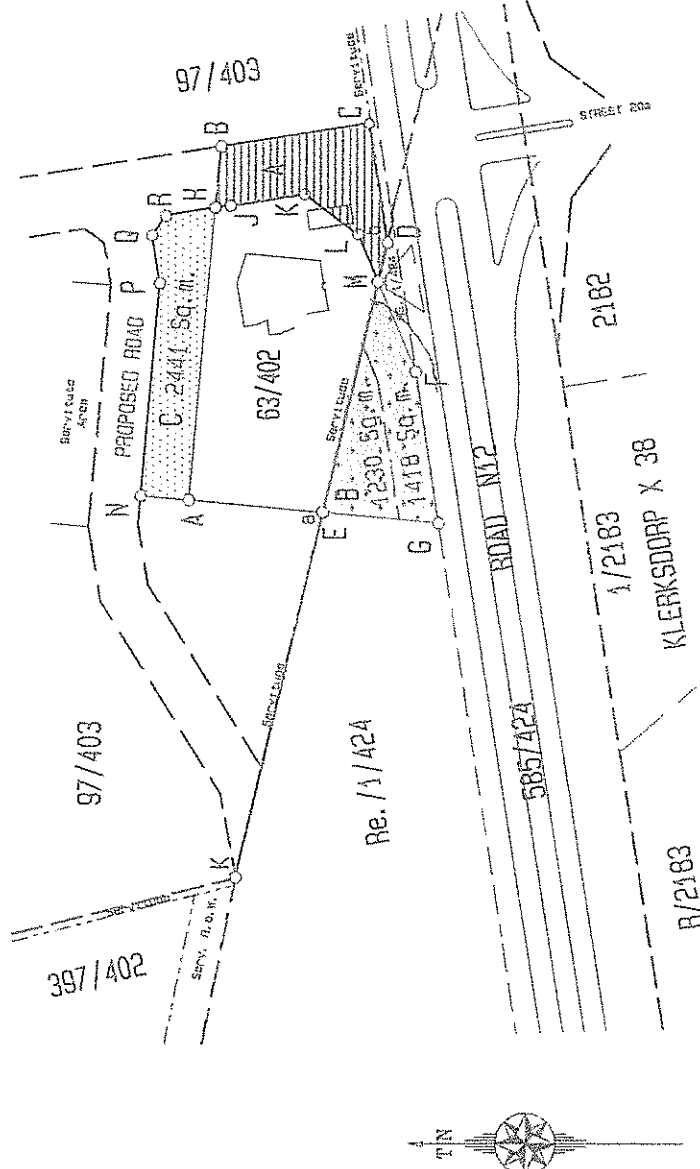
Expropriation Notice on

_____ day of May 2014

at ____:____ by _____

SKETCH PLAN

PROPOSED SUBDIVISION OF PORTION 63 AND PORTION 97 OF THE FARM PALMIETFOONTEIN NO. 403-IP, AND THE REMAINING EXTENT OF PORTION 1 OF THE FARM TOWNLANDS OF KLERKSDORP NO. 424-IP.
 PROVINCE : NORTH WEST
 SCALE 1 : 3000



1.) PALMIETFOONTEIN NO. 403-IP.:

SUBDIVISION (A):

The figure HBCDMLKJH represents Portion A (a ptn. of Portion 63) in extent approx. 2180 Sq.m. to be known as Portion 116.

SUBDIVISION (C):

The figure NPOQRIAN represents Portion C (a ptn. of Portion 97) in extent approx. 2441 Sq.m.

2.) TOWNLANDS OF KLERKSDORP NO. 424-IP.:

SUBDIVISION (B)

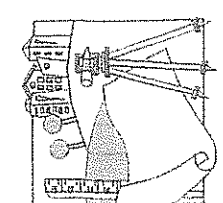
The figure EMFGE represents Portion B (a portion of Portion 1) in extent approx. 2648 Sq.m.

CONSOLIDATION:

After subdivision, Portion B (ptn. of Ptn. 1) of the farm Townlands of Klerksdorp No. 424-IP, will be consolidated with the Remaining extent of Portion 63 and Portion C (a ptn. of Portion 97) of the farm PALMIETFOONTEIN No. 403-IP., to become the farm GUMTREES No. 589-IP.

SERVITUDE NOTE:

The lines ab, represents the Southern border of a Servitude 3m wide, vide Diagram S.G.No. A2377/1975, Servitude Deed No. K862/1981.



JOZE MALETA
 PR LANDMEETER EN DORPSGEBOEPLANNER
 PR LAND SURVEYOR AND TOWNSHIP PLANNER
 1372 95 LEASKSTR.
 KLERKSDORP TEL : (018) 462-1991
 2570 KLERKSDORP FAKS : (018) 464-2509
 E-POS : info@jmaand.co.za

Compiled in JANUARY 2014
 by me. *J. Maleta*
 J. MALETA (PL50368)
 Pr. Land surveyor

APPROVED:

 MUNICIPAL MANAGER
 CITY OF MATLOSANA

W: N12/PADNEW/P636P8, (L-8178) (06) WGS - N12-N12

Section 9(1) of the Expropriation Act:**9 Duties of owner of property expropriated or which is to be used by State**

- (1) An owner whose property has been expropriated in terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating-
- (a) if any compensation was in the notice of expropriation offered for such property, whether or not he accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12 (1) (a) (i) and (ii) or (b) and full particulars as to how such amounts are made up;
 - (b) if no such compensation was so offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12 (1) (a) (i) and (ii) or (b) and full particulars as to how such amounts are made up;
 - (c) if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;
 - (d) if the property being expropriated is land-
 - (i) which prior to the date of notice was leased as a whole or in part by unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing, or full particulars of the lease, if it is not in writing;
 - (ii) which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof;
 - (iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building-contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof;
 - (iv)
 - (e) the address to or at which the owner desires that further documents in connection with the expropriation may be posted or delivered or tendered: Provided that the Minister may at his

discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend the said period of sixty days, the Minister shall extend such period by a further sixty days.

Section 12(3)(a)(ii) of the Expropriation Act:

12 Basis on which compensation is to be determined

- (3)(a) Interest at the standard interest rate determined in terms of section 26 (1) of the Exchequer Act, 1975 (Act 66 of 1975), shall, subject to the provisions of subsection (4), be payable from the date on which the State takes possession of the property in question in terms of section 8 (3) or (5) on any outstanding portion of the amount of compensation payable in accordance with subsection (1): Provided that-
- (ii) if the owner fails to comply with the provisions of section 9 (1) within the appropriate period referred to in the said section, the amount so payable shall during the period of such failure and for the purpose of the payment of interest be deemed not to be an outstanding amount.

AGREEMENT OF LAND EXCHANGE AND COMPENSATION

Entered into by and between:

MISHIL INVESTMENTS CLOSE CORPORATION

Registration number 1994/009422/23

VAT No. 4140146954

(herein after referred to as "the Land Owner")

Herein represented by SHUSILA KARA, identity number 610320 0090 088, she being duly authorised thereto by resolution attached hereto as Annexure "MI1"

and

THE CITY OF MATLOSANA

VAT No. 4560106603

(herein after referred to as "the CoM")

Herein represented by ELIE TSIETSI MOTSEMME in his capacity as Municipal Manager he being duly authorised thereto by resolution attached hereto as Annexure "MI-2".

1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof. Unless a contrary intention clearly appears-

1.1. words importing-

1.1.1. any one gender will include the other genders;

1.1.2. the singular includes the plural and *vice versa*; and

1.1.3. natural persons include created entities (corporate or unincorporate) and the state and *vice versa*;

1.2. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely the-

1.2.1. **"Access Road"** means the road as depicted in Annexure "MI3" attached to this Agreement which is a road still to be constructed by the CoM and Isago and which is to run from a point at the eastern entrance to the suburb of Doringkruin, Klerksdorp, up to an intersection on the N12 National Road, adjacent to the Land.

1.2.2. **"Agreement"** means this Agreement of Land Exchange with all its annexures as attached, which annexures form an integral part of this Agreement. In the event of any conflict between the terms of this Agreement and the provisions or contents of the annexures, the terms of this Agreement will prevail.

- 1.2.3. **"Bulk Municipal Services"** means any and all municipal services normally provided by a local authority and as defined in section 1 of the Local Government: Municipal Systems Act, Act 32 of 2000.
- 1.2.4. **"CoM"** means the City of Matlosana, a local authority duly incorporated by statute according to the provisions of the Municipal Structures Act, Act 117 of 1998, herein represented by the Municipal Manager ELIE TSIETSI MOTSEMME, he being duly authorised thereto.
- 1.2.5. **"CoM's Land"** means the area depicted by the figure EMFGE, marked Portion B on Annexure **"MI4"** (a Portion of Portion 1) of the Farm Townlands of Klerksdorp, No. 424-IP, North West Province, being 2 648 square meters in extent.
- 1.2.6. **"Conveyancers"** means the transferring attorneys appointed by the Parties to this Agreement, namely Lourens & Bezuidenhout Incorporated Attorneys for the CoM and Isago, of 23 Anderson Street, Klerksdorp, 2570 and Jassat Mitchell Incorporated Attorneys for Mishil Investments CC, of Cnr. Andrew and Yusuf Dadoo Streets, Wilkoppies, Klerksdorp.
- 1.2.7. **"Expropriation Act"** means the Expropriation Act, Act 63 of 1975.
- 1.2.8. **"Farm Gumtrees"** means the farm which will be created as a result of the execution of this Agreement and thus comprising:
- 1.2.8.1 the Remainder of Portion 63 (the Land with Portion A excised and represented by the figure AHJKLMEA and indicated as "63/402" on **"Annexure MI4"**);

1.2.8.2 the CoM's Land (the area depicted by the figure EMFGE, marked Portion B on Annexure "MI4");
and

1.2.8.3 Isago's Land (the portion of land depicted by the figure NPQRHAN, marked Portion C on "Annexure MI4");

and as a whole represented by the figure NPQRHJKLMFGEAN on "Annexure MI4".

1.2.9. "Gumtrees Intersection" means the intersection to be constructed on the N12 National Road by Isago at Portion 63 which will allow the Access Road to enter and cross the N12 National Road to connect to the further road to the south of the N12 National Road between erven 2182 and 1/2181 of Extension 38, Klerksdorp.

1.2.10. "Internal Services" means all the necessary internal reticulation, municipal services and any and all other services, within the boundaries of the Farm Gumtrees.

1.2.11. "Isago" means Isago at N12 Development (Pty) Ltd, registration number 2006/029695/07.

1.2.12. "Isago's Land" means the portion of land depicted by the figure NPQRHAN, marked Portion C on "Annexure MI4", (a Portion of Portion 97) of the Farm Palmietfontein, No. 403-IP, North West Province, 2 441 square meters in extent. The portion as set out herein is to be subdivided from a larger portion of Isago's property which is being transferred to the CoM in terms of a separate written agreement concluded between the CoM and Isago.

- 1.2.13. **“Land”** means Portion 63 of the Farm Palmietfontein No. 403-IP, North West Province of which the Land Owner is the registered owner, and measuring 1 hectare in extent and is depicted by figure AHBCDMEA on **“Annexure MI4”** and currently includes Portion A.
- 1.2.14. **“Land Owner”** means Mishil Investments a Close Corporation with registration number 1994/009422/23 and includes the Land Owner’s successors in title and/or lessees to which the Land Owner granted leases and/or any and all third parties who have obtained any rights of whatever nature from the Land Owner pertaining to the Land, or any portion thereof.
- 1.2.15. **“MFMA”** means the Local Government: Municipal Finance Management Act, Act 56 of 2003.
- 1.2.16. **“Ordinance”** means the Local Government Ordinance, Ordinance 17 of 1939.
- 1.2.17. **“Parties”** means the Land Owner and the CoM.
- 1.2.18. **“Portion A”** means the portion of land depicted by the figure HBCDMLKJH, marked Portion A on **“Annexure MI4”**, and measuring 2 180 square meters in extent.
- 1.2.19. **“Remainder of Portion 63”** means the Land but with Portion A excised, and thus represented by the figure AHJKLMEA and indicated as **“63/402”** on **“Annexure MI4”**.
- 1.2.20. **“SANRAL”** means the South African National Roads Agency Limited.
- 1.2.21. **“Signature Date”** means the date on which the last signing party signs this Agreement.

- 1.2.22. "Transfer" means registration of transfer of land in the deeds office in the name of the party taking transfer of the said land by the party giving such transfer, or in the case of Portion A it may, at the election of the CoM, be the proclamation of a public road thereupon.
- 1.3. Any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment.
- 1.4. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 1.5. When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.6. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.7. Expressions defined in this Agreement shall bear the same meanings in annexures to this agreement which do not themselves contain their own conflicting definitions.
- 1.8. Reference to day/s, month/s or year/s shall be construed as Gregorian calendar day/s, month/s or year/s.
- 1.9. The use of any expression in this Agreement covering a process available under South African law such as a winding-up (without limitation *eiusdem generis*) shall, if any of the parties to this

Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such defined jurisdiction.

- 1.10. Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause.
- 1.11. The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.12. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply.
- 1.13. Any reference in this Agreement to a party shall include a reference to that party's assigns expressly permitted under this Agreement and, if such party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee, as the case may be.
- 1.14. The words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s.

- 1.15. Any reference in this Agreement to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented.
- 1.16. The words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible.

2. RECORDAL AND AGREEMENT

- 2.1 The Land Owner is the owner of the Land.
- 2.2 The CoM is the owner of the CoM's Land which adjoins the Land as depicted in both Annexure "MI3" and Annexure "MI4" attached hereto.
- 2.3 The CoM has reached an agreement with Isago in terms whereof the CoM has acquired from Isago, Isago's Land.
- 2.4 The CoM as the local authority within whose boundaries the various land portions referred to above are situated, is supportive of various new land developments on and around these portions of land, situated in the general area between the towns of Klerksdorp and Stilfontein, within the jurisdictional area of the CoM, and as such the CoM has a statutory obligation to oversee proper township development, and to attend, on behalf of Isago or in its own right depending on the location of the road or municipal services, to the construction of certain roads and to install certain bulk municipal services within these new developments and/or to accommodate and facilitate these developments.

- 2.5 The CoM requires Portion A (currently still part of the Land) of which the Land Owner is the registered owner, to create an intersection as depicted in Annexure "MI3" hereto linking the Access Road and the N12 National Road, and in order to align the linking of these roads in accordance with the requirements set by SANRAL for intersections, allowing access to the new Matlosana Mall and the Isago developments on the southern side of the N12 National Road from Doringkruin.
- 2.6 The CoM is a local authority which has the power to expropriate property for public purposes, as contemplated in section 5(1) of the Expropriation Act, and in terms of the provisions of section 79(24)(a)(i) of the Ordinance, and as such the CoM has the option to expropriate Portion A. The CoM expressly reserves its rights to obtain Portion A by means of an expropriation and if for whatever reason Portion A is not transferred to the CoM in terms of this Agreement, then and in that event the CoM may resort to exercise its rights to expropriate Portion A, in which event the terms and conditions of this Agreement shall constitute the full and final compensation which the CoM is liable to make for the expropriation of Portion A, the provisions of clause 8 notwithstanding. The Parties further agree that in the event of the CoM serving a Notice of Expropriation on the Land Owner, such notice is to be served on the Land Owners domicilium as set out in this Agreement.
- 2.7 In order to obtain transfer of Portion A from the Land Owner to the CoM, and in order to adequately compensate the Land Owner for the transfer of Portion A, the Parties agree to exchange the CoM's Land and Isago's Land together and simultaneously for Portion A. To this end the Parties record and agree as follows:
- 2.7.1 The transfer of Portion A from the Land Owner, and therefore the excise of Portion A from the Land will reduce

the Land in extent and will culminate in the creation of the Remainder of Portion 63, the configuration and size of which will restrict and inhibit the future development of this Remainder of Portion 63.

2.7.2 The reduction in size of the Land, subsequent to the excising of Portion A, to create the Remainder of Portion 63 will result in a loss, which loss the CoM will compensate, as set out herein, by transferring the CoM's Land and Isago's Land to the Land Owner in order to create the Farm Gumtrees, and which compensation is accepted by the Land Owner as the full and final compensation for any and all losses and/or damages which may be suffered by the Land Owner as a result of the excising of Portion A from the Land.

2.7.3 The Parties agree that the exchange between the Parties in terms of which the CoM obtains transfer of Portion A in exchange for the Land Owner obtaining transfer of the CoM's Land and Isago's Land (in order for the Land Owner to have ownership of the Farm Gumtrees and the CoM to have ownership of Portion A) fully and adequately compensates the Land Owner for any and all losses and/or damages the Land Owner may suffer now, or in future.

2.8 Therefore, and in order to compensate the Land Owner for the excising of Portion A and the transfer thereof to the CoM, the CoM shall, on the terms and conditions set out herein, transfer to the Land Owner in exchange for Portion A:

2.8.1 the CoM's Land; and

2.8.2 Isago's Land.

2.9 The extent of land which the Land Owner will therefore receive in exchange and as compensation for Portion A, measuring 2 180

square meters, amounts to 5 089 square meters. Notwithstanding the fact that the sizes of the land being exchanged are not *pari passu* the CoM herewith agrees to the land exchange for the following reasons:

- 2.9.1 the configuration of the Farm Gumtrees, will permit the Land Owner to develop the Farm Gumtrees to the same extent that it intended to do the Land, prior to the excising of Portion A;
 - 2.9.2 the final configuration of the Farm Gumtrees is detrimentally affected by a servitude that runs through the Farm Gumtrees between the Remainder of Portion 63 and the CoM's Land , which servitude precludes the Land Owner from erecting any buildings across this servitude. In this respect the Land Owner confirms that it has fully acquainted itself with the nature and the extent of the "water" servitude that will run through the Farm Gumtrees, as well as the restrictions that pertain to buildings on such a servitude for the entire length of the servitude over the Farm Gumtrees, the servitude being 3 meters wide and which servitude must at all times be fully accessible to the CoM as the local authority to execute maintenance;
 - 2.9.3 The CoM's Land has a 16 meter road reserve running parallel to the N12 National Road which road reserve is not available to the Land Owner for development.
- 2.10 The additional size of the properties being exchanged by the CoM in relation to Portion A which is being received by the CoM, is offset by the disadvantages to the Land Owner as recorded above, but is agreed upon by the Parties to properly and adequately compensate the Land Owner for the loss of Portion A and any and all losses and damages which the Land owner may suffer now or in future.

- 2.11 The CoM records that Portion A is required by it to be utilised as a public road and road reserve and to install bulk municipal services for the benefit of the public.
- 2.12 The Land Owner and the CoM record that all land portions comprising the land exchange are to be subdivided, consolidated and transferred simultaneously.
- 2.13 If applicable and/or required and/or necessary the Land Owner will solely and at its own costs, cause the Farm Gumtrees to comply with the provisions of the Klerksdorp Land Use Management Scheme, 2005 (or as amended) and/or the Town Planning & Townships Ordinance, Ordinance 15 of 1986 in order to allow for the conducting of the land uses on the said farm as envisaged/required by the Land Owner, as well as for the removal of any restrictive title conditions.
- 2.14 The Land Owner herewith confirms and represents that the Land is unencumbered by a mortgage bond or in any other manner, save as set out in clauses 4 and 5 below.

3. LAND EXCHANGE AND SUSPENSIVE CONDITION

- 3.1 In view of the recordal and agreement between the Parties as set out in clause 2 above, the Land Owner and the CoM herewith agree to the land exchange as follows:
- 3.1.1 The CoM will cause Isago's Land to be created by subdividing same from a larger portion of land belonging to Isago and thereafter cause it to be consolidated with the Remainder of Portion 63;
- 3.1.2 The CoM will cause the CoM's Land to be created by subdividing same from a larger portion of land belonging to

the CoM and thereafter cause it to be consolidated with the Remainder of Portion 63;

3.1.3 The Land Owner will cause Portion A to be created by subdividing same from the Land and thereafter cause it to be transferred to the CoM, alternatively and instead of the transfer of Portion A to the CoM, and upon the election of the CoM, the provision of the Land Owner's written consent to the proclamation of a public road on Portion A

3.2 The coming into force and effect of this Agreement, and as such this Agreement conferring any rights and obligations of whatsoever nature upon the Parties, is subject to the fulfilment of all of the following suspensive conditions, which suspensive conditions must be fulfilled within a period of four months from the Signature Date:

3.2.1 the CoM providing the Land Owner with a certificate from either the head, legal department or the municipal manager of the CoM that the following statutory provisions have been observed and complied with: -

3.2.1.1 section 79(18) of the Ordinance;

3.2.1.2 section 14 of the MFMA, as amplified by the applicable provisions of the Municipal Asset Transfer Regulations, 2008; and

3.2.2 the municipal council of the CoM, and subsequent to the performing of all the requirements and applicable statutory compliance steps, as set out in the legislation applicable to local government in respect of the transfer of immovable property, adopts a resolution, approving the exchange of the CoM's Land on the terms and conditions stipulated in this Agreement; and

3.2.3 the CoM concluding a written agreement with Isago in terms of which the CoM obtains the Isago Land from Isago.

4. RECORDAL OF ACCEPTANCE OF THE LAND EXCHANGE

- 4.1 The CoM herewith exchanges the CoM's Land and Isago's Land with the Land Owner, who accepts the said properties in exchange for Portion A which is offered in exchange by the Land Owner and which Portion A is accepted in exchange by the CoM.
- 4.2 The Land Owner:
- 4.2.1 agrees that it accepts the land exchange as set out in this Agreement in full and final compensation for all and any losses and/or damages which the Land Owner has incurred or will in future incur as a result of the excise of Portion A from the Land and the transfer thereof to the CoM, and that the Land Owner will have no further claim of any nature whatsoever against the CoM;
- 4.2.2 confirms that Portion A is unencumbered and free of any bond, impediment or, obstacle which will prevent the CoM from constructing a public road and road reserve and/or bulk municipal services thereon.
- 4.3 The Parties to this agreement appoint the Conveyancers to attend to the land transfers as follows:
- 4.3.1 Lourens & Bezuidenhout Incorporated Attorneys will attend to the actions as set out in clauses 3.1.1 and 3.1.2 above; and
- 4.3.2 Jassat Mitchell Incorporated Attorneys will attend to the actions as set out in clause 3.1.3 above.

- 4.4 The CoM will be liable for the fair and reasonable costs to effect the actions set out in clauses 3.1.1 to 3.1.3 above, including all costs in connection with the preparation and drawing of this Agreement, the land surveyor's costs, the subdivision costs, the consolidation costs, the conveyancing fees, survey costs, the costs of diagrams to be approved by the Surveyor-General and the costs of the placement and/or identification of beacons on the two properties, as well as all other costs that may be incurred to effect registration of transfer of the portions of land into the name of the other party, but excluding the legal costs for the negotiating and conclusion of this Agreement and each Party will to this end be liable for the payment of their own legal costs.
- 4.5 The Land Owner and the CoM undertake immediately upon being requested to do so by the Conveyancers, to sign all documents required to be signed in order to execute the actions set out in clauses 3.1.1 to 3.1.3 above.

5. ACKNOWLEDGEMENT BY THE COM AND THE LAND OWNER

The CoM and the Land Owner acknowledge that:-

- 5.1 they have acquainted themselves with the nature, condition, beacons, extent and locality of the properties which comprise the subject matter of this Agreement, as well as the consequences that the exchange of the said properties holds for both parties; and
- 5.2 the properties are herewith exchanged and received subject to the provisions set out in this Agreement, and also voetstoots:-
- 5.2.1 to the extent that the properties now lie and are depicted on **Annexure "MI4"**, without any warranties, whether express or implied, and neither party shall be liable for any defects

whether latent or otherwise in the respective properties that they acquire from this agreement nor for any damages that either party may suffer from such acquisition of the said property by reason of any defects; and

5.2.2 subject to all conditions and servitudes mentioned or referred to in the current and/or prior Title Deeds of the said properties, or any town planning scheme applicable thereto and as set out in this agreement.

6. RISK AND OWNERSHIP

With effect from the Signature Date, and subject to the terms and conditions of this Agreement, all the benefits and risks of ownership of the properties which form the subject matter of this Agreement shall pass respectively to the CoM and the Land Owner, but subject to all the terms and provisions as set out in this Agreement.

7. OCCUPATION

7.1 The Parties agree that irrespective of the date of the transfer of Portion A, the CoM shall take occupation and undisturbed possession of Portion A on the Signature Date and the CoM shall be entitled to commence with the construction of the Access Road, road reserve and intersection with the N12 National Road on Portion A immediately subsequent to it taking possession of this portion.

7.2 The Land Owner shall take occupation and possession of the CoM's Land and Isago's Land on the date of the transfer of these portions of land.

8. BREACH

In the event of:-

- 8.1 any of the parties not performing any of the obligations imposed upon the parties under this agreement and persisting in such failure for a period of 14 (fourteen) days after receipt of a written notice from the other party ("the aggrieved party") calling upon him to perform his obligations; or
- 8.2 either one of the parties ("the defaulting party") committing a breach of any of the other terms of this agreement and failing to remedy such breach within a period of 14 (fourteen) days after receipt of a written notice from the aggrieved party calling upon the defaulting party to remedy the breach complained of,

then the aggrieved party shall be entitled at his sole discretion and without prejudice to any of his other rights in law, either to claim specific performance of the terms of this agreement or to cancel this agreement forthwith and without further notice and claim and recover damages from the defaulting party.

9. DOMICILIUM CITANDI ET EXECUTANDI

- 9.1 The parties choose as their *domicilium citandi et exucutandi* the following addresses:

The CoM:

The Office of the Municipal Manager

Corner of Bram Fischer and OR Tambo streets

Klerksdorp

City of Matlosana

The Land Owner:

C/o Jassat Mitchell Incorporated Attorneys,

Corner of Andrew and Yusuf Dadoo Streets, Wilkoppies,

Klerksdorp

at which addresses all notices and legal process in relation to this Agreement or any action arising therefrom may be effectually delivered and served.

9.2 Any notice given by one of the parties to the other ("the addressee") which:

9.2.1 is delivered by hand to the addressee's *domicilium citandi et executandi* shall be presumed until the contrary is proved to have been received by the addressee on the date of delivery ; or

9.2.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium citandi et executandi* shall be presumed until the contrary is proved to have been received by the addressee on the fifth day after the date of posting.

9.3 Any party shall be entitled, on written notice to the other, to change the address of his *domicilium citandi et executandi*.

10. NO VARIATION

No variation or alteration of this contract shall be of any force or effect unless same is recorded in writing and signed by or on behalf of the parties hereto. No relaxation or indulgence which may be allowed by either party at any time in regard to his performance of any of his obligations in terms of this Contract, shall be construed as a waiver of or prejudice his rights under this Contract.

11. GENERAL

- 11.1 This Agreement constitutes the sole and entire agreement between the Parties and no warranties, representations, guarantees or other terms and conditions of whatsoever nature not contained or recorded herein shall be of any force or effect.
- 11.2 The parties undertake to do all such things as may be necessary, incidental or conducive to the implementation of the terms, conditions and import of this Agreement.
- 11.3 No indulgence which either party ("the grantor") may grant to the other ("the grantee") shall constitute a waiver of the rights of the grantor who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which might arise in the future.
- 11.4 The parties undertake to do all such things as may be necessary, incidental or conducive to the implementation of the terms, conditions and import of this Agreement.
- 11.5 Every paragraph and every clause contained in this document is severable from every other paragraph and/or clause and should any

paragraph or clause (or part hereof) be void or voidable it will be regarded as *pro non scripto* and the rest of the agreement will remain of force.

12. CESSION

Neither the CoM nor the Land Owner shall cede and/or assign this agreement in any way whatsoever, without the other party's express prior obtained, written consent.

THUS DONE AND SIGNED AT KLERKSDORP ON THE ____ DAY OF MARCH 2014.

LAND OWNER

WITNESS

WITNESS

THUS DONE AND SIGNED AT KLERKSDORP ON THE ____ DAY OF MARCH
2014

COM

WITNESS

WITNESS

RESOLUTION OF MISHIL INVESTMENTS CLOSE CORPORATION

Registration number 1994/009422/23

(the "Close Corporation")

Passed at: _____

On: _____

RESOLVED THAT:

1. The Close Corporation (the "Land Owner") enter into an Agreement of Land Exchange and Compensation with the CITY OF MATLOSANA (the "CoM") to exchange a portion of land of which the Land Owner is the owner and which portion of land is described as Portion 36 of the Farm Palmietfontein designated by the figure HBCDMLKJH in Annexure "MI4" in exchange for a portion of land of which the CoM is the owner and which portions of land are depicted by the figures EMFGE and NPQRHAN (CoM's as well as Isago's land) as set out in Annexure "MI4".
2. SHUSILA KARA, identity number 610320 0090 088 be and is hereby authorised to negotiate the terms of the Agreement of Land Exchange and

Compensation and is authorised to sign the said agreement together with all and any other documents that may be necessary to give effect thereof, hereby ratifying all prior acts and deeds done by SHUSILA KARA in respect of the above Agreement of Land Exchange and Compensation.

SHUSILA KARA,

Identity number 610320 0090 088

Sole Member of the Land Owner

CITY OF MATLOSANA

MINUTES OF THE SPECIAL MEETING OF THE COUNCIL OF THE CITY OF MATLOSANA
HELD ON WEDNESDAY, 22 FEBRUARY 2012 AT 14:00 IN THE COUNCIL CHAMBER, CIVIC
CENTRE, KLERKSDORP

SP CC 5/2012 APPOINTMENT OF THE MUNICIPAL MANAGER

5/2/1
(PMC)

(ITEM 3.2 SP CC 22/02/2012)

RESOLVED

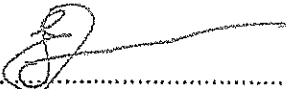
- (a) That cognizance be taken of the process regarding the filling of the position of Municipal Manager.
- (b) That cognizance be taken of the interviews held for the position of Municipal Manager with nine candidates on 27 January 2012.
- (c) That Council approves the recommendation to appoint Mr ET Motsemme as Municipal Manager for a period of 5 years with effect from 22 February 2012.
- (d) That a fix term Employment Contract be signed by all parties before commencement of service by the newly appointed Municipal Manager.
- (e) That the newly appointed Municipal Manager concludes a Performance Agreement within 60 days after the date of employment.
- (f) That Council within 14 days of the date of appointment of the Municipal Manager forward a report to the MEC in the Province on the processes followed.
- (g) That the City of Matlosana accepts the following resolution with effect from 22 February 2012
 1. "That Mr ET Motsemme in his capacity as duly appointed Municipal Manager of the City of Matlosana, be and is hereby authorised in terms of the provisions of section 55 of the Local Government : Municipal Systems Act, Act 32 of 2000 (hereafter "the Systems Act"), read with the provisions of section 59 of the Systems Act, to do all things necessary and required to effectively and practically implement, manage and administer the City of Matlosana's administration in accordance with the Systems Act, and/or any other applicable legislation, and/or by-law, and/or policy, which include but is not limited to:
 - 1.1 the matters mentioned and set out in the provisions of section 55(1) and section 55(2) of the Systems Act;
 - 1.2 depose and/or sign and/or execute and/or dispense with any and all of the following:
 - 1.2.1 litigation, arbitration, mediation or hearings before statutory or administrative tribunals involving, by or against the City of Matlosana, irrespective of the forum of such litigation, arbitration, mediation, statutory or administrative tribunal;

- 1.2.2 All documents necessary for and/or in respect of:
 - 1.2.2.1 deeds in respect of the sale by the Council of fixed properties, including mineral rights at prices not below that already approved by or to be approved by the Council;
 - 1.2.2.2 the transfer of fixed properties already sold by the Council or still to be sold by the Council;
 - 1.2.2.3 all deeds of sale in respect of fixed properties purchased by the Council as well as the necessary documents for the transfer of such fixed properties to the Council;
 - 1.2.2.4 all deeds of donation of fixed properties by or to the Council as well as all transfer documents for the transfer of such fixed properties, or letters deeds or notices in respect of the acceptance on behalf of the Council of such properties and the transfer thereof to the Council;
 - 1.2.2.5 to acquire, grant and/or to cancel servitudes in respect of fixed properties;
 - 1.2.2.6 deeds and contracts for the letting or hire by the Council of fixed properties;
 - 1.2.2.7 the cancellation of any bonds which have already been registered in favour of the Council or which may still be registered;
 - 1.2.2.8 the cancellation of deeds of sale in respect of fixed properties;
 - 1.2.2.9 the issue of any Certificate and Registered Title in favour of the Council and/or the issue of any Certificates of Mineral Rights in favour of the Council.
 - 1.2.2.10 the issue of surface rights permits in favour of the Council;
 - 1.2.2.11 any application for the opening up of a Township Register in respect of any township and for any other matters incidental thereto;
 - 1.2.2.12 for the execution of resolutions passed by the Council or which may be passed;
 - 1.2.2.13 applications for copies of lost bonds and deeds of transfer as well as certificate or registered title in terms of the provisions of the Deeds Act; and
 - 1.2.2.14 declarations by the seller for transfer duty-/receipts.
- 1.3 The enforcement, implementation and execution of all and any statutes, regulations, by-laws and policies, which allows for the enforcement, implementation or execution thereof by the City of Matlosana.

1.4 All and any matters delegated to the Municipal Manager in terms of the Delegation of Powers and Signing Powers of the City of Matlosana (adopted in terms of Resolution CC 15/2009 on 5 February 2009).

- 2) That resolution 7/2005 – read with resolution 218/2006, read with resolution 85/2010 be revoked with effect from 22 February 2012.

Certified a true copy of the Resolution passed by the Council on 22 February 2012


.....
ET MOTSEMME
MUNICIPAL MANAGER

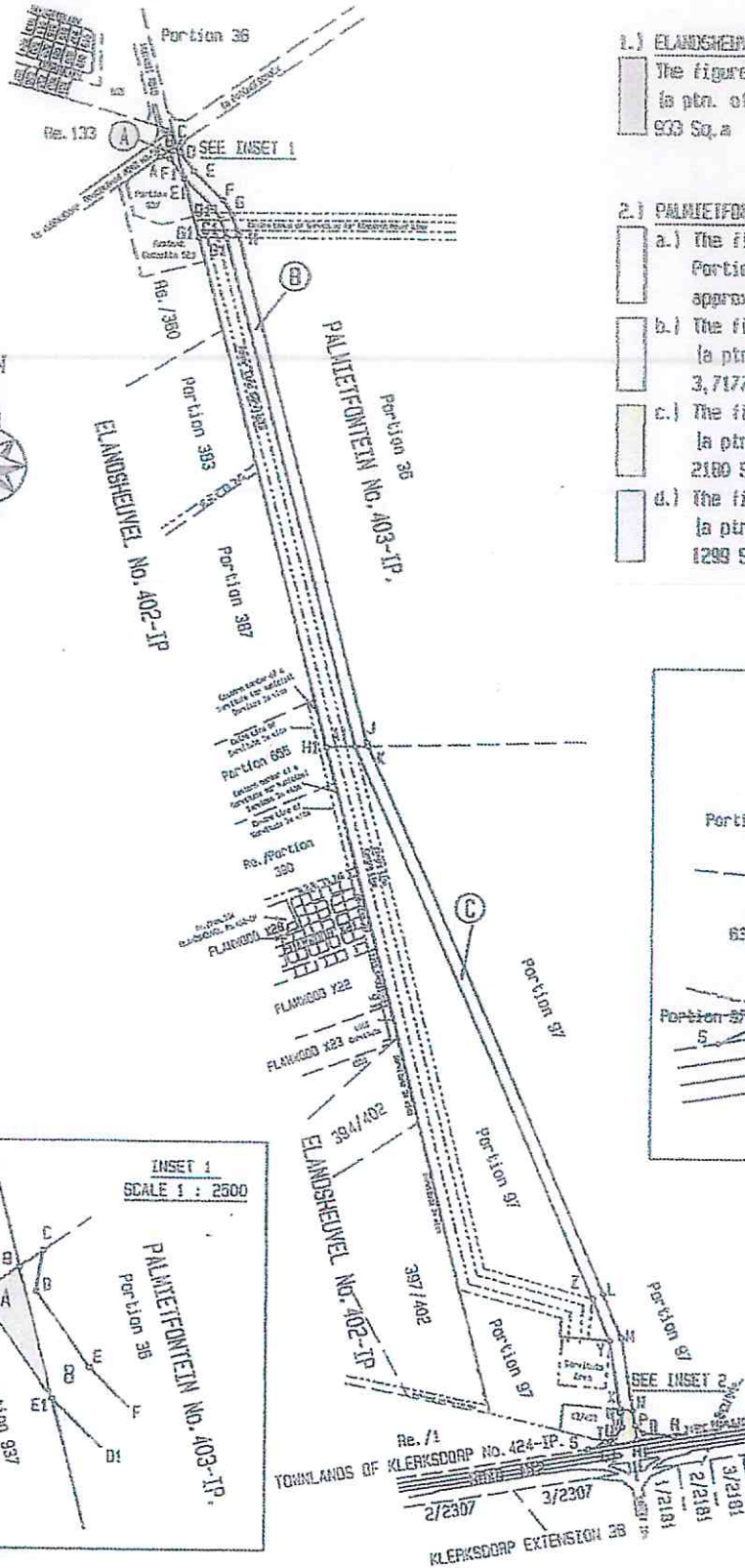
24/02/2012
.....
DATE

SKETCH PLAN

OF PROPOSED ROAD OVER CERTAIN PORTIONS OF THE FARMS
ELANDSHEIVEL No. 402-IP and PALMIETFONTEIN No. 403-IP.

PROVINCE : NORTH WEST
SCALE 1 : 10 000

TOWN DORPENGRAUW



1.) ELANDSHEIVEL No. 402-IP.

The figure ABEIF1A represents Portion A (a ptn. of Portion 937) in extent approx. 939 Sq.m.

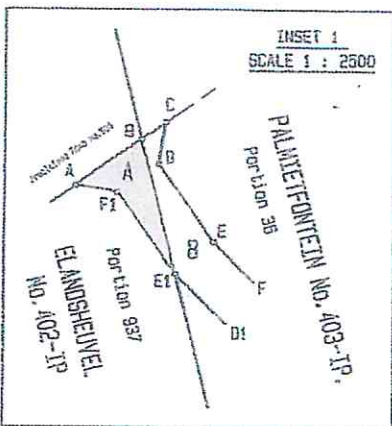
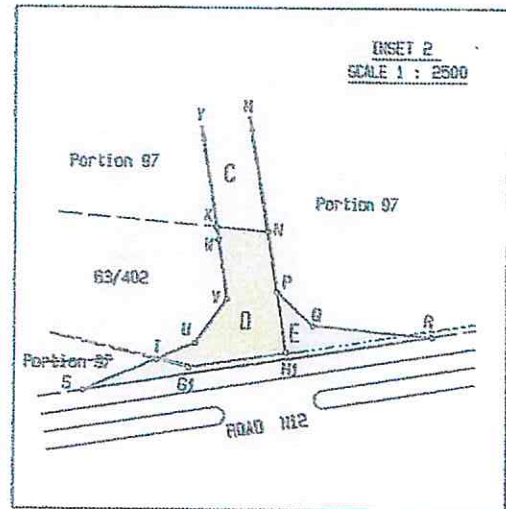
2.) PALMIETFONTEIN No. 403-IP.

a.) The figure BCDEFGLKAI101C101E10 represents Portion B (a ptn. of Portion 36) in extent approx. 3,221 Ha.

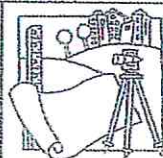
b.) The figure AIKLMNXYZA1 represents Portion C (a ptn. of Portion 97) in extent approx. 3,7177 Ha.

c.) The figure XN1E11UNX represents Portion D (a ptn. of Portion 103) in extent approx. 2100 Sq.m.

d.) The figure STE1F1QRS represents Portion E (a ptn. of Portion 97) in extent approx. 1290 Sq.m.



SERVITUDE:
The figure G101A1H101 represents a Servitude Area for Overhead Electric Power Lines with Underground Cables over Portion 38 of the farm PALMIETFONTEIN No. 403-IP., in extent 6,0964 Hectares vide Diagram S.G.No. 3882/2011.



JOZE MALETA

1372 95 LEASKSTR.
KLERKSDORP KLERKSDORP
2570

PR LANDMETER EN OORPSGEBIEDOEPANMER
PR LAND SURVEYOR AND TOWNSHIP PLANNER

TEL : (018) 462-1991
FAXS : (018) 464-2509
E-POS : info@jmaled.co.za

Compiled in JUNE 2013
by me.

Maleta

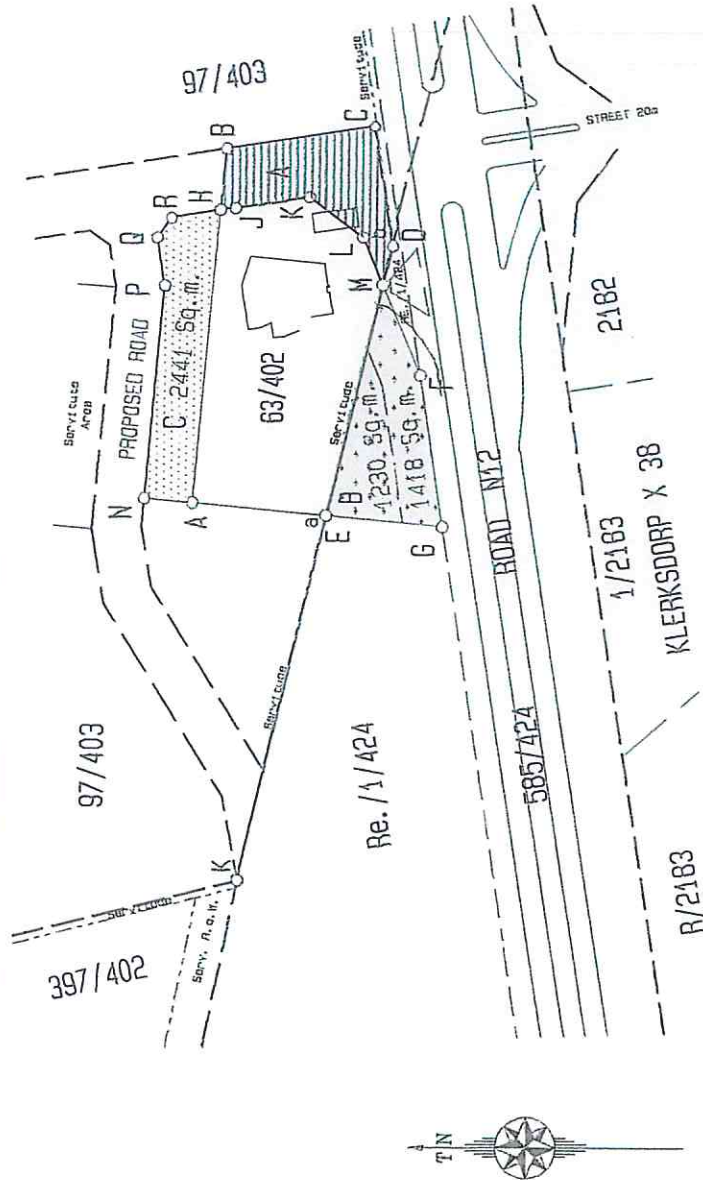
J. MALETA (PLS0366)
Pr. Land surveyor

W: 012 9409811 / 9409812 (L6176) (DS)

WGS - 112

SKETCH PLAN

PROPOSED SUBDIVISION OF PORTION 63 AND PORTION 97 OF THE FARM PALMIETFONTEIN No. 403-IP, AND THE REMAINING EXTENT OF PORTION 1 OF THE FARM TOWNLANDS OF KLERKSDORP No. 424-IP.
 PROVINCE : NORTH WEST
 SCALE 1 : 3000



1.) PALMIETFONTEIN No. 403-IP.:

SUBDIVISION (A):

The figure HBCDMLKJH represents Portion A (a ptn. of Portion 63) in extent approx. 2180 Sq.m. to be known as Portion 116.

SUBDIVISION (C):

The figure NPOPHAN represents Portion C (a ptn. of Portion 97) in extent approx. 2441 Sq.m.

2.) TOWNLANDS OF KLERKSDORP No. 424-IP.:

SUBDIVISION (B)

The figure EMFGE represents Portion B (a portion of Portion 1) in extent approx. 2648 Sq.m.

CONSOLIDATION:

After subdivision, Portion B (Ptn. of Ptn. 1) of the farm Townlands of Klerksdorp No. 424-IP., will be consolidated with the Remaining extent of Portion 63 and Portion C (a ptn. of Portion 97) of the farm PALMIETFONTEIN No. 403-IP., to become the farm GUMTREES No. 589-IP.

SERVITUDE NOTE:

The lines ab, represents the Southern border of a Servitude 3m wide, vide Diagram S.G.No. A2377/1975, Servitude Deed No. K862/1981.

Compiled in JANUARY 2014

by me,

J. Maleta

J. MALETA (PLS0368)
 Pr. Land surveyor

APPROVED:

.....
 MUNICIPAL MANAGER
 CITY OF MATLOSANA

JOZE MALETA
 PR LANDMETER EN DORPSGEBIEDBEPLANNER
 PR LAND SURVEYOR AND TOWNSHIP PLANNER
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 2570 KLERKSDORP FAKS : (018) 464-2509
 E-POS : info@jmland.co.za

W: W12 PADNEW V63SP8, (L8178) (DG) WGS - N12 N12

