

D13

A G R E E M E N T

Entered into by and between:

BENONI BRAKPAN AIRFIELD INVESTMENTS (PROPRIETARY) LIMITED

a company duly registered in accordance with the laws of the Republic of South Africa, being represented herein by PETER VICTOR FORD, who is duly authorised hereto by virtue of a resolution of the company passed at a general meeting held on the day of June, 1994.

(hereinafter referred to as "the Grantor")

and

BENONI BRAKPAN AERO CLUB

a voluntary association herein represented by its chairman for the time being, being duly authorised thereto.

(hereinafter referred to as "the Grantee")

It is agreed as follows:

GRANT OF RIGHTS

1. The Grantor, being the registered owner of the Remaining Extent of the farm Rietfontein 115, in the Province of the Transvaal, measuring 146,3297 hectares ("the property"), which property is presently being utilised as an airfield, hereby grants to the Grantee, which hereby accepts such grant, the following rights:

The right to utilise the club house situated on the

2. property, the swimming pool and its surrounds, and the parking area, for the purpose of operating a flying club.

1.2 The right to utilise the hangars presently being used or let out by the club, including the movable hangars owned by the club and listed on the annexed schedule.

1.3 The right to use the taxiways and runways situated on the property.

## 2. PERIOD OF GRANT

2.1 The rights hereby granted shall endure for an initial period of nine years from the date of signature hereof.

2.2 The Grantee has the option at any stage between the date of signature hereof and the date of termination of the initial period to renew in writing the period of the grant for an additional period of nine years.

2.3 On the termination of the period of the grant, whether it be after nine or eighteen years, the rights hereby granted shall not terminate, but shall endure indefinitely on the same terms and conditions, and may be terminated by either party giving three months notice in writing to the other party of its intention to terminate this agreement.

## 3. PAYMENT

3.1 The Grantee shall pay to the Grantor a monthly amount of R1867,00 (One Thousand Eight Hundred and Sixty-Seven Rands) in respect of the rights hereby granted. The first payment shall be due on or before the 1st day of July, 1994, and all subsequent payments shall be due on or before the first

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day of each subsequent month. The Grantee shall allow seven days grace before claiming that any payment is overdue.

3.2 The said monthly payments shall escalate at the end of each period of twelve months by 10% (Ten per cent) of the amount previously paid. The first escalation shall be calculated as from the 1st day of July, 1995.

3.3 Should either party feel that the escalated amount being paid is unfair in the light of circumstances then prevailing, such party shall, in the absence of any agreement being arrived at, be entitled to refer the matter to arbitration in accordance with legislation then applicable, and the decision of the Arbitrator shall be final and binding on the parties.

#### 4. TERMS AND CONDITIONS OF GRANT

4.1 The Grantee shall be responsible for the upkeep and maintenance of the interior of the club house, *adjacent gardens, swimming pool and immediate surrounds.*

4.2 The Grantee shall permit members of the public to make reasonable use of the airfield, and shall permit members of the public to have reasonable access to the parking area on a casual basis for purposes associated with the airfield.

4.3 The Grantee shall not erect any further structures, whether of a temporary or permanent nature, on the property, nor shall it modify or extend the clubhouse or any other structures presently under its control, without the express written consent of the Grantor.

4.4 The Grantee shall take out and maintain adequate insurance against damage of whatsoever nature to the clubhouse and

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to call for proof of such insurance; and shall be entitled, should the Grantee fail to produce such proof, to take out the necessary insurance and recover the cost thereof from the Grantee. The structures listed in the schedule attached to this agreement are movables, and are not the property of the Grantor.

- 4.5 The Grantee hereby indemnifies the Grantor against all claims arising out of its activities, and for which the Grantee is liable in law, whether such claims arise from flying or ground accidents or not. Adequate insurance shall be taken out by the Grantee to cover such contingencies. The provisions of clause 4.4 apply mutatis mutandis to this clause.
- 4.6 The Grantee shall keep proper financial and administrative records and copies of leases, and is obliged at all reasonable times to produce these for inspection by the Grantor.
- 4.7 The Grantor shall have the right at all reasonable times to inspect its property, including the clubhouse.
- 4.8 The Grantee shall, on request, produce a copy of its constitution, as amended from time to time, for inspection by the Grantor.
- 4.9 The Grantee shall enforce proper discipline among its members, and shall maintain proper membership records.
- 4.10 The Grantee does not have the right to trade on the property without written consent of the Grantor being first obtained.

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5. LANDING FEES, GROUND RENTALS AND CASUAL PARKING FEES

5.1 Landing fees, ground rentals, and casual parking fees shall accrue to the Grantor. The Grantor may delegate to the Grantee or to any other party responsibility for collecting such monies on such terms and conditions as may be agreed upon.

6. MAINTENANCE AND USE OF PROPERTY

6.1 The Grantor shall maintain all taxiways and runways on the airfield in a good and safe condition.

6.2 The Grantor shall have the right in its discretion to change the situation or direction of any taxiways or runways.

6.3 Should the temporary or permanent closure of any runway be required for the purposes of upgrading or maintenance, prior written notice of at least ninety days must be given to the Grantee, as well as proper notice in terms of DCA requirements.

6.4 The Grantor shall keep the airfield fenced in accordance with DCA requirements.

6.5 The Grantor shall have the right to develop the property, including the right to sell or cede any of its rights in portion of the property or to erect or permit to be erected buildings, in any way that it desires provided that the rights of the Grantee are not impeded.

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7. DCA LICENCE

- 7.1 The Grantee shall ensure that it complies with DCA rules and requirements, and that the licence issued in respect of the airfield is not withdrawn due to its failure in this regard.
- 7.2 The Grantor shall be entitled at any stage to make application for the DCA licence held in the name of the Grantee to be changed into the name of the Grantor. Any such change of Licensee shall not affect the rights of the Grantee in terms of this agreement.

8. BREACH

- 8.1 In the event of the Grantee failing to make payment of its monthly commitment as set out in clause 3 hereof, the Grantor shall, after giving ten days notice in writing to the Grantee calling upon it to remedy such breach, be entitled, in addition to any other remedy that it may have by law, to terminate this agreement.
- 8.2 In the event of either party breaching an obligation imposed in terms of this agreement, the non-defaulting party shall, in addition to any other remedy provided by law, be entitled to call upon the defaulting party, in writing to remedy such breach within ten days, failing which the non-defaulting party shall be entitled to remedy such breach and to recover the reasonable cost thereof from the defaulting party.
- 8.3 Should the DCA take action against the Grantor arising from any breach of any DCA laws and regulations by the Grantee,

the Grantor shall be entitled without notice to the Grantee to terminate this agreement.

8.4 Should the DCA licence to operate an airfield on the property be permanently lost for any reason whatsoever, then this agreement shall automatically be terminated.

9. SALE OF PROPERTY

9.1 The Grantee acknowledges that it is aware of the fact that the Grantor is engaged in negotiations with the Town Council of Brakpan which could result in the sale of the property to the said Town Council. Should such sale take place, the rights and obligations of the Grantor will be taken over by the Brakpan Town Council, and the Grantee hereby agrees to such cession and assignment. The said Town Council has undertaken to notify the Grantee in writing of the fact of such take over.

10. SUSPENSIVE CONDITION

10.1 This agreement shall come into effect on the sale of the property to the Brakpan Town Council, and the prior approval by such Town Council of the terms of this agreement.

11. COSTS

11.1 The Grantee shall pay the costs drawing this agreement.

DATED AT *Johannesburg* ON THIS *29<sup>th</sup>* DAY OF *JUNE* 1994

*[Signature]*  
-----  
for GRANTOR

DATED AT *Johannesburg* ON THIS *29<sup>th</sup>* DAY OF *June* 1994

*[Signature]*  
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GRANTEE



**BUILDINGS OWNED BY BENONI BRAKPAN AERO CLUB.**

1. Two contiguous hangars, designated TIGER 1 and TIGER 2, measuring approximately 750 sq.m. in total.
2. Large hangar designated GEMMELL HANGAR, measuring approximately 530 sq.m.
3. One block of six contiguous Tee-hangars, adjacent to the GEMMELL hangar, (on the Northern side) measuring in total approximately 520 sq.m.



7/2/1/21

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ANNEXURE "B"

DEED OF ALIENATION

Memorandum of agreement entered into between:

BENONI BRAKPAN AIRFIELD INVESTMENTS (PROPRIETARY) LIMITED

a company duly registered in accordance with the laws of the Republic of South Africa, being represented herein by PETER VICTOR FORD, who is duly authorised by virtue of a resolution of the company passed at a general meeting held on the 20<sup>th</sup> day of June, 1994

(hereinafter referred to as "the Seller")

and

BRAKPAN TOWN COUNCIL

a local authority duly constituted according to the laws of the Republic of South Africa, being represented herein by FRANCOIS BLAAUW, who is duly authorised hereto by virtue of a resolution of the said council passed on the 21<sup>st</sup> day of June, 1994.

(hereinafter referred to as "the Purchaser")

1. SALE

The Seller hereby sells to the Purchaser who hereby purchases the Remaining Extent of the farm Rietfontein 115, situate in the Province of the Transvaal, measuring 146,3297 hectares, together with all buildings, erections and improvements of a fixed and permanent nature situated on the said farm ("the property"). A schedule of buildings not of a fixed and permanent nature owned by the Purchaser or third parties is hereto annexed.

2. PURCHASE PRICE

The purchase price is the sum of R1400000,00 (One Million Four Hundred Thousand Rands), which is payable as follows:

The full amount of the purchase price shall be paid against registration of transfer.

*[Handwritten signatures and initials on the right margin, including 'M. Mal', 'P. Ford', and 'F. Blaauw']*

*[Handwritten signature 'Cal' at the bottom right corner]*

- 2.2 The Purchaser shall within thirty days of the date of signature of this agreement furnish to the Seller's attorneys, Messrs. Pienaar & Pienaar, 337, Daylesford Road, Mondeor, Johannesburg ("the conveyancers") a written guarantee by an institution and in terms acceptable to the Seller providing for payment of the purchase price against registration of transfer of the property into the name of the Purchaser.

3. POSSESSION, OCCUPATION AND RISK.

- 3.1 Possession and occupation of the property shall be given by the Seller to the Purchaser on the 1st day of July, 1994.
- 3.2 The risk and profit and loss of the property shall pass to the Purchaser on the date of occupation.

4. VOETSTOOTS

- 4.1 The property and all improvements thereon are sold voetstoots and the Seller shall not be liable for any defect therein, whether latent or patent.
- 4.2 Should the property have been erroneously described herein such error shall not invalidate this agreement and the parties hereby agree to the rectification thereof to reflect the correct description as appearing in the current and/or prior title deeds of the property.
- 4.3 The property is sold in the extent as it now lies and if on resurvey the area of the land should be found not to correspond to that stated in the current title deed/s the

Seller shall neither be entitled to compensation for any surplus nor be liable to contribute for any deficiency.

5. CONDITIONS AND SERVITUDES

- 5.1 The property is sold subject to all conditions and servitudes mentioned or referred to in the current and/or prior title deeds thereof and to the provisions of any town planning scheme applicable to the property and to all such other conditions and servitudes as may exist in regard thereto.

6. TRANSFER

- 6.1 Transfer shall be effected by Attorneys Pienaar & Pienaar, of 337, Daylesford Road, Mondeor, Johannesburg. The parties undertake to sign all such documents as may be necessary or required to effect transfer on request by the transferring attorneys.

7. LEASES

- 7.1 The Seller states that there are no long term leases over the property or any portion thereof. The Purchaser acknowledges that it is aware of the terms of an agreement between the Seller and the Benoni Brakpan Aero Club in terms of which the latter is granted certain rights of use over portions of the property. The Purchaser confirms that it will take over the rights and obligations of the Seller in terms of this agreement as from the 1st day of July, 1994, it will notify the said Club of this fact in writing as soon as possible.

8. DOMICILIUM

8.1 For the purpose of all notices which might be given under or actions which might flow from this agreement, the parties choose the following domicilia citandi et executandi:

8.1.1 The Seller at 19, End Street, City & Suburban, Johannesburg. 2000.

8.1.2 The Purchaser at P. O. Box 15, Brakpan, 1540.

8.2 The parties shall be entitled to change their respective domicilium citandi et executandi by the delivery or posting by registered mail of a notice to this effect to the domicilium of the other party.

8.3 Any written notice shall be deemed to have been validly given if delivered at the other party's chosen domicilium or sent there by registered post. If sent by registered post, the notice shall be deemed to have been received on the next day but one after the day of posting, and, if delivered, on the date of delivery.

9. BREACH

9.1 Should either party commit a breach of this agreement then the other party shall be entitled to claim specific performance and/or such damages as may have been sustained, or, alternatively, if the breach goes to the root of the contract, cancellation of the agreement together with damages. Failure by the Purchaser to comply




with clause 2.2 shall be deemed to be a breach going to the root of the contract.

9.2 Before exercising the right to cancel the agreement on the ground that the Purchaser has failed to meet any commitment set out herein, including the failure to pay any amount or furnish any guarantee, the Seller shall give written notice to the Purchaser requiring compliance within 10 (Ten) days of the date of posting of such notice by registered post to the Purchaser's domicilium.

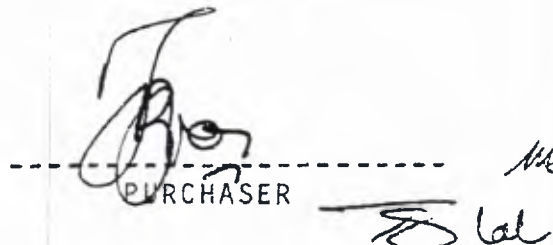
10. COSTS

10.1 The Purchaser shall be responsible to pay on demand by the conveyancers the costs of drawing this agreement, the costs involved in the transfer of the property including conveyancing costs, and transfer duty.

DATED AND SIGNED AT BRAKPAN ON THIS 20<sup>th</sup> DAY OF July 1994

  
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SELLER

DATED AND SIGNED AT BRAKPAN ON THIS 20<sup>th</sup> DAY OF July 1994

  
-----  
PURCHASER

SCHEDULE OF BUILDINGS NOT OF A FIXED AND PERMANENT NATURE.

A. BUILDINGS OWNED BY THE SELLER (BBAI).

1. Large hangar close to South end of airfield, presently occupied by OMNI SPRAYPAINTERS and an Aircraft Maintenance Operation, measuring approximately 420 sq.m.
2. Flying school and lecture room, measuring approximately 130 sq.m.
3. Twelve Tee-hangars in three blocks in the centre row of tee-hangars, measuring respectively approximately 440 sq. m. (two hangars) 650 sq.m. (Six hangars) and 440 sq.m. (two hangars).

B. BUILDINGS OWNED BY BENONI BRAKPAN AERO CLUB.

1. Two contiguous hangars, designated TIGER 1 and TIGER 2, measuring approximately 750 sq.m. in total.
2. Large hangar designated GEMMELL HANGAR, measuring approximately 530 sq.m.
3. One block of six contiguous Tee-hangars, adjacent to the GEMMELL hangar, (on the Northern side) measuring in total approximately 520 sq.m.

C. BUILDINGS OWNED BY PRIVATE PERSONS.

1. The Southernmost hangar on the airfield, owned by Messrs SAXE and WEITZMANN, measuring approximately 420 sq.m.
2. A hangar adjacent to the Gemmell hangar, on the Southern side, belonging to M.L. GREENBERG, and measuring approximately 210 sq.m.
3. Thirty four Tee-hangars in eight blocks of four hangars each and two hangars adjacent to the North side of the block of Club hangars. (see item no 3 above). All owned by different individuals.

*[Handwritten signature]*  
Lal  
A.



ITM

DEED OF TRANSFER

BENONI BRAKPAN AIRFIELD INVESTMENTS (PTY) LTD

in favour of

TOWN COUNCIL OF BRAKPAN

T 282





PREPARED BY ME

*G M Pienaar*

CONVEYANCER

G M PIENAAR

*X*

DEED OF TRANSFER NO.

T 70259/94

BE IT HEREBY MADE KNOWN:

THAT GYSBERT VAN REENEN MOSTERT  
appeared before me, REGISTRAR OF DEEDS at PRETORIA, he, the said  
Appararer, being duly authorised thereto by virtue of a Power of  
Attorney signed at Johannesburg on the 29th day of July 1994 by

*Amend 16/9*  
DATA

2.

**BENONI BRAKPAN AIRFIELD INVESTMENTS (PROPRIETARY) LIMITED**

**No. 82/08829/07**

AND the said Appearer declared that the said -

**BENONI BRAKPAN AIRFIELD INVESTMENTS (PROPRIETARY) LIMITED**

**No. 82/08829/07**

had truly and legally sold, and that he, the said Appearer in his capacity  
aforesaid did by these presents, cede and transfer in full and free property to and on  
behalf of the -

**TOWN COUNCIL OF BRAKPAN**

their successors in title or assigns

REMAINING EXTENT of the farm RIETFONTEIN 115,

Registration Division I R Transvaal;

MEASURING 146,3297 (ONE HUNDRED AND FORTY SIX comma  
THREE TWO NINE SEVEN) hectares;

FIRST transferred by Government Transfer No. T153/1893

and held by Deed of Transfer No. T44048/1982;

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Handwritten notes and a signature in the top right corner.