

DE ZALZE WINELANDS GOLF ESTATE

ADDENDUM TO AGREEMENT OF SALE

PROPERTY DESCRIPTION:

Erf number: _____

First date of transfer: _____

Seller

Date

Purchaser

Date

(Signature)

(Date)

APPROVED BY DE ZALZE

WINELANDS GOLF ESTATE

HOME OWNERS' ASSOCIATION

ADDENDUM TO AGREEMENT OF SALE

1 IMPORTANT BACKGROUND INFORMATION

- 1.1 The Homeowners' Association of the De Zalze Winelands Golf Estate (the "**Association**") wants to ensure that the development on the land is done in such a way that –
- 1.1.1 architectural cohesion between structures erected on the erven comprising the development is maintained; and
- 1.1.2 that buildings of a standard acceptable to the Association are erected on the development.
- 1.2 The Association's consent is required to make any sale of property effective.
- 1.3 To protect its rights, the Association prefers that parties who dispose of property use documents approved by the Association.
- 1.4 Nevertheless, the Association may allow parties to use their own documents provided that –
- 1.4.1 this addendum in its unchanged form is attached to any agreement for the disposal of property; and
- 1.4.2 the parties to the agreement sign this addendum.
- 1.5 The Association reserves the right to withhold consent to any disposal of property that does not contain this addendum duly attached and signed.
- 1.6 By attaching and signing this addendum, the parties agree that –
- 1.6.1 this addendum is incorporated in the sale agreement by reference, and forms part of the sale agreement; and
- 1.6.2 if there is any discrepancy between the provisions of the sale agreement and the provisions of this addendum, the provisions of this addendum shall apply.

2 INTERPRETATION

- 2.1 In this addendum unless the context otherwise requires –
- 2.1.1 “**addendum**” means the addendum contained in this document;
- 2.1.2 “**agent**” means the estate agent identified in the sale agreement;
- 2.1.3 “**architects**” means Dennis Moss Partnership Incorporated of 17 Market Street Stellenbosch;
- 2.1.4 “**architectural guidelines**” means –
- 2.1.4.1 the general architectural guidelines for the development as determined by the Association, which are subject to change from time to time, and which are published on the Association’s website; and
- 2.1.4.2 the specific architectural guidelines in respect of the property, which is available from the architects;
- 2.1.5 “**Association**” means the Home Owners’ Association referred to in clause 9 below;
- 2.1.6 “**business day**” means any day which is not a Saturday, Sunday or South African public holiday;
- 2.1.7 “**conditions of subdivision**” means the conditions of subdivision applicable to the land or any subdivision thereof as filed in the Cape Town Deeds Office;
- 2.1.8 “**date of signature**” means the date of signature of the sale agreement by the party signing last in time;
- 2.1.9 “**developer**” means De Zalze Development (Proprietary) Limited, registration number 1997/005538/07, a company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa;
- 2.1.10 “**development**” means the subdivision of the land into residential and other erven and the establishment –
- 2.1.10.1 thereon of a golf course; and

- 2.1.10.2 of a golf clubhouse with associated facilities in respect thereof;
which development is known as De Zalze Winelands Golf Estate, or such other name as the developer may, in its sole discretion, determine;
- 2.1.11 “**dispose**” means dispose, alienate, sell, encumber, or let;
- 2.1.12 “**golf club**” means the golf club established in accordance with the provisions of clause 8 below;
- 2.1.13 “**land**” means –
- 2.1.13.1 Farm 508 situate in the Division of Stellenbosch - in extent 40,6467 hectares;
- 2.1.13.2 Farm 507 situate in the Division of Stellenbosch - in extent 61,2135 hectares;
- 2.1.13.3 Farm 998 situate in the Division of Stellenbosch – in extent 170,652 hectares; and
- 2.1.13.4 Portion 3 of the Farm 510 situate in the Division of Stellenbosch - in extent 25,4661 hectares;
- 2.1.14 “**local authority**” means the local authority having jurisdiction over the development, including a Municipality or any other statutory local authority;
- 2.1.15 “**parties**” means parties to the sale agreement;
- 2.1.16 “**possession date**” means the date of transfer;
- 2.1.17 “**project conveyancers**” means Hofmeyr Herbstein & Gihwala Inc of 2 Long Street, Cape Town;
- 2.1.18 “**property**” means the property depicted on the subdivisional plan, being a freehold erf forming part of the development as appears from the site diagram and is sold under the sale agreement;
- 2.1.19 “**purchaser**” means the purchaser identified in the sale agreement;
- 2.1.20 “**rules**” means such rules as the Association may make from time to time;

- 2.1.21 “**sale agreement**” means the agreement to which this addendum is attached;
- 2.1.22 “**seller**” means the seller identified in the sale agreement;
- 2.1.23 “**site diagram**” means the plan annexed hereto marked **Annexure A**;
- 2.1.24 “**subdivisional plan**” means the proposed General Plan of Subdivision incorporating the property, annexed hereto marked **Annexure B**, which is subject to change as contemplated in clause 12;
- 2.1.25 “**suspensive condition**” means the suspensive condition referred to in clause 3; and
- 2.1.26 “**transfer**” means registration of transfer of the property into the name of the purchaser.
- 2.2 Words importing the singular include the plural and vice versa, and words importing the masculine gender include feminine and words importing persons include partnerships, bodies corporate, trusts and close corporation.
- 2.3 If any provision in a definition or in clause 1 is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the addendum.
- 2.4 The headings in this addendum are inserted for reference purposes only and shall not affect the interpretation of any of the provisions.
- 2.5 Any reference to an enactment is to that enactment as at date of signature and as amended or re-enacted from time to time.
- 2.6 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.7 Schedules or annexures to this addendum shall be deemed to be incorporated in and form part of this agreement.
- 2.8 If any period is referred to in this addendum by reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day 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.

- 2.9 This addendum shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

3 SUSPENSIVE CONDITION

- 3.1 Notwithstanding anything to the contrary contained in the sale agreement, the sale agreement is subject to the fulfilment of the suspensive condition that the Association consent in writing to the transaction contemplated in the sale agreement by no later than 21 (twenty one) days after the date of signature.
- 3.2 If the suspensive condition has not been fulfilled timeously then the sale agreement will automatically fail and be of no further force and effect, provided that the parties will try their best to restore the prior position.
- 3.3 The parties shall take all steps reasonably necessary to procure the timeous fulfilment of the suspensive condition.
- 3.4 The seller or the purchaser or the agent shall submit the sale agreement to the Association for written approval forthwith after the date of signature.
- 3.5 Notwithstanding the provisions of this clause 3, the provisions of clauses 1, 2, 3, 4, 9, and 12 to 17 inclusive shall be of immediate force and effect and shall impose valid and binding obligations on the parties.

4 TITLE CONDITIONS

The purchaser agrees that the property is sold subject to the provisions of the memorandum and articles of association of the Association and the architectural guidelines.

5 POSSESSION

- 5.1 The purchaser shall forthwith on demand refund to the seller an amount equal to all levies payable to the Association in relation to the property prepaid by the seller beyond the possession date or occupation date, as the case may be.
- 5.2 Notwithstanding the fact that the purchaser will become a member of the Association only against transfer, the purchaser shall be bound by the memorandum and articles of association of the Association and all rules of the

Association with effect from the date of incorporation of the Association as if he were a member thereof.

- 5.3 The purchaser acknowledges that after the possession date or the date that the purchaser occupies the property, as the case may be, building operations may be in progress on the land and that the purchaser may suffer inconvenience, noise and dust as a result thereof. The purchaser waives all claims which he may acquire against the developer, the Association or the seller howsoever arising from such inconvenience, noise or dust.

6 TRANSFER

- 6.1 Transfer shall be given to and taken by the purchaser in accordance with the subdivisional plan and subject to –
- 6.1.1 such conditions or servitudes as are mentioned or referred to in the current title deeds to the land or any subdivision thereof;
- 6.1.2 the conditions of subdivision, to the extent that they are (in the sole discretion of the project conveyancers) capable of registration; and
- 6.1.3 the conditions contained in this addendum to the extent that they are (in the sole discretion of the project conveyancers) capable of registration.
- 6.2 If the parties do not appoint the project conveyancer as the conveyancer for purposes of this agreement, the Association may, prior to granting consent in terms of clause 3.1 request the project conveyancer, at the seller's cost, to check any documentation to ensure that the rights and interests of the Association are adequately protected.

7 SERVITUDES AND RESTRICTIONS

- 7.1 The property is sold subject to such restrictions as any local authority may impose in respect of the rezoning and/or subdivision of the property, including restrictions having regard to height, coverage or set back.
- 7.2 The developer or Association shall be entitled to register such servitudes across the property as may be necessary for the purposes of the installation of services, including (without any limitation) gas, electricity, telephone, television cable, telecommunication connections, television and sewerage.

8 GOLF CLUB

- 8.1 It is recorded that the developer has constructed a golf course within the development and that the developer has established a golf club in respect thereof.
- 8.2 The purchaser agrees that he shall be bound by the constitution and rules of the golf club with effect from the possession date.
- 8.3 The purchaser shall be entitled, prior to the possession date, to –
- 8.3.1 download copies of documents in clause 8.2 from the Association's website; or
- 8.3.2 request the Association to furnish him with copies of such documentation, at a reasonable cost.

9 HOME OWNERS' ASSOCIATION

- 9.1 The Association has been incorporated in accordance with the provisions of Section 29 of Land Use Planning Ordinance (Cape Ordinance No. 15 of 1985), as amended, prior to the possession date for the benefit of all owners of erven in the development and to control and maintain roads, services and amenities within the development.
- 9.2 The purchaser shall become a member of the Association on transfer and agrees to remain a member for as long as the purchaser is the registered owner of the property.
- 9.3 The purchaser agrees to be bound by the following:
- 9.3.1 the memorandum and articles of association of the Association;
- 9.3.2 the rules and the architectural guidelines;
- 9.3.3 the Special Management Area Trust deed;
- 9.3.4 the plan submission procedures;
- 9.3.5 construction rules; and
- 9.3.6 and sales and leasing policy and rules.

- 9.4 The purchaser shall be entitled, prior to the possession date, to –
- 9.4.1 download copies of documents in clause 9.3 from the Association’s website; or
- 9.4.2 request the Association to furnish him with copies of such documentation, at a reasonable cost.
- 9.5 The documents referred to in clause 9.3 (excluding the Special Management Area Trust deed) shall contain such conditions as the Association may determine, in its sole discretion.
- 9.6 The purchaser agrees that he shall –
- 9.6.1 on transfer become, and for as long as he is the registered owner of the property, remain a member of the Association;
- 9.6.2 be responsible for and pay promptly on due date all levies and other charges as may be payable to the Association in accordance with its memorandum and articles of association; and
- 9.6.3 comply with (and procure that all other occupants of the property comply with) the rules.
- 9.7 The purchaser agrees that the Association shall be entitled to, from time to time, make rules with regard to the use and enjoyment of facilities forming part of the development and with regard to the alienation and co-ownership of the property.
- 9.8 It is a material term of this agreement that a title deed condition shall be registered against the property in terms of which the property shall not be transferred without the written consent of the Association in accordance with the provisions of its articles of association.
- 9.9 Registration of transfer to any person shall automatically constitute that person as a member of the Association.
- 9.10 Any contract for the disposal of the property shall be concluded using the standard forms supplied by the Association from time to time.

10 DISPOSAL

10.1 The purchaser may not dispose of its rights in terms of this agreement or the property to any third party without the prior written consent of the Association.

10.2 It is further recorded and agreed that should the purchaser be a –

10.2.1 company, the disposal by a shareholder of any of his shares in the purchaser, including his beneficial ownership thereof;

10.2.2 close corporation, the disposal by a member of any percentage of his member's interest in the purchaser; or

10.2.3 trust, the disposal by a beneficiary of any of his beneficial interest in the purchaser,

shall be deemed to be a disposal of the property for purposes of clause 10.1.

10.3 The property may not at any time be disposed of to any person other than in accordance with such provisions in the memorandum and articles of association of the Association, as the Association may, in its discretion determine and which may further contain a recordal of the provisions of clauses 9.10, 10.1 and 10.2.

11 BUILDING REQUIREMENTS

11.1 No building or structure may be erected on the property and/or the external appearance (including the colour) of any existing or future building or structure may not be changed unless the architectural design plans and specifications (including materials) of such building or structure conform to the provisions of the architectural guidelines, as determined and approved by the Association in its sole discretion.

11.2 All building and structures shall be built in a good and proper workmanlike manner and strictly in accordance with the plans and specifications approved in accordance with clause 11.1 above.

11.3 The property and all improvements thereon shall be kept and maintained in a neat and tidy condition to the satisfaction of the Association.

- 11.4 The purchaser and/or his successors in title shall, within a period of 36 (thirty six) months after the date of the first registration of transfer of the property from the developer to the first purchaser thereof as determined by the Association (or such later date as the Association may direct in writing), complete building operations in respect of a dwelling house on the property (the plans and specifications of which shall have been approved in terms of clause 11.1 above). If the purchaser fails to comply with the provisions of this clause 11.4, the Association may, without prejudice to any other rights which it may have in terms of this addendum or the documentation referred to in 9.3 and/or at law and at its election, impose a levy upon the purchaser, equal to 5 (five) times the levy per unit imposed on an owner of an erf.

12 VARIATIONS TO DEVELOPMENT

- 12.1 The developer, or its successors in title shall, in its absolute discretion be entitled to –

12.1.1 apply for, and subject to the necessary approvals being granted by the requisite authorities, vary the layout and/or zoning and/or size and/or boundaries of erven and/or the extent and position of streets comprising the development; and/or

12.1.2 increase and expand the development and if necessary to incorporate further land and other facilities into the development,

and the purchaser shall be bound thereby and shall have no claim of whatsoever nature against the Association, developer or seller or their respective successors in title arising therefrom.

12.2 Insofar as the consent of the purchaser, including its successors in title, is required to any of the aforesaid, the purchaser and his successors in title hereby specifically and irrevocably grant to the Association, developer or seller or their respective successors in title (represented by any one of its directors, member, trustees or agent as the case may be) a power of attorney *in rem suam* to grant any/all such consents on his behalf as may be required.

13 JOINT AND SEVERAL LIABILITY

If the purchaser comprises more than 1 (one) person (whether natural or juristic) their liability in terms of the sale agreement shall be joint as well as several.

14 SURETYSHIP

If the purchaser is a trustee, close corporation, company or other legal entity other than a natural person, the person signing the sale agreement binds himself in his personal capacity and under renunciation of the exceptions of excussion and division as surety for and co-principal debtor with the purchaser to the seller for the due performance by the purchaser of all of its obligations arising from or in connection with this agreement.

15 DOMICILIUM

15.1 The purchaser chooses as his *domicilium citandi et executandi* for all purposes of this addendum, including the giving of any notice and/or the service of any process, the property.

15.2 Any notice or process shall be deemed to have been received, unless the contrary is proved –

15.2.1 on the date of delivery thereof if delivered by hand to the *domicilium citandi et executandi* of the purchaser; or

15.2.2 7 (seven) days after the date of posting thereof if posted by prepaid registered post to the *domicilium citandi et executandi*.

16 GENERAL

16.1 No addition to or variation, consensual cancellation or novation of this addendum and no waiver of any right arising from this addendum or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the parties or their duly authorised representatives.

16.2 No latitude, extension of time or other indulgence which may be given or allowed by any/either party/ies in respect of any/either party arising from this addendum, and no single or partial exercise of any right by any/either party under this addendum, shall in any circumstances be construed to be an implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any of the party's rights in terms of or arising from this addendum or stop or preclude such a party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

- 16.3 This addendum constitutes the whole agreement between the parties as to the subject matter hereof and no agreements, representations or warranties between the parties regarding the subject matter hereof other than those set out herein are binding on the parties.
- 16.4 The property may be used solely for residential purposes. Without limiting the generality of the foregoing no auction, business or profession may be conducted from the property without the prior written consent of the Association.
- 16.5 No share block scheme as contemplated in the Share Blocks Control Act No. 59 of 1980 and/or time-sharing scheme as contemplated in the Property Time-sharing Act No. 75 of 1983 as amended and/or any other similar scheme or arrangement may be conducted on the property.
- 16.6 Syndication ownership of an erf is limited to 6 (six) natural persons in accordance with the rules and the articles of association of the Association.

17 CONTRACT FOR BENEFIT OF THIRD PARTY (*STIPULATIO ALTERI*)

- 17.1 Clauses 5.3, 7.2, 8, 12 and this clause 17 are included in this addendum for the benefit of the developer.
- 17.2 The clauses set out in clause 17.1 above may not be amended, added to, deleted or changed in any way without the prior written approval of the developer.
- 17.3 The developer shall be entitled at any time to accept the benefits of this agreement in writing on notice to the parties hereto.
- 17.4 Clauses 1, 3, 4, 5, 7.2, 8 to 12 inclusive, 16.4, 16.5 and this clause 17 have been included in this agreement for the benefit of the Association.
- 17.5 The clauses set out in clause 17.4 above may not be amended, added to, deleted or changed in any way without the prior written approval of the Association.
- 17.6 The Association may at any time accept the benefits of this agreement in writing on notice to the parties.

SITE DIAGRAM

(Obtainable from the architects)

ANNEXURE B

SUBDIVISIONAL PLAN
(Obtainable from the architects)