

AGREEMENT OF SALE



AGREEMENT OF SALE

IN RESPECT OF A RESIDENTIAL HOUSE TO BE CONSTRUCTED

Between

Milnerton Estates Limited
Registration Number: 1897/000196/06
("Seller"),

Invula Estates Proprietary Limited
Registration Number: 2018/395410/07
("Developer"), and

("Purchaser")

Phase:	_____
Erf number:	_____
Estate Agency	_____
Sales Agent:	_____
House Type:	_____

COVERING SCHEDULE

1. PARTIES	
1.1. Seller:	Milnerton Estates Limited
Registration Number:	1897/000196/06
Address:	9 Church Square Cape Town 8001
Seller's VAT Number:	4120108115
Telephone Number:	021 464 3100
E-Mail Address:	info@me-group.co.za
Contact Person:	Andrew Plunkett
1.2. Developer:	Imvula Estates Proprietary Limited
Registration Number:	2018/395410/07
Address:	Unit 308 Sandown Square Cnr Sandown & Passerina Street Sandown Cape Town, 7441
Developer's VAT Number:	4910284944
Telephone Number:	021 201 7463
E-Mail Address:	info@imvulaestates.co.za
Contact Person:	Werner Jurgens
1.3. Purchaser (full names):	
Identity No. / Date of Birth:	
Purchaser's Income Tax Reference No.:	
Residential Address (street address): (in the RSA only)	
Postal Address:	
Telephone No: (Home)	
(Work)	
(Cell)	
Fax:	
E-mail address	
Marital Status:	Single <input type="checkbox"/> Married <input type="checkbox"/>
(How married?)	in community of property <input type="checkbox"/> out of community of property without accrual <input type="checkbox"/> out of community of property with accrual <input type="checkbox"/> foreign marriage <input type="checkbox"/>
If foreign marriage, governed by the laws of:	(state country)
Married by Customary Law:	
Spouse/Second Purchaser (full names):	
Identity No. / Date of Birth:	

Purchaser's Income Tax Reference No.:	
Telephone No: (Home)	
(Work)	
(Cell)	
Fax:	
E-mail address:	
Residential address (Street) (in RSA only):	
Postal Address:	
Marital Status	Single Married
(How married?)	in community of property
	out of community of property without accrual
	out of community of property with accrual
	Foreign
If foreign marriage, governed by the laws of:	(state country)
Married by Customary Law:	
2. SUBJECT MATTER	
2.1. Phase	
2.2. Erf number	
2.3. Extent	m ²
2.4. House Type	
2.5. Estimated Floor Area (covered and uncovered) – as reflected on the Plan	m ²
3. PURCHASE PRICE	
3.1. Purchase Price of the Property (Inclusive of VAT)	R
3.2. Reservation Deposit	R5 000.00
3.2.1. Cash/Guarantee	R
3.2.2. Loan Amount	R
3.3. Date for payment of the Reservation Deposit	7 (Seven) days after the Signature Date
3.4. Date Loan must be granted by	Within 30 (Thirty) days after the Signature Date (the "Initial Period") or an extended period of a maximum of 60 (Sixty) days (the "Extended Period") as provided for in this Agreement
3.5. Date for issuing of the guarantee/s	Within 14 (Fourteen) days after the fulfilment of the condition precedent in Clause 6 of the Agreement; or, if cash, within 30 (Thirty) days after the Signature Date
3.6. Date for FLISP Approval	Within a period of 14 (Fourteen) days after the bond approval on the later of the dates referred to in Clause 3.5 of the Covering Schedule
4. ESTIMATED DATES	
4.1. Completion Date	4 (Four) months after the Commencement Date
4.2. Transfer Date	2 (Two) months after the Completion Date
5. ESTIMATED LEVY (EXCLUDING RATES)	
Amount payable	R
6. ESTIMATED RATES & TAXES	
Rates and taxes	To be determined by the Local Authority

7. TRANSFERRING ATTORNEY	
Name of Attorney:	ESI Attorneys, Bellville, Ref: _____, Tel no: 021 943 5111. Bank Account details: Esterhuyse Samuels Inc. Nedbank Cheque Account, Account Number: 1036332667, Branch Code: 198765, Tygerberg Winelands, Swift Code: NEDSZAJJ Reference No: (Erf number) _____ client's surname;
8. BOND BROKER	
Name of Bond Broker:	Tell Number: E-Mail Address:
9. ESTATE AGENT	
9.1. Company:	
9.2. Sales Agent:	
Address:	
Telephone number:	
Email:	

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1. PARTIES

1.1. SELLER

The Seller means the Party as more fully described in Clause 1.1 of the Covering Schedule.

1.2. DEVELOPER

The Developer means the Party as more fully described in Clause 1.2 of the Covering Schedule.

1.3. PURCHASER

The Purchaser means the Party as more fully described in Clause 1.3 of the Covering Schedule.

2. INTERPRETATION

In this Agreement:

- 2.1. unless the context clearly indicates otherwise, words importing the singular shall include the plural, words importing the masculine, feminine or neuter shall include the others or such genders, and words importing persons shall include bodies corporate, and vice versa in each instance;
- 2.2. expressions with reference to writing shall be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in visible form;
- 2.3. when any number of days is prescribed, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 2.4. where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail;
- 2.5. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any person, then, notwithstanding that it is only in the definition Clause of this Agreement, effect shall be given to it as if it were a substantive provision in the body of this Agreement.
- 2.6. the Annexures to this Agreement are deemed to be incorporated in and form part of the Agreement.
- 2.7. In this Agreement, the following terms and conditions shall, unless inconsistent with the context, bear the meanings stated hereunder and cognate terms and expressions shall bear corresponding meanings:

- 2.7.1. Agreement: means this Agreement together with all the Annexures thereto;
- 2.7.2. Architectural Guidelines: means the Architectural Guidelines to be finally approved by the Seller and the Local Authority and available on the Website;
- 2.7.3. ARC: means the Architectural Review Committee as provided for in the Constitution of PVHOA;
- 2.7.4. Basic Specifications: means the detailed specifications and finishing schedule annexed hereto as Annexure D and shall comprise the standard specifications and finishes which will be supplied by the Developer as part of the execution of the Works in terms of this Agreement;
- 2.7.5. Bond Broker: means the Bond Broker referred to in Clause 8 of the Covering Schedule;
- 2.7.6. Business Day: means any day except a Saturday, Sunday or officially proclaimed public holiday;
- 2.7.7. Commencement Date means the date that the Developer commences with the Works;
- 2.7.8. Completion Date: means the date of the Handover Inspection, which is estimated to be the date as referred to in Clause 4.1 of the Covering Schedule;

2.7.9. Covering Schedule	means the Covering Schedule contained in the first part of this Agreement;
2.7.10. Constitution:	means the Constitutions of PVHOA, approved or to be approved by the Local Authority, available on the Website;
2.7.11. CPA	means the Consumer Protection Act, Number 68/2008, as amended;
2.7.12. Defects List:	means the list of defects as agreed upon by the Parties during the Hand-over Inspection;
2.7.13. Development:	means the development to be established on the Land and which is to be known as Pioneer Valley;
2.7.14. Development Period:	means
2.7.14.1.	the date of transfer of the last saleable Erf in the development of the Land by the Seller, or
2.7.14.2.	the date when the Seller notifies the PVHOA and that it waives its rights herein, whichever is the earlier;
2.7.15. 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, the Property to that person;
2.7.16. Due Date	means the date for the fulfillment of any condition referred to in this Agreement or the date for the payments of any amounts due in terms of this Agreement, as the case may be;
2.7.17. Erf	means the Property, excluding the Works:
2.7.18. Estate Agent:	means the Estate Agent referred to in Clause 9.1 of the Covering Schedule;
2.7.19. FICA:	means the Financial Intelligence Centre Act No. 38 of 2001, as amended;
2.7.20. FLISP	means the Financial Linked Individual Subsidy Program, implemented and under the control and management of the PGWC, as amended from time to time;
2.7.21. General Plan:	means the General Plan approved by the Surveyor General;
2.7.22. Hand-over Inspection	means an inspection of the Works by the Developer or its representative, the Agent and the Purchaser, after the completion of the Works, at which inspection the Parties will agree to the Defects List;
2.7.23. Housing Act	means the Housing Act, Act Number 107/1997, as amended;
2.7.24. Initiation Fee:	means the Initiation Fee due and payable by the Purchaser to the bank or other financial institution approving the loan referred to in Clause 6.2 of this Agreement;
2.7.25. JBCC:	means the Principal Building Agreement utilized by the Joint Building Contracts Committee, Edition 6.2 of May 2018 concluded between the Developer and the Contractor;
2.7.26. Land:	means Erf 490, a portion of Erf 181, Rivergate, City of Cape Town, Western Cape Province;
2.7.27. Levies:	means the Levies that will be payable by the Purchaser to the PVHOA;

2.7.28. Loan Amount:	means the amount as referred to in Clause 3.2.2 of the Covering Schedule;
2.7.29. Local Authority:	means the Local Authority having jurisdiction over the Land, being at present the City of Cape Town, and shall include its successor in title;
2.7.30. Mortgage Bondholder	means the holder of the first mortgage bond registered against the title deed of the Property;
2.7.31. NCA:	means the National Credit Act, No 34/2005, as amended;
2.7.32. Normal Wear and Tear	means the Normal Wear and Tear ascribed to improvements to fixed property in general, including but not limited to touch-up paint of any nature, hairline cracks in the plaster work, any shrinkage/movement and expansion cracks between different components / materials used or cracking which might appear in control movement joints, any mould growth caused by a lack of ventilation and/or condensation, any doors and windows slamming in windy conditions or any damages caused thereby, wind and rain entering through open windows and doors and hot water cylinders which is covered by the guarantee issued by the supplier thereof;
2.7.33. Occupation Date:	means the Completion Date or the date on which the Local Authority issues the Occupancy Certificate or the date that the Purchaser attends the Hand-over Inspection, whichever is the earlier;
2.7.34. Occupational Interest	means an amount equal to 1% (One) per month, calculated pro rata per month on the Purchase Price;
2.7.35. Occupancy Certificate:	means the Certificate that the Local Authority issues confirming that the Works have been completed according to the Plan;
2.7.36. Parties:	means the Seller and the Purchaser;
2.7.37. PGWC	means the Provincial Government of the Western Cape – Department of Human Settlements;
2.7.38. Plan:	means the signed marketing floor plan, attached to this Agreement as Annexure B, which shall form the basis for drawings to be submitted to the Local Authority, for approval. Upon approval thereof, the approved Plan shall substitute the marketing floor plan and be deemed to be the Plan selected and approved by the Parties for the purpose of this Agreement and the execution of the Works in terms hereof, which Plan is attached to this Agreement as Annexure B;
2.7.39. Prime Overdraft Rate:	means the rate of interest per year, which is equal to Nedbank's Limited publicly quoted Prime Overdraft Rate;
2.7.40. Principle Agent	means the Principle Agent appointed in terms of the JBCC;
2.7.41. Property:	means the Erf as described in Clause 2.2 of the Covering Schedule, including the Works;
2.7.42. Purchase Price:	means the Purchase Price described in Clause 3.1 of the Covering Schedule;
2.7.43. Purchaser:	means the Purchaser referred to in Clause 1.2 of the of the Covering Schedule;
2.7.44. PVHOA:	means the Pioneer Valley Home Owners

- Association established for the Development and which Association has a Constitution that has been or must be approved by the Local Authority, available on the Website;
- 2.7.45. Reservation Deposit: means the Reservation Deposit described in Clause 3.2 of the Covering Schedule;
- 2.7.46. SARS: means the South African Revenue Services;
- 2.7.47. SDP: means the Site Development Plan approved by the Local Authority, identifying the Erf with an X;
- 2.7.48. Signature Date: means the date on which the Seller signs the Agreement;
- 2.7.49. Township Register: means the Township Register to be opened in the Cape Town Deeds Registry in terms of Section 46 of the Deeds Registries Act;
- 2.7.50. Transferring Attorneys: means the Transferring Attorneys as referred to in Clause 7 of the Covering Schedule;
- 2.7.51. Transfer Date: means the estimated date referred to in Clause 4.2 of the Covering Schedule;
- 2.7.52. VAT: means Value Added Tax payable in terms of the VAT Act;
- 2.7.53. VAT Act: means The Value Added Tax Act No 89 of 1991;
- 2.7.54. Website: means the Website of the Development available on the internet at the following website address: www.pioneervalley.co.za;
- 2.7.55. Works: means the building works to be conducted on the Erf by the Developer in accordance with the Plan, Basic Specifications and, if applicable, the Optional Extras.

3. **RECORDAL**

- 3.1. The Seller wishes to develop the Land.
- 3.2. The Seller has procured the approval of the SDP and will procure the approval of the General Plan.
- 3.3. The Seller has appointed the Developer to perform the Works as provided for in this Agreement.

4. **SALE**

The Seller sells to the Purchaser who hereby purchases -

- 4.1. the Property subject to the terms and conditions contained in this Agreement, the Annexures and the Constitution.
- 4.2. The Erf is more fully described on the SDP and will be finally described on the General Plan.
- 4.3. **The Purchaser hereby confirms that he has identified the Erf on the SDP, and he is aware of and will at all times strictly adhere to and abide by the Constitution and the Architectural Guidelines.**
- 4.4. The Developer undertakes to execute the Works in a proper and workmanlike manner against payment of the Purchase Price.
- 4.5. The Works shall be substantially in accordance with the Plan and Basic Specifications. The placement of the Works will be in accordance with the approved Plan.
- 4.6. In the event of any discrepancy arising from the Plan and the Basic Specifications, the provisions of the Basic Specifications shall prevail.
- 4.7. **The Purchaser irrevocably grants a power of attorney to the Developer to sign and submit the necessary drawings and specifications to the ARC, the PVHOA and the Local Authority for its approval.**

5. PURCHASE PRICE

5.1. The Purchase Price payable by the Purchaser to the Seller for the Property shall be the amount described in Clause 3.1 of the Covering Schedule, which amount is inclusive of Value Added Tax and which amount is payable as follows:

5.1.1. the Purchaser shall pay the Reservation Deposit in cash, on the date set in Clause 3.3 of the Covering Schedule, to the Transferring Attorneys. The Reservation Deposit will be held in trust by the Transferring Attorneys to be invested by them in terms of Section Sec 86(4) of the Legal Practice Act, Number 28 of 2014, until the Transfer Date. The interest of the above, less an administration fee of 1 (One) % per year in respect of management and/or administration fees payable by the bank to the Transferring Attorneys, will accrue to the Purchaser. The Transferring Attorneys will not be able to invest the Reservation Deposit unless the Purchaser has furnished the Transferring Attorneys with:

5.1.1.1. all the FICA documentation and information required by the Transferring Attorneys to open an investment account, as may be applicable on the Purchaser as per Annexure C and the Purchaser agrees to grant the Transferring Attorneys full co-operation and disclosure to comply with the FICA requirements and the Attorneys Act, which documentation must be supplied by the Purchaser to the Transferring Attorneys or before the Signature Date, and

5.1.1.2. payment confirmation which must clearly state the reference number, Residential Erf Number and contact details of the Purchaser concerned. The Purchaser shall not be entitled to any interest on the Reservation Deposit until the documentation has been provided to the Transferring Attorneys and proof of receipt thereof was acknowledged by the Transferring Attorneys, and

5.1.2. the Purchaser shall, on the date as provided for in Clause 3.5 of the Covering Schedule, furnish the Transferring Attorneys with a guarantee for the Purchase Price, in favour of the Seller or a payee nominated by the Transferring Attorneys. The guarantee is to be issued by a commercial bank and must be payable against registration of transfer of the Property into the name of the Purchaser, or the Purchaser may elect to pay such amount in cash in which instance the amount must be paid to the Transferring Attorneys, which amount must be invested by them, subject to the terms and conditions provided for in Clause 5.1.1 above.

5.2. **All monies due by the Purchaser in terms of this Agreement, and unpaid on the Due Date, shall bear interest at Prime Overdraft Rate for the first 3 (Three) months after the Due Date, and interest at the Prime Overdraft Rate plus 2 (Two) percent for any period exceeding the initial 3 (Three) month period, calculated from the Due Date to the actual date of payment thereof.**

5.3. **The Reservation Deposit is paid to secure this transaction and is not made in reduction of the Purchase Price.**

5.4. **On the Transfer Date, provided the Purchase has paid all amounts due in terms of this Agreement and fulfilled all his obligations as provided for in this Agreement, the Reservation Deposit will be repaid by the Transferring Attorneys to the Purchaser, less any shortfalls that might be due and payable by the Purchaser resulting from this Agreement.**

5.5. **The Purchase Price is due and payable by the Purchaser to the Seller immediately upon notification by the Transferring Attorneys that registration of Transfer of the Property in favour of the Purchaser has been effected in the Cape Town Deeds Registry.**

5.6. All or any payments to be effected hereunder shall be effected by the Purchaser to the Transferring Attorneys free of exchange at Cape Town and without deduction or set off.

5.7. In the event that the VAT rate in effect on the Signature Date is at any time after the Signature Date increased or reduced in such a manner that the VAT payable on the supply of the Property is increased or reduced, the Seller may give the Purchaser notice of its intention to increase or decrease the Purchase Price according to the amendment in the VAT rate. If the Purchaser does not accept such amendment, the Seller may withdraw the above notice and notify the Purchaser of its intention to revert to the original Purchase Price, failing to do so this Agreement will lapse and be of no further force of effect.

6. CONDITION PRECEDENT – LOAN AND FLISP

6.1. In the event of an amount having been inserted in Clause 3.2.2 of the Covering Schedule, this Agreement is subject to the condition precedent that the Purchaser is granted a loan within the period specified in Clause 3.4 of the Covering Schedule from a bank or financial institution in the amount specified in Clause 3.2.2 of the Covering Schedule on the terms that the aforesaid bank or financial institution normally approves mortgage loans.

- 6.2. **In the event of the aforesaid condition not being fulfilled within the Initial Period, the Initial Period will automatically be extended with the Extended Period, provided that the Seller may at any time during the Extended Period terminate the Extended Period by giving the Purchaser 5 (Five) Business Days' notice to this effect. The Transferring Attorney will issue the notification on behalf of the Seller.**
- 6.3. The condition set out in Clause 6.1 above will be deemed fulfilled once the aforesaid bank or financial institution to which application has been made for the loan has issued a quotation in terms of Section 92(2) of the National Credit Act to the effect that the application has been approved notwithstanding the fact that such an approval is granted subject to the fulfillment of a condition or conditions or subject to the reservation of the right by such a bank or other financial institution to, at any time prior to payment of the proceeds of the loan to the Purchaser, withdraw such approval.
- 6.4. If the loan is approved for an amount less than the amount stipulated in Clause 3.2.2 of the Covering Schedule and the Purchaser accepts such lower amount in writing by his signature to the quotation as referred to in clause 6.3 above, this condition will be deemed to be fulfilled.
- 6.5. The Purchaser expressly authorizes the Bond Broker as its agent to submit a mortgage bond application on the Purchaser's behalf to any financial institution, based on the economic benefit and convenience to the Purchaser. The Purchaser agrees and undertakes to sign all necessary documents and to supply the Bond Broker with any information and/or document/s which is/are required for this purpose. **The Purchaser hereby warrants that the information so provided shall be true, accurate and correct (if applicable).**
- 6.6. It is recorded that the abovementioned condition precedent is inserted solely for the benefit of the Purchaser. The Purchaser may waive the benefit of this condition by communicating such waiver to the Seller in writing at any time before the expiry of the abovementioned time limit. In the event the waiver by the Purchaser as aforesaid, this Agreement will not lapse despite the fact that the Purchaser was not successful in the fulfillment of the abovementioned condition.
- 6.7. The parties agree that should the abovementioned condition precedent not be fulfilled or waived timeously, then in that instance this Agreement will lapse, be of no further force or effect and the parties will be restored in the position that they were in when they entered into this Agreement.
- 6.8. This Agreement is subject to the condition precedent in that the Purchaser obtains approval of FLISP by the PGWC within the time-period as referred to in Clause 3.6 of the Covering Schedule.
- 6.9. The parties agree that should the condition precedent in Clause 6.8 of this Agreement not be fulfilled or waived timeously, then in that instance this Agreement will lapse, be of no further force or effect and the parties will be restored in the position that they were in when they entered into this Agreement.

7. VAT

Except for the Purchase Price, or where expressly set out to the contrary, all other amounts payable by the Purchaser are described as excluding VAT and the Purchaser shall where applicable pay such amounts plus VAT calculated at the rate then applicable, to the Seller or any other party to whom such payment is due.

8. CANCELLATION

- 8.1. **Should the Seller prior to the fulfillment of the condition precedent as referred to in Clause 6 of this Agreement, receive another offer which it, in its sole discretion, wishes to accept, then the Seller shall be obliged to notify the Purchaser of its intention in writing. The Purchaser shall then have 2 (Two) Business Days after the sending of such notification, to waive in writing the benefit of the condition precedent as referred to in Clause 6 of this Agreement, thereby binding himself unconditionally and declaring himself financially able to fulfill all its obligations provided for in this Agreement, failing which this Agreement shall lapse, be of no further force or effect and whereafter the Parties will be restored in the position that they were in when they entered into this Agreement.**
- 8.2. In the event of this Agreement lapsing by reason of the condition in Clause 8.1, the Seller will:
- 8.1.1. immediately instruct the Transferring Attorneys to repay the Reservation Deposit plus interest earned thereon, to the Purchaser; and
- 8.1.2. **neither the Seller nor the Purchaser will have any claim for damages or for any other amount or any other claim whatsoever against the other party arising from this Agreement.**

9. TRANSFER AND TRANSFER COSTS

- 9.1. Provided the Purchaser has complied with all his obligations as set out in this Agreement and in particular has paid the Reservation Deposit, delivered the guarantee referred to in Clause 5.1.2 above and paid the Levies and any other amounts owing in terms of this Agreement, registration of transfer of the Property shall be given by the Seller and taken by the Purchaser as close as possible to the Transfer Date.

- 9.2. **In the event that registration of transfer of the Property and/or, where applicable, registration of a mortgage bond, is delayed or frustrated by any act or omission of the Purchaser, the Purchaser shall pay to the Seller interest calculated at the Prime Overdraft Rate plus 2% (Two) calculated on the Purchase Price from the date on which the transfer would, but for such delay, otherwise have been registered, up to the Transfer Date.**
- 9.3. The Seller shall be liable for and shall on demand pay to the Transferring Attorneys any transfer fees plus VAT that may be payable by reason of this Agreement. If the Purchaser must register a mortgage bond over the Property the Seller shall pay all costs in respect of the registration of such a mortgage bond, excluding the Initiation Fee, provided the bond is registered by the Transferring Attorneys, failing which, the Purchaser will be liable for the payment of the bond registration fees plus the Initiation Fee.
- 9.4. The Parties irrevocably authorizes the Transferring Attorneys to sign all necessary declarations and applications on their behalf to enable them to obtain the necessary transfer duty exemptions from SARS.

10. CO-OPERATION TO EXPEDITE TRANSFER

- 10.1. **The Purchaser will sign all documents necessary to effect transfer of the Property and return same and all other documents, resolutions, certificates and payment of the bond registration costs and fees as determined by the Transferring Attorneys, to the Transferring Attorneys within 5 (Five) Business Days after having been requested to do so, in writing.**
- 10.2. **The Purchaser acknowledges and accepts that the Purchaser has bought Property in a development where a development mortgage bond is or will be registered. Transfer of the Property will occur simultaneous with transfers to other purchasers necessitated by the Property sold having to be released from the operation of the mortgage bond. As a result of the above, lodgment of the Purchaser's transfer documents at the Deeds Office may be delayed.**

11. EXTENT, ONEROUS CONDITIONS AND WARRANTIES

- 11.1. **The Property is sold on the basis that the extent of the Erf is as set out in Clause 2.3 of the Covering Schedule.**
- 11.2. **The Property is sold subject to all conditions and servitudes pertaining thereto, imposed by any competent authority, the Local Authority, the Seller or any professional consultant of the Seller. The Seller may amend the lay-out of the Development, as indicated on the SDP, if required by any competent authority and/or the Local Authority.**
- 11.3. **The various budgets presented to the Purchaser are estimates of income and expenditure as at the time of conclusion of this Agreement.**
- 11.4. **The Purchaser acknowledges that he has not been influenced into entering into this Agreement by any express or implied information, statement or representation given or made by or on behalf of the Seller, unless same is expressly and specifically recorded in this Agreement. The Purchaser hereby waives in favour of the Seller any rights whatsoever which he otherwise may have obtained against the Seller as result of any such information, statement or representation given or made by on behalf of the Seller which is not so expressly and specifically recorded. It is recorded that all artistic, architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets and the show unit used by the Seller or the Estate Agent or the Sales Agent in the marketing and selling of the Property hereby purchased and sold, have been prepared and distributed as advertising material only; and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby; and that no representation is thereby made by the Seller, and that the Parties shall be bound by the terms contained in this Agreement only.**
- 11.5. **Portions of the Development may be utilized by the Seller as a Show Village.**
- 11.6. **The Purchaser acknowledges that he is aware that the view currently enjoyed and/or the projected view from the Property hereby sold, may be affected by the development of the Land and/or the construction of any further buildings on the Land or any adjacent plot/development in the vicinity of the Property. The Purchaser accordingly acknowledges and agrees that the Purchaser shall have no claim or right of action whatsoever against the Seller arising from such impact on or impairment of the view from the Property, or any derogation from the value thereof, as a result of any such ongoing development or further buildings.**
- 11.7. **All undertakings and commitments given by the Seller to the Purchaser in terms of this Agreement are personal to the Purchaser who shall not be entitled to cede, assign or make over its rights thereto.**
- 11.8. **The Seller may do reasonable earthworks or land-filling on the Property.**

11.9. **The Purchaser acknowledges that transfer may be subject to the registration of the servitudes which may affect the Property. Upon final determination of the servitudes the Purchaser shall consent to the registration of such specific servitudes. The whole of this clause is contingent on any such servitude not affecting the building constructed or to be constructed on the Property and falling within the building lines, as per the SDP.**

12. POSSESSION AND OCCUPATION

12.1 The Purchaser shall be placed in possession of the Property on the Transfer Date or the Occupation Date, whichever is the earlier, from which date the Purchaser will be liable for all expenses pertaining to the Property, provided that the Purchaser will be liable for rates and taxes in respect of the Property as from the Transfer Date.

12.2 **The Purchaser acknowledges that on the Transfer Date construction of parts of the Development may not yet have been completed. The Purchaser accordingly hereby acknowledges that he might be subjected to nuisance, noise and other inconvenience from whatsoever cause arising and howsoever arising.**

12.3 **Where the Occupation Date is a date prior to the Transfer Date, risk in the Property will pass to the Purchaser on the Transfer Date. The Purchaser hereby irrevocably indemnifies the Seller against any claims or damages relating to the Property after the Completion Date, in respect of the Works and in respect of any contents held on the Property or inside the building constructed as part of the Works. The Purchaser acknowledges his responsibility to insure the Property, all improvements thereon and the contents thereof.**

12.4 **The Purchaser shall be liable for all levies and water and electricity consumed in respect of the Property from the Occupation Date.**

12.5 The Occupational Interest is payable by the Purchaser to the Seller if the Transfer Date is after the Completion Date or the Occupation Date, whichever is the earlier, whether or not occupation has actually been given to and taken by the Purchaser.

12.5.1 The Purchaser shall pay the Occupational Interest to the Seller monthly in advance and thereafter on the first day each subsequent month.

12.5.2 The Purchaser shall, on the Transfer Date, be refunded a pro rata share of any Occupational Interest that has been paid in advance in respect of the period after the Transfer Date.

12.6 **Risk in the Works will pass to the Purchaser on the Completion Date.**

12.7 **In the event that the Seller anticipates that the actual Completion Date will be later than the estimated completion date as referred to in Clause 4.1 of the Covering Schedule, it shall give notice to the Purchaser, at least 30 (Thirty) days prior to the estimated completion date (as per Clause 4.1 of the Covering Schedule), of the new expected Completion Date. The Purchaser shall have no claim against the Seller for damages or for compensation of any other nature by reason of the Completion Date, and, consequently, the Transfer Date, having been amended and delayed.**

12.8 **The Property will during the construction period be under the control of the Developer and the Purchaser will only be entitled to access the Property, prior to the Completion Date, if accompanied by the Developer, on a pre-arranged time.**

13. COMMENCEMENT AND COMPLETION OF THE WORKS

13.1 The Developer shall not be obliged to commence with the Works until:

13.1.1 the Purchaser has furnished adequate security to the Seller's satisfaction for the Purchase Price; and

13.1.2 all necessary consents, approvals and/or registrations from all relevant authorities have been obtained.

13.2 **If the commencement or completion of the Works is delayed beyond the Completion Date as referred to in Clause 4.1 of the Covering Schedule, for any reason or cause whatsoever beyond the Seller and/or the Developer's control or if any building industry holidays, whether statutory or recognised generally as customary in the industry, rain days or strikes fall within the contract period, then the Seller and the Developer shall be entitled to a fair and reasonable extension of time for the completion of the Works and the Purchaser shall not for that reason have any claim against the Seller and/or the Developer for damages or otherwise.**

14. COMPLETION AND HANDOVER INSPECTION

- 14.1 The Parties or their representatives shall be obliged to attend the Hand-over Inspection at any pre-arranged time, during which inspection the Parties shall agree to the Defects List.
- 14.2 If the Purchaser fails to attend a Hand-over Inspection within a reasonable period after having received written notice thereof by the Seller or the Developer, then the Completion Date will be determined by the Principle Agent.
- 14.3 The Developer shall remedy the defects on the Defects List as soon as reasonably possible.
- 14.4 Notwithstanding the provisions of this Clause 14, the Seller shall strictly enforce, for the benefit of the Purchaser, any guarantee or warranty which it may have. In as far as such guarantee or warranty relates to the Works, the Seller hereby cedes all its rights in terms thereof to the Purchaser.

15 DEFECTS AND VOETSTOOTS

- 15.1 The Developer shall, as provided for in the CPA, remedy any material patent and latent defect in the Works due to faulty workmanship or materials, manifesting itself within 6 (Six) months of the Completion Date, provided that the Purchaser notifies the Developer thereof in writing within the said period of 6 (Six) months.
- 15.2 **In the absence of notice as referred to in Clause 15.1 above, the Purchaser shall be deemed to have accepted the Works in a fit and proper condition and be deemed to have acknowledged that the Developer has fully complied with its obligations as set out in this Agreement and the Works will become "voetstoots". The Developer, other than as provided for herein, shall not be liable for any defects in the Works or in respect of anything relating thereto, whether patent or latent after expiry of the period as referred to in Clause 15.1 of this Agreement.**
- 15.3 In addition to the obligation of the Developer in Clause 15.1 to remedy patent and latent defects, the Developer shall in terms of the NHBRC requirements be obliged to:
 - 15.3.1 remedy any material latent defect in the Works due to faulty workmanship or materials, manifesting itself within 90 (Ninety) days of the Completion Date, provided that the Purchaser notifies the Developer thereof in writing within the said period of 90 (Ninety) Days;
 - 15.3.2 at its own expense repair any roof leaks that occur in respect of the Works within the first 12 (Twelve) months of the Completion Date, provided that the Purchaser notifies the Developer thereof in writing within the said period of 12 (Twelve) months;
 - 15.3.3 rectify any defect of a patent or latent nature in respect of the substructure and the superstructure of the Works for a period of 5 (Five) years of the Completion Date, provided the Purchaser notifies the Developer in writing thereof within the said 5 (Five) year period.
- 15.4 **The Developer shall not be liable for any defects in the Works in respect of Normal Wear and Tear or any defects or damages caused by the conduct of the Purchaser, whether wilfully or by his negligence.**
- 15.5 **The Purchaser shall be obliged to give the Developer, its agents and sub-contractors unobstructed access reasonably required to remedy the patent or latent defects that are required to be remedied in terms of Clause 15. Repairs will be done during working hours, Monday to Friday.**
- 15.6 **The final extent of the Works may vary from the extent indicated on the marketing floor plan (Annexure B). If the difference in the extent is less than 10% (Ten) than the extent stipulated on the marketing floor plan, the Parties will have no recourse against each other. If the difference in the extent is more than 10% (Ten) less than the extent stipulated on the marketing floor plan, the Purchase Price will be amended pro rata and finally determined by the Principle Agent.**

16 VARIATIONS

The Purchaser will not be entitled, after the Signature Date, to require that any aspect of the Works be varied and/or that any extra work be carried out by the Developer.

17 RIGHTS AND OBLIGATIONS OF THE DEVELOPER AND THE CONTRACTOR

- 17.1 The Contractor shall maintain sufficient public liability insurance.
- 17.2 Notwithstanding anything to the contrary herein contained, ownership of all materials used in the execution of the Works shall remain vested in the Developer until such time as all amounts due in terms of this Agreement have been paid in full.

- 17.3 Copies of the following documentation will be supplied by the Developer to the Purchaser on Completion Date:
 - 17.3.1 Electrical Compliance Certificate
 - 17.3.2 Structural Engineer's Compliance Certificate
 - 17.3.3 Approved Plan
 - 17.3.4 Occupation Certificate issued by the Local Authority
 - 17.3.5 Plumbing Certificate
 - 17.3.6 Gas Certificate (if applicable)
 - 17.3.7 NHBRC Certificate
 - 17.3.8 Guarantees from third parties (if applicable)

17.4 The Developer may appoint any third party to execute any of the Works provided that the rights of the Purchaser in terms of this Agreement against the Developer shall not be affected in any way by such appointment.

17.5 The Developer is exempted from liability for making good damage caused to the Property by surface water, storms or rainwater, ground containing clay or other shifting soil, settlement or cracking, earth tremors, geological disturbances and/or subsidence, the nature of the subsoil or terrain and the moisture content of the subsoil and shall under no circumstances be responsible for any consequential damage arising therefrom.

17.6 The Seller and the Developer respectively warrant and agree that they are registered as home builders with the National Home Builders Registration Council as contemplated by the provisions of the Housing Consumers Protection Measures Act No 95 of 1998 (the NHBRC Act).

17.7 The Seller and the Developer further warrant and agree that they will be bound by and comply with the provisions of that NHBRC Act.

18 NATIONAL CREDIT ACT AND OUTSTANDING TAXES

In the event that this Agreement is subject to the National Credit Act, Act 34 of 2005, then the Purchaser warrants that:

18.1 Once the bond as referred to in Clause 6 is approved and the pre-agreement and quotation is accepted, the Purchaser shall not do anything that may cause the Purchaser to become over-indebted in terms of the National Credit Act or cause the bank to withdraw the bond.

18.2 The Purchaser shall not do anything between the date of acceptance of the pre-agreement and quotation, and registration of the bond, which may cause the Purchaser's financial position to deteriorate.

18.2.1 At the time of the Signature Date, the Purchaser is not:

18.2.2 over-indebted; and/or

18.2.3 subject to debt review; and/or

18.2.4 subject to an administration order.

18.3 The Purchaser does not and will not be, on the Signature Date and until the Transfer Date, in default of any income or other tax law obligations to the South African Revenue Services which will serve to delay the obtaining of transfer duty receipts or exemption certificates from the South African Revenue Services or not do anything or omit to do anything that will or can cause such a delay.

19 HOMEOWNERS ASSOCIATION

19.1 The Purchaser will become a member of PVHOA as from the Transfer Date and become obliged to comply with all the obligations imposed upon him by the Constitution and the Conduct Rules, including the payment of Levies.

19.2 The PVHOA will be or has been established for the benefit of all owners of erven within the Development as provided for in the Constitution and the Conduct Rules.

INITIAL

19.3 The Seller shall, on the Transfer Date, register a title deed condition against the Property, in terms of which the Property shall not be transferred without the written consent of the PVHOA.

19.4 The Purchaser and his/her/its successors in title will be bound by the Architectural Guidelines. Any buildings erected on the Property (including any improvements or alterations thereto) shall conform to the Architectural Guidelines and shall be subject to the written approval thereof by the ARC, the PVHOA and the Local Authority before commencement of any relating construction work

20 LEVIES

20.1 After the Transfer Date, the Purchaser shall be liable to pay the Levies to the PVHOA.

20.2 It is estimated that the Levy payable in terms of Clause 20.1 will approximately be equal to the amount described in Clause 5 of the Covering Schedule.

20.3 The Purchaser must pay a joining levy of R1 000.00 (One Thousand Rand) to the PVHOA on or before the Transfer Date.

20.4 The Levies will be payable monthly in advance on the 1st first day of the month.

21 RESTRICTION ON SALE OF PROPERTY

Should the Purchaser receive a subsidy as a contribution towards the Purchase Price of the Property (FLISP), then and in that instance Sections 10A and 10B of the Housing Act, shall be applicable to this Agreement and the future dealings with the Property.

21.1 The Purchaser shall not be entitled to sell or otherwise alienate the Property within a period of 8 (Eight) years from the Transfer Date, unless the Property has first been offered to the PGWC and in which event the provisions of Sections 10A(2), (3) and (4) of the Housing Act shall apply; and

21.2 The Purchaser's successor's in title or creditors in law, other than creditors in respect of credit-linked subsidies, shall not sell or otherwise alienate the Property unless the Property has first been offered to the PGWC at a price not greater than the subsidy which the Purchaser received for the Property and in which event the provisions of Sections 10B(2), (3), (4), (5) and (6) of the Housing Act shall apply;

21.3 The Purchaser undertakes to apply to the PGWC for the waiver of the PGWC of its pre-emptive right as set out in Clause 23.1 in favour of the Mortgage Bondholder to the effect that:

21.3.1 The said pre-emptive right shall at all times be sub-ordinate to the rights of the Mortgage Bondholder under the Mortgage Bond, and

21.3.2 Should the Mortgage Bondholder follow due process that results in the Property being sold in execution or a result of the sequestration or insolvency of the Purchaser, then the PGWC shall waive its pre-emptive right and allow the Property to be sold to any purchaser at a sale in execution or sale from the insolvent estate;

21.3.3 The Purchaser shall be entitled to opt for an alternative sale process for properties in distress as applied from time to time by the Mortgage Bondholder in the event of a distressed sale at the instance of the Mortgage Bondholder;

21.3.4 The Mortgage Bondholder shall be entitled to apply all proceeds from a sale in execution or alternative sale process towards payment of all money due to the Mortgage Bondholder by the Purchaser;

21.3.5 The consent of the PGWC shall not be required for a sale or transfer of the Property to any purchaser (including the Mortgage Bondholder) resulting from a sale in execution or following foreclosure proceedings (inclusive of alternative sale process as applied by the Mortgage Bondholder) or from the Purchaser's insolvent estate.

22 BROKERAGE

22.1 Commission in the amount agreed between the Seller and the Estate Agent, shall be payable by the Seller to the Estate Agent on the Transfer Date.

22.2 The said commission will be earned by the Estate Agent upon signature of this Agreement by both the Purchaser and the Seller and the fulfillment (or waiver, as the case may be) of all conditions precedent contained herein.

22.3 If this Agreement is cancelled as a result of a breach by the Purchaser, the Purchaser will be liable for the payment of the Estate Agent's commission.

22.4 The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any Estate Agent other than the Estate Agent stipulated in Clause 9.1 of the Covering Schedule. The Purchaser

accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against or suffered by the Seller arising out of a breach of this warranty.

23 ACKNOWLEDGEMENTS AND OBLIGATIONS

- 23.1 It is the responsibility of the Purchaser to acquaint himself with the contents, terms, conditions, stipulations and obligations contained in the Constitution and the Architectural Guidelines.
- 23.2 The Purchaser accepts the gradient and contours on the Erf as per the grid line cut across the Erf, prepared by the Engineers appointed by the Seller.
- 23.3 The Purchaser is liable for the payment of the following costs, fees, expenses or levies, in addition to any other costs, fees expenses or levies provided for in this Agreement and pertaining to the Property:
- 23.3.1 The availability fee and charges in respect of water consumption and sewer payable to the Local Authority,
- 23.3.2 All electrical fees and levies, excluding the electrical connection fees,
- 23.3.3 All other connection fees payable to the Local Authority or any other relevant authority.
- 23.4 It is recorded that the Local Authority (Rates Department) must apportion the rates and taxes paid by the Seller. It is the responsibility of the Purchaser to notify the Local Authority of the Transfer Date and to ensure that he receives the correct accounts from the Local Authority as from the Transfer Date, including any amount refundable by the Local Authority.
- 23.5 The Purchaser hereby irrevocably consents to the cession and delegation of the rights and obligations of the Seller in terms of this Agreement to a nominated third party or entity.

24 BREACH

- 24.1 If any party commits a breach of any of the provisions of this Agreement and fails to remedy such breach within 14 (fourteen) days, or in the instance of any financial obligation or a breach in terms of Clause 10.1 of this Agreement, within 7 (seven) days after receipt of written notice from the other party calling upon it to remedy such breach, then the innocent party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement and or at Law to:
- 24.1.1 cancel this Agreement and claim such damages as it may have sustained from the defaulting party;
- 24.1.2 claim immediate performance by the defaulting party of all its obligations in terms of this Agreement whether or not the due date for performance shall otherwise have arrived;
- 24.2 The Seller may retain any cash payments made by the Purchaser prior to cancellation as liquidated damages, without prejudice to any other right that the Seller may have.
- 24.3 Upon cancellation of this Agreement for any reason whatsoever, the Purchaser hereby undertakes to vacate the Property forthwith, and to procure that the Property shall be vacated by any persons who occupy it through the Purchaser's title or by his permission. Occupation shall be redelivered in the same good order and condition as at the Occupation Date.
- 24.4 The defaulting party shall pay all legal and other costs, including costs on the attorney and client scale, incurred by the innocent party in successfully enforcing the provisions of this Agreement.
- 24.5 It is specifically recorded that should any breach by the Purchaser occur at a time critical to the registration procedure, the Seller shall be entitled to require the Purchaser to remedy such breach within a period of 24 (Twenty Four) hours, and not within the 7 (Seven) days or 14 (Fourteen) days period provided for in clause 24.1.
- 24.6 Where the Seller is entitled to retain any cash payments in terms of Clause 24.2, the Transferring Attorneys is hereby authorized to pay such amounts to the Seller on its request.
- 24.7 Should the Purchaser dispute the Seller's right to cancel this Agreement, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by him in terms of this Agreement which will include Levies and Interest on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any other rights of the Seller whatsoever. Failure to pay any of the aforesaid amounts will constitute a material breach of this Agreement.

25 NOTICE AND ADDRESS FOR SERVICES OF NOTICES

- 25.1 The Parties choose their addresses as set out on in Clause 1 of the Covering Schedule of this Agreement above to serve as their addresses for service and delivery of legal documents for all purposes of the Agreement, which includes the giving of notice and the serving of documents or process. If the Purchaser is a foreigner and does not have a domicilium address in the RSA, then the Purchaser must elect an address of his auditor or attorney, practicing in the RSA, as his domicilium address.
- 25.2 Any notice given in terms of the Agreement which is:
 - 25.2.1 delivered by hand during normal business hours to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser at the time of delivery;
 - 25.2.2 posted by prepaid registered post to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser on the 7th day after the day of its posting.
 - 25.2.3 communicated by facsimile or e-mail, shall be deemed to have been received by the Seller or Purchaser on received confirmation of the successful transmission thereof.
- 25.3 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by telex, facsimile or e-mail. Communications by telex, facsimile or e-mail shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee on the day of transmission provided that transmission occurred during business hours.

26 GENERAL

- 26.1 The Parties undertake to do all such things that may be necessary, incidental or conducive to the implementation of the terms, conditions and import of the Agreement.
- 26.2 The Agreement constitutes the sole and entire Agreement between the Parties and no other terms and conditions of whatsoever nature not contained or recorded herein, shall be of any force or effect.
- 26.3 No variation of the terms and conditions of this Agreement or any purported consensual cancellation thereof shall be of any force or effect unless reduced to writing and signed by the Parties or their duly authorized representative.
- 26.4 No indulgence which either party may grant to the other shall constitute a waiver of any of his rights and shall not thereby be precluded from exercising any of his rights which may have arisen in the past or which might arise in the future.
- 26.5 **The Purchaser warrants that all consents required in terms of the Matrimonial Property Act No. 88 of 1984 have been obtained.**
- 26.6 Each and any provision of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) shall be deemed to be separate and severable from the remaining provisions of the Agreement. If any of the provisions of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) is found by any Court of competent jurisdiction to be invalid and or unenforceable then, notwithstanding such invalidity and or unenforceability, the remaining provisions of this Agreement shall be and remain of full force effect.

27 COOLING-OFF IN TERMS OF THE CPA

If the Property was introduced to the Purchaser by means of Direct Marketing, then and in that instance the Purchaser may rescind this Agreement without reason or penalty, by giving written notice, or another recorded manner and form, to the Seller, within 5 (Five) Business Days after the Signature Date.

28 CONFIRMATION BY THE PURCHASER IN TERMS OF THE CPA

- 28.1 The Purchaser confirms that:
 - 28.1.1 he has read this Agreement and understands the contents thereof;
 - 28.1.2 that, if the Property was introduced to him by means of Direct Marketing, that he is aware and understands his right to the cooling-off period after Direct Marketing;
 - 28.1.3 he has purchased and will use the Property only for residential purposes.

29 **CONDITION PRECEDENT IN FAVOUR OF THE SELLER**

29.1 **MINIMUM SALES**

29.1.1 It is recorded that the Development will comprise Erven. This Agreement is made subject to the Seller selling at least 20 (Twenty) Erven in the Development, per month. For purposes of this Clause "sell" will mean the coming into existence of a deed of sale between the Seller and a purchaser, of which deed of sale the conditions precedent as referred to in Clause 6 of this Agreement, have been fulfilled.

29.1.2 It is recorded that this condition precedent is inserted solely for the benefit of the Seller. The Seller may waive the benefit of this condition.

29.1.3 In the event of this condition not being fulfilled, the Seller will refund the Purchaser all amounts paid in terms of this Agreement.

29.2 **TRANSFER DATE**

29.2.1 This Agreement is subject to the condition precedent in favour of the Seller in that registration of Transfer of the Property must be effected on or before the Transfer Date, as provided for in Clause 4.2 of the Covering Schedule.

29.2.2 In the event of the aforesaid condition not being fulfilled within the abovementioned time-period, the time-period will automatically be extended with a maximum period of 6 (Six) months beyond the Transfer Date, or such longer period as the Parties may agree to in writing.

29.2.3 It is recorded that this condition precedent is inserted solely for the benefit of the Seller. The Seller may waive the benefit of this condition.

29.2.4 In the event of this condition not being fulfilled, the Seller will refund the Purchaser all amounts paid in terms of this Agreement.

30 **OFFER**

The offer to the Seller constituted by the Purchaser having signed this Agreement shall be irrevocable and may not be withdrawn except by written notice sent to the Seller by registered post, which, in any event, may not be given prior to the expiry of a period of 10 (Ten) Business Days from the date of signature by the Purchaser.

SIGNED by the Parties hereto on the dates and places hereinafter set forth.

BY THE SELLER

At _____ on the _____ Day of _____ 20__

AS WITNESSES:

1. _____

2. _____

SELLER

INITIAL

BY THE DEVELOPER

At _____ on the _____ Day of _____ 20__

AS WITNESSES:

1. _____

2. _____

DEVELOPER

BY THE PURCHASER

At _____ on the _____ Day of _____ 20__

AS WITNESSES:

1. _____

2. _____

PURCHASER (1)

PURCHASER (2)