

Revision 4

DEED OF SALE
WELGEGUND DOMAINE PRIVÉ



Schedule of particulars

1. The Parties:

1.1 The Seller

BEE LINE PROPERTIES PROPRIETARY LIMITED

Registration number 2007/007007/07

Herein represented by **Cornelius Naude Howard** or **David John Ludditt**,
being duly authorized thereto

of c/o Abacus Development Company, Ground Floor, La Gratitude Offices, 97
Dorp Street, Stellenbosch, 7600

Tel: +27 21 886 5262

Fax: +27 21 886 6239

E-mail: david@aaam.co.za

(hereinafter referred to as the “**Seller**”)

1.2 The Purchaser

(i) **Full names:** _____

Identity number: _____

Matrimonial status: unmarried
 married in community of property
 married out of community of property
 married, the marriage being governed by the
laws of

(insert name of country if not South Africa)

other

[Tick whichever is applicable]

Spouse’s full names: _____

Spouse’s identity number: _____

(ii) **Full names:** _____

Identity number: _____

Matrimonial status: unmarried
 married in community of property

- married out of community of property
- married, the marriage being governed by the laws of _____
(insert name of country if not South Africa)
- other

[Tick whichever is applicable]

Spouse's full names: _____

Spouse's identity number: _____

or in case of a legal entity –

Name: _____

Registration number: _____

herein represented by _____, who by the signing of this Agreement guarantees his/her authority to do so, and in the case of a Trustee signing in his/her capacity as Trustee, is authorised by a resolution signed by all the Trustees prior to the signature of this Agreement, a copy of which resolution is attached hereto as Annexure "A"

Registered / Residential address of Purchaser: _____

Postal address of Purchaser: _____

Contact details: Tel (b): _____
 Tel (h): _____
 Mobile: _____
 Fax: _____
 E-mail: _____
 SAID income tax registration no: _____

(hereinafter referred to as the "**Purchaser**")

2. THE PROPERTY

Subject to the terms and conditions contained in this Agreement the Seller hereby sells and the Purchaser hereby purchases the following immovable property -

Erf number _____ of the proposed subdivision of Portion 1 of the Farm Welgegund Number 372, In the Municipality and Division of Stellenbosch, Province Western Cape, in extent approximately _____ square metres and being as depicted on the Site Development Plan attached hereto as Annexure “B”

(hereinafter referred to as the “Property”)

3. THE PURCHASE PRICE (inclusive of VAT)

Basic purchase price	R _____
Less deposit payable	(R _____)
Less bond amount	(R _____)

Balance purchase price R _____

4. SELLER'S CONVEYANCERS

BASSON BLACKBURN INC

109 Main Road, Paarl, 7646

P O Box 2524, Paarl, 7620

Tel: +27 21 871 1401

Fax: +27 21 872 6189

E-mail: linkas@bassonblackburn.com

Reference: L Slabber

5. AGENT

Name: Pam Golding Properties, Stellenbosch

Agent's name: _____

Agent's contact numbers: _____

Agent's e-mail: _____

Agent's commission: R _____ / _____ % of the Purchase Price

(hereinafter referred to as the “Agent”)

6. PROVISIONS IN TERMS OF THE CONSUMER PROTECTION ACT, NO. 68 OF 2008 (“the CPA”)

It is recorded that the provisions of the CPA and the associated protection afforded by it may be applicable to this Agreement and in this regard, should the CPA find application, the parties’ attention are drawn to the various clauses contained in this Agreement which are for this purpose printed in bold.

The Purchaser acknowledges and agrees that it has freely entered into this Agreement and confirms that any sale concluded in terms of this Agreement is/was not concluded as a result of “direct marketing” as contemplated in the CPA.

initial

CONDITIONS OF SALE

1. INTERPRETATION

In this agreement, unless inconsistent with the context -

- 1.1 “**Agent**” means the agent described in paragraph 5 of the schedule of particulars.
- 1.2 “**the/this Agreement**” means the agreement contained in this document and includes all annexures, if any, hereto.
- 1.3 “**the Association**” means the Welgegund Domaine Privé Home Owners’ Association to be established for the Development as contemplated in this Agreement.
- 1.4 “**Development**” means the proposed residential development to be undertaken by the Seller on the Land, which will take place substantially in accordance with the Site Development Plan and which will be known as “**Welgegund Domaine Privé**”.
- 1.5 “**direct marketing**” means to approach a person, either in person or by mail or electronic communication, for the direct or indirect purpose of promoting or offering to supply, in the ordinary course of business, the Property to such person.
- 1.6 “**Land**” means Portion 1 of the Farm Welgegund Number 372, In the Municipality and Division of Stellenbosch, Province Western Cape, in extent 2,4986 (two comma four nine eight six) hectares.
- 1.7 “**parties**” means the Seller and the Purchaser and “**party**” means either of them.
- 1.8 “**prime rate**” means a rate of interest per annum which is equal to Absa Bank Ltd’s published minimum lending rate of interest per annum, compounded monthly in arrears, charged by the said bank on the unsecured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time. In the case of a dispute as the rate so payable, the rate shall be certified by any manager or assistant manager of any branch of the said bank, who shall not have to prove his/her appointment, same to be final and binding on the parties.

- 1.9 “**Property**” means the property described in paragraph 2 of the schedule of particulars.
- 1.10 “**Purchaser**” means the purchaser of the Property, being the party described in paragraph 1.2 of the schedule of particulars.
- 1.11 “**schedule of particulars**” means the schedule of particulars prefixed to this Agreement setting out the particulars of the parties, the Property, the Purchase Price, and additional information.
- 1.12 “**Site Development Plan**” means the site development plan prepared by the Seller indicating the Property and other erven in the Development and attached hereto as Annexure “**B**”.
- 1.13 “**Seller**” means the seller of the Property, being the party described in paragraph 1.1 of the schedule of particulars.
- 1.14 “**Seller’s Conveyancers**” mean the attorneys described in paragraph 4 of the schedule of particulars;
- 1.15 “**Signature Date**” means the date of signature of this Agreement by the party doing so last in time.
- 1.16 “**Transfer Date**” means the date of registration of transfer in the Deeds Office of the Property into the name of the Purchaser.
- 1.17 “**VAT**” means value-added tax at the applicable rate in terms of the Value-Added Tax Act No 89 of 1991 (or any statutory modification or re-enactment thereof) and includes any regulations made thereunder from time to time.
- 1.18 Words and expressions defined in the Deeds Registries Act 47 of 1937 shall have the meanings therein defined. Words importing the singular shall include the plural and *vice versa* and words importing the masculine gender shall include females and words importing persons shall include partnerships and bodies corporate and *vice versa*.
- 1.19 The head notes to the paragraphs to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.20 Any substantive provision conferring rights or imposing obligations on any party in the interpretation clause shall be given effect to as if it

were a substantive provision in the body of this Agreement.

- 1.21 No provision herein shall be construed against or interpreted to the disadvantage of any party by reason of such party having or being deemed to have structured or drafted such provision.
- 1.22 The *eiusdem generis* rule shall not apply and whenever a term is followed by the word “including” which is then followed by specific examples, such examples shall not be construed so as to limit the meaning of that term.
- 1.23 A reference to any statutory enactment shall be construed as a reference to that enactment as at the signature date and as amended or re-enacted from time to time.

2. RECORDAL

- 2.1 The Seller is or will at the relevant time be the registered owner of the Land.
- 2.2 The Seller has applied at the competent authority/ies for the rezoning and subdivision of the Land substantially in accordance with the Site Development Plan.
- 2.3 The Property comprises one of the aforesaid proposed subdivisions.
- 2.4 The Seller hereby sells to the Purchaser who hereby purchases the Property upon the terms and conditions as more fully set out herein.

3. PURCHASE PRICE OF THE PROPERTY

- 3.1 The Purchase Price of the Property is the amount reflected in the schedule of particulars being R _____, (_____ Rand), which amount includes VAT (hereinafter referred to as the “Purchase Price”).
- 3.2 **The parties specifically record that the Purchase Price includes VAT and accordingly agree that in the event of VAT being levied in respect of the Purchase Price at a rate of more than 15% (fifteen percent), the Seller shall be entitled to recover such increased VAT**

amount from the Purchaser and the Purchase Price will be altered accordingly.

4. PAYMENT OF PURCHASE PRICE

4.1 Subject to the provisions of clauses 4.2 or 4.3 as applicable, the Purchase Price is payable by the Purchaser to the Seller as follows -

4.1.1 A deposit of –

4.1.1.1 10% (ten percent) or more (at the election of the Purchaser), but less than 30% (thirty percent) of the Purchase Price in the case of a South African citizen or a South African based and/or registered legal entity in which event the provisions of clause 4.2 below will be applicable; or

4.1.1.2 30% (thirty percent) or more (at the election of the Purchaser) of the Purchase Price in the case of a South African citizen or a South African based and/or registered legal entity in which event the provisions of clause 4.3 below will be applicable,

within 7 (seven) days from the Signature Date (“**the deposit**”). The deposit is payable to the Seller’s Conveyancers which deposit is to be invested in trust in an interest bearing account for the benefit of the Purchaser. In this regard it is recorded that the Seller’s Conveyancers will only be in a position to invest the deposit upon receipt of the to be requested documentation required in terms of the Financial Intelligence Centre Act, No. 38 of 2001.

4.1.2 The balance of the Purchase Price against registration of transfer.

4.2 To the extent that a Purchaser has elected to pay or secure a deposit less than 30% (thirty percent) of the Purchase Price, then the Purchaser will deliver to the Seller’s Conveyancers an irrevocable guarantee/s reasonably acceptable to the Seller, issued by a South African Bank or a recognized South African Financial Institution to secure the balance of the Purchase Price, or any part thereof, contemplated in clause 4.1.2.

The aforesaid guarantee/s will be delivered to the Seller's Conveyancers within 14 (fourteen) days from being requested to do so, which request will not be made prior to fulfilment of the last of the conditions precedent contained in clause 5. Alternatively, the Purchaser may elect to pay the balance of the Purchase Price, or any part thereof, to the Seller's Conveyancers who shall invest same together with the deposit as provided for in clause 4.1.1.

- 4.3 To the extent that a Purchaser has elected to pay or secure a deposit equal to or more than 30% (thirty percent) of the Purchase Price, then the Purchaser will deliver to the Seller's Conveyancers an irrevocable guarantee/s reasonably acceptable to the Seller, issued by a South African Bank or a recognized South African Financial Institution to secure the balance of the Purchase Price, or any part thereof, contemplated in clause 4.1.2. The aforesaid guarantee/s will be delivered to the Seller's Conveyancers by no later than 4 (four) months prior to the estimated possession date as notified in writing by the Seller to the Purchaser. Alternatively, the Purchaser may elect to pay the balance of the Purchase Price, or any part thereof, to the Seller's Conveyancers who shall invest same together with the deposit as provided for in clause 4.1.1.
- 4.4 All payments to be made by the Purchaser to the Seller shall be free of bank exchange and/or commission and/or bank charges.
- 4.5 The Purchaser hereby irrevocably authorises the Seller's Conveyancers to invest all moneys paid by the Purchaser to the Seller's Conveyancers on account of the Purchase Price in a trust savings account or other interest bearing account for the Purchaser's benefit and the capital amount of which will, as part of the Purchase Price, be paid in accordance with the Seller's instructions on the Transfer Date. The aforesaid therefore constitutes the written authority of the Purchaser to the Seller's Conveyancers as contemplated in section 86(4) of the Legal Practice Act, No. 28 of 2014, as amended. The Purchaser is aware and agrees that the interest which accrues on such investment is to be for the Purchaser's benefit and is to be paid to him, after deducting professional fees and costs for administering the investment as soon as possible after the Transfer Date.

5. CONDITIONS PRECEDENT

5.1 Condition precedent imposed for the benefit of the Purchaser

5.1.1 This Agreement is subject to the condition precedent that, within 30 (thirty) days after the Signature Date, a loan be granted to the Purchaser by a recognized South African Financial Institution upon, *inter alia*, the following conditions –

5.1.1.1 Against registration of a first mortgage bond as security for the loan over the Property for a total amount of R_____ (_____) **or such lesser amount accepted by the Purchaser in writing. In this regard it is specifically agreed that the aforementioned condition precedent shall be fulfilled as soon as a financial institution has issued the Purchaser with a pre-agreement and quotation, in whichever form, as provided for in the National Credit Act, No. 34 of 2005, or written confirmation that a loan as aforesaid has been granted.**

5.2 Conditions precedent imposed for the benefit of the Seller

5.2.1 In addition to the condition precedent contained in clause 5.1 above this Agreement is furthermore subject to the following conditions precedent –

5.2.1.1 that the Seller, by no later than **1 April 2020**, obtains approval of the Site Development Plan and all such consents and approvals necessary including, but not limited to, town planning authorisations, water use licenses, rezoning and the like to enact upon the proposed Site Development Plan to proceed with the Development;

5.2.1.2 that the Seller, by not later than **1 April 2020**, determines, in its sole discretion, the Development to be commercially viable and elects to proceed with the Development, which election will be based on the response which the Seller receives to its marketing campaign to be launched in respect of the Development and the number of sales which it may conclude in respect of erven within the Development amongst others.

5.3 If the conditions precedent in clauses 5.1 and 5.2 are not fulfilled or waived within the time period/s contemplated above (“**the Specified Date**”), then this Agreement shall not automatically lapse and be of no further force and effect, but any party may after the Specified Date, on written notice (“**the Notice**”) to the other party, require that the condition precedent in question be fulfilled within 30 (thirty) days after the date of the Notice and, failing fulfilment or waiver (to the extent legally permissible) of the condition precedent in question within the aforesaid 30 (thirty) day period, then this Agreement shall cease to be of any force and effect and no party shall have any claim against the other of them as a result of the failure of such condition precedent.

5.4 In the event of lapsing of the Agreement as provided for above, the parties shall be placed in the same position as they were prior to this Agreement and shall have no claim, the one against the other.

6. POSSESSION AND OCCUPATION

Possession and occupation together with all benefits and risks, profits and losses in respect of the Property will be given to the Purchaser on the Transfer Date, from which date the Property will be at the sole risk, loss and profit of the Purchaser, and the Purchaser will from such date be liable for, but not limited to, rates and taxes, levies, insurance and other charges in respect of the Property. If the Seller has paid any such rates, taxes, levies or other charges for any period subsequent to the date of possession, the Purchaser will refund to the Seller the charge or charges so paid in respect of any period subsequent to the Transfer Date.

7. TRANSFER

- 7.1 Transfer shall be passed by the Seller's Conveyancers and shall be given and taken as soon as reasonably possible after the fulfilment of the last of the conditions precedent contained in clause 5.
- 7.2 The Purchaser shall, within 7 (seven) days of being so requested by the Seller's Conveyancers to do so, furnish the Seller's Conveyancers with any and all documentation as may be required to give effect to the provisions of this Agreement.
- 7.3 **Should registration of transfer be delayed as a consequence of a breach on the part of the Purchaser, then without derogating from any other rights or remedies of the Seller in terms of this Agreement, the Purchaser shall be liable to compensate the Seller in respect of the said delay by making payment to the Seller of interest in respect of the period of such delay calculated at the prime rate plus 3% (three percent) on the Purchase Price from the date of commencement of the delay to the date of actual payment (both days inclusive).**

8. CONDITIONS OF PROPERTY AND SERVITUDES

- 8.1 Provided that the CPA does not apply to this Agreement, the Property is sold voetstoots to the Purchaser.
- 8.2 The Property is sold subject to all conditions and servitudes attaching thereto including, but not limited to, the conditions and servitudes contained in the title deed(s) by virtue of which the Seller holds the Property and the conditions which the local and/or competent authority have imposed and/or may hereafter impose in respect of the Property in their approval of the application for the rezoning and subdivision of the Land and of the Property.
- 8.3 The Purchaser acknowledges the following –
- 8.3.1 that he has satisfied himself as to the condition of the Property and it is accordingly agreed that the Seller shall not be required to level the Property or to carry out any earthworks or landscaping in respect thereof;**

- 8.3.2** that he has satisfied himself as to the nature, locality and extent of the Property and the Seller shall not be liable for any deficiency in the extent thereof nor shall it benefit by any surplus;
- 8.3.3** that, as from the Transfer Date, the Seller shall have no further obligations regarding the boundary pegs in respect of the Property;
- 8.3.4** that it is the Purchaser's obligation to ensure that the ground foundation conditions are accommodated in any construction activity on the Property. The Seller gives no warranties and makes no representations as to the suitability of the soil conditions on the Property for the erection of a residential building by the Purchaser on the Property; and
- 8.3.5** that he has satisfied himself with the content of the geotechnical report attached hereto as Annexure "C".

9. THE WELGEGUND DOMAINE PRIVÉ HOMEOWNERS' ASSOCIATION ("the Association")

- 9.1** The Property is sold subject to the condition that the Purchaser and his successors in title will on Transfer automatically become a member of the Association.
- 9.2** The Purchaser binds himself and his successors in title to the terms, conditions and rules imposed on the Purchaser in terms of the constitution of the Association.
- 9.3** The Purchaser furthermore agrees that a condition to this effect be registered against the title deed of the Property and undertakes to include such condition in any subsequent agreements of sale in order to ensure that the Purchaser's successors in title are aware of the conditions and are bound thereto.
- 9.4** The draft constitution and rules of the Association is attached hereto as Annexure "D" and the Purchaser acknowledges that he has satisfied himself with the content thereof. The Purchaser however acknowledges that such constitution and rules have not yet been finalized and approved by the competent authority and is subject to

change in the discretion of the Seller and/or in accordance with the requirements of the relevant authorities.

9.5 The Purchaser shall remain a member of the Association for as long as he is the registered owner of the Property and he shall –

9.5.1 be responsible for and pay promptly on due date all levies and other charges payable to the Association in accordance with its constitution; and

9.5.2 comply with, and procure that all other occupants of the Property comply with, the terms of the Association's constitution as well as any rules which may be adopted by the Association from time to time.

10. DEFAULT

10.1 Should either party commit a breach of this Agreement, the aggrieved party would be entitled to give the defaulting party notice in writing calling upon the defaulting party to remedy the breach. Should the defaulting party fail to comply with such notice within 14 (fourteen) days of receipt of such notice then, without prejudice to any other rights the aggrieved party may have in law, the aggrieved party is entitled –

10.1.1 to cancel this Agreement and thereupon recover such damages as the aggrieved party suffers; or

10.1.2 to enforce performance in terms of this Agreement without prejudice to any right the aggrieved party may have to claim damages from the defaulting party.

10.2 Should either of the parties take steps against the other pursuant to a breach by such party of this Agreement, such party shall, in addition to the rights aforementioned, be entitled to recover from the defaulting party payment of all its legal costs incurred on the scale between attorney and own client, including tracing fees and collection commission.

11. NOTICES AND DOMICILIA

11.1 The parties hereby choose as their *domicilium citandi et executandi*

("domicilium") for all purposes at their respective addresses specified in the preamble of this Agreement.

11.2 Any notice to any party shall be addressed to it at its aforesaid *domicilium* and either be sent by prepaid registered post, or be delivered by hand, telefax or e-mail.

11.3 All notices to be given in terms of this Agreement will be in writing and:-

11.3.1 if delivered by hand during normal business hours, be rebuttably presumed to have been received on the date of delivery;

11.3.2 if sent by prepaid registered post from within the Republic of South Africa be rebuttably presumed to have been received within 8 (eight) days of posting;

11.3.3 if sent by telefax or e-mail before 16h30 be rebuttably presumed to have been received on date of successful transmission of the telefax or e-mail. Any telefax or e-mail sent after 16h30, will rebuttably be presumed to have been received on the following day.

11.4 Notwithstanding the above, any notice actually received by the party to whom the notice is addressed will be deemed to have been properly given and received, notwithstanding that such notice had not been given in accordance with the provisions of this clause.

12. SEVERABILITY

12.1 All provisions of this Agreement are severable notwithstanding the manner in which they have been grouped together or linked grammatically.

12.2 Any provision of this Agreement which is or becomes unenforceable, whether due to voidness, invalidity, unlawfulness or for any other reason whatsoever, shall, only to the extent that it is so unenforceable, be treated as pro non scripto (not to be read) and the remaining provisions of this Agreement shall remain in full force and effect.

12.3 The parties declare that it is their intention that this Agreement would be

executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

13. COSTS

- 13.1 The Purchaser shall be liable for and shall pay transfer fees as stipulated in the applicable tariff, Deeds Office fees and other normal costs incidental to registration of transfer, including all certificate fees payable to the local authority and/or Association in respect of a levy clearance and rates clearance certificate to be obtained.
- 13.2 The Purchaser shall be liable for and shall pay mortgage bond costs stipulated in the applicable tariff, Deeds Office fees and other normal costs incidental to registration of a mortgage bond, including charges and fees due to the relevant bank.
- 13.3 The above amounts, plus VAT thereon where applicable, shall be payable on demand and prior to registration of transfer to the Seller's Conveyancers and the bond attorneys (if applicable), free of exchange and bank charges.

14. CO-OPERATION

- 14.1 Each of the parties hereby undertakes to immediately upon request sign and/or execute all required transfer documents.
- 14.2 It is furthermore specifically agreed that the Purchaser hereby undertakes to -
- 14.2.1 so as to ensure that a loan be granted timeously (if applicable), immediately on request, sign all application forms and submit the requested financial information to the relevant financial institution so as to accordingly enable them to consider the Purchaser's application for finance as required. The aforesaid must be done immediately after the Signature Date as contemplated in the Agreement;
- 14.2.2 deliver/furnish the attorneys with all such documents/information as may be reasonably required by them or as required in terms of the Financial Intelligence Centre Act, No. 34 of 2001;

14.2.3 to keep all appointments; and

14.2.4 to, within a period of 3 (three) days from receiving a request thereto, sign all required documents at the offices of the Seller's Conveyancers or any other office appointed for this purpose.

15. AGENT'S COMMISSION

15.1 The Seller shall pay commission to the Agent in respect of the sale of the Property at the agreed tariff, which commission shall only be deemed to be earned upon the Transfer Date.

15.2 The Purchaser warrants to the Seller that no other agent was instrumental in introducing the Purchaser to the Property and/or being the effective cause of this Agreement save as disclosed herein.

15.3 The Purchaser hereby indemnifies the Seller against any claim which may be made against it arising out of a breach of the warranty referred to in clause 15.2 above.

15.4 Should this Agreement be terminated as a consequence of a breach on the part of the Purchaser –

15.4.1 the Agent may not claim the agent's commission from the Seller;

15.4.2 the Agent shall be entitled to claim and recover from the Purchaser the agent's commission and/or such damages that the Agent may have suffered as a consequence.

16. COMPANIES, CLOSE CORPORATIONS AND TRUSTS

16.1 If the person signing this Agreement as Purchaser is acting for and on behalf of a company, close corporation or trust which is already duly formed and legally entitled to trade, then the signatory hereto warrants in respect of the company, close corporation or trust that he is duly authorised to sign this Agreement on its behalf and that it is in existence and duly registered with the relevant statutory authority.

16.2 If the Purchaser is acting for a company to be formed, then, as is provided for in section 21 of the Companies Act, 2008, in the event of the said company not being formed, or if formed, not ratifying and adopting this Agreement within the requisite 3 (three) months from formation, the Purchaser shall in his/her personal capacity be the Purchaser hereunder and shall be bound by all the terms and obligations of this Agreement. Should the company be duly formed and accordingly adopts and ratifies this Agreement, then the signatory hereto binds himself/herself as surety and co-principal debtor, jointly and severally with the company for the fulfilment of all the terms and conditions of this Agreement.

17. COOLING-OFF PERIOD

17.1 In the event that this Agreement is subject to the Consumer Protection Act 68 of 2008 (“**CPA**”) and if the Agreement was concluded as a result of direct marketing as defined in the CPA, then, in terms of section 16 read with section 32 of the CPA and Annexure C to the Regulations in respect of the CPA, the Purchaser may rescind a transaction resulting from any direct marketing without reason or penalty by notice to the Seller in writing or another recorded manner and form, within 5 (five) business days after the later of the date on which:-

17.1.1 the transaction or agreement was concluded; or

17.1.2 the goods that were the subject of the transaction was delivered to the Purchaser.

17.2 Where the transaction is rescinded as in clause 17.1 the Seller shall return any payment received from the Purchaser in terms of the transaction within 15 (fifteen) business days after –

17.2.1 receiving notice of the rescission, if no goods have been delivered to the Purchaser in terms of the transaction; or

17.2.2 receiving from the Purchaser any goods supplied in terms of the transaction.

17.3 Any goods returnable in terms of the transaction rescinded in accordance with clause 17.1 must be returned to the Seller at the Purchaser’s risk and expense (which shall comprise all costs necessary to restore

possession of the goods to the Seller in the condition in which the goods were when delivered to the Purchaser).

18. WARRANTY BY PURCHASER

The Purchaser warrants that he is not currently and will, at least until the Transfer Date, not be in default of any income or other tax law obligations to the South African Revenue Services which will serve to delay the obtaining of a transfer duty exemption or receipt from such South African Revenue Service.

19. BUILDING CONDITIONS AND ARCHITECTURAL DESIGN GUIDELINES

19.1 The Purchaser or his successors in title shall be bound to the code of conduct and architectural design guidelines relating to the construction of a residential dwelling on the Property, which code of conduct and architectural design guidelines are contained in the constitution of the Association (as amended from time to time) and are attached hereto as Annexure “E” and Annexure “F” respectively.

19.2 **The Purchaser accordingly acknowledges that he is aware of the fact that he is obliged to build the aforesaid residential dwelling in terms of the said code of conduct and architectural design guidelines which will be forming part of the constitution of the Association.**

19.4 **The Purchaser however acknowledges that the said code of conduct and architectural design guidelines have not yet been finalized and approved by the competent authority and is subject to change in the discretion of the Seller and/or in accordance with the requirements of the relevant authorities.**

19.5 **The Purchaser acknowledges that he may suffer inconvenience from building operations conducted within the Development and from noise and dust resulting therefrom. Access to the Property and peaceful use and enjoyment may be interrupted during such building operations. The Purchaser shall have no claim whatsoever against the Seller, the Association or any other person by reason of such inconvenience and/or interruption as aforesaid.**

19.6 **The Purchaser acknowledges that on the Transfer Date, the building/s and the other structures and/or improvements, including infrastructure and roads in the Development may be incomplete and**

that the Purchaser may suffer inconvenience from building operations, noise, dust and other nuisance factors. The Purchaser shall not be entitled to claim damages from the Seller, the Association or any other person or institute interdict proceedings by reason for any such nuisance, noise or other inconvenience from whatsoever cause arising.

20. RESTRICTION ON TRANSFER AND SALES LEVY

- 20.1 The Purchaser shall not be entitled to sell the Property or cede, assign or alienate his rights therein prior to registration of transfer of the Property into his name in terms of this Agreement except with the prior written consent of the Seller, which consent shall not be unreasonably withheld.
- 20.2 The Purchaser acknowledges that, as is provided for in the Constitution, every owner of a property within the Development shall be liable to pay the Association a special levy (“**the Sales Levy**”) in respect of any transaction for which either transfer duty is payable in terms of the Transfer Duty Act, No. 40 of 1949 (as amended from time to time) or VAT (as the case may be). The Sales Levy shall be equal to 1% (one percent) of the amount on which such transfer duty or VAT (as the case may be) is payable.
- 20.3 The Sale Levy as contemplated in clause 20.2 shall –
- 20.3.1 be imposed upon the said owners for purposes of accumulating a capital reserve fund for the Association which will primarily be used to meet the capital expenditure requirements (including but not limited to necessary expenditure in relation to the maintenance of capital infrastructure); and
- 20.3.2 be payable to the Association before registration of transfer.
- 20.4 The Purchaser acknowledges that the Association will be entitled to withhold its consent to the transfer of the Property if payment of the Sales Levy has not been paid or guaranteed to its satisfaction.

21. DISPUTE RESOLUTION

- 21.1 If any dispute or difference shall arise between all or any of the parties

out of or in relation to or in connection with this Agreement, or the interpretation thereof, or any breach thereof, or its termination, both while in force and after its termination, the party claiming such dispute or difference, shall forthwith advise the other parties in writing thereof. Within 10 (ten) business days of receipt of such notice, the parties shall meet and negotiate in good faith in order to resolve such dispute or difference.

- 21.2 Should the parties fail to resolve such dispute or difference within 5 (five) business days of their meeting or such longer period as the parties may agree in writing, any party may refer such dispute or difference to mediation to be undertaken by a single mediator.
- 21.3 The party referring the dispute to mediation shall, within 5 (five) business days of the parties having failed to resolve the dispute in terms of clause 21.1, submit to the other party in writing the names and occupations of 3 (three) persons proposed by it to act as mediator and request the other party to agree to the appointment of any one of them in writing within 5 (five) business days of receipt of such notice.
- 21.4 In the event of the parties being unable to agree on the appointment of a mediator, the parties shall, within 5 (five) business days after the date of receipt of the notice in terms of clause 21.3, submit the dispute to the Arbitration Foundation of Southern Africa (“**AFSA**”) or its successors for AFSA administered mediation by one mediator, upon the terms set by the AFSA secretariat.
- 21.5 Failing such a resolution, the dispute if arbitrable in law, shall be finally resolved in accordance with the Rules of AFSA by an arbitrator appointed by AFSA.
- 21.6 The decision of the Arbitrator appointed by AFSA shall be final and binding on the parties, and may be made an order of any court of competent jurisdiction, including its award in respect of the costs of arbitration. There shall be no appeal against such decision.
- 21.7 Nothing herein contained shall disallow any party to make application for an interdict or urgent relief in appropriate circumstances.
- 21.8 The parties hereby irrevocably consent to the proceedings as set out in this clause 21.

22. GENERAL PROVISIONS

- 22.1 No alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by all parties to this Agreement or their duly authorised representatives.**
- 22.2 This document contains the entire agreement between the parties and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded in this Agreement.**
- 22.3 No indulgence, leniency or extension of time which any party may grant or show to any other party, shall in any way prejudice such party or preclude it from exercising any of its rights in the future.
- 22.4 Any period referred to in this Agreement by way of a reference to a number of days or weeks or months or other intervals, shall be reckoned exclusively on the 1st (first) day and inclusively of the last day of the relevant interval, unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.
- 22.5 The Purchaser consents to the jurisdiction of the Magistrate's Court for any litigation in connection with or pursuant to this Agreement, irrespective of the amount of the claim. This shall however not preclude the Seller from instituting proceedings in any other competent court in its sole discretion.
- 22.6 This Agreement shall be governed by the Laws of the Republic of South Africa.
- 22.7 Should this Agreement be signed by more than 1 (one) person as Purchaser, the obligations and liability of all the said signatories shall be joint and several.
- 22.8 This Agreement may be executed in a number of counterparts and by the same parties in different counterparts but shall only be deemed to have been concluded when each party has executed at least one counterpart. Each counterpart, when executed, shall be an original, but all counterparts together constitute the same document.
- 22.9 This Agreement shall be binding on the estates, heirs, executors, administrators, liquidators, trustees or assigns of the parties as fully and effectually as if they had signed this Agreement in the first instance and

reference to any party shall be deemed to include such party's estate, heirs, executors, administrators, liquidators, trustees or assigns, as the case may be.

SIGNED by the **SELLER** at _____ on this the _____ day of _____ 20_____.

AS WITNESSES:-

1. _____

2. _____

For and on behalf of the **Seller**,
duly authorised thereto

SIGNED by the **PURCHASER** at _____ on this the _____ day of _____ 20_____.

AS WITNESSES:-

1. _____

2. _____

For and on behalf of the **Purchaser**,
duly authorised thereto

SIGNED by the **AGENT** at _____ on this the _____ day of _____ 20_____.

AS WITNESSES:-

1. _____

2. _____

For and on behalf of the **Agent**,
duly authorised thereto

ANNEXURE “A”

**RESOLUTION BY THE PURCHASER TRUST TO BE ANNEXED (if applicable)
(signed by all the Trustees of the Trust prior to conclusion of the Agreement)**

ANNEXURE “B”

SITE DEVELOPMENT PLAN TO BE ANNEXED

ANNEXURE “C”

GEOTECHNICAL REPORT TO BE ANNEXED

ANNEXURE “D”

DRAFT CONSTITUTION TO BE ANNEXED

ANNEXURE “E”

CODE OF CONDUCT TO BE ANNEXED

ANNEXURE “F”

ARCHITECTURAL DESIGN GUIDELINES TO BE ANNEXED