

**SALE OF IMMOVABLE PROPERTY AGREEMENT  
RIVER FARM – NORTH POINTE RESIDENCES: ERVEN 1690 - 1720  
TURNKEY**

**SCHEDULE**

**1. SELLER**

1.1 Full Name: Keysha Investments 213 (Pty) Ltd

1.2 Reg No: 2007/022692/07

1.3 Physical Address: Management Hub, the Yard, Val de Vie Estate, Paarl, 7620

1.4 Postal Address: Management Hub, the Yard, Val de Vie Estate, Paarl, 7620

1.5 Telephone: +27 21 863 6100

1.6 Telefax: +27 21 863 2741

1.7 Contact Person: Renier Swart

Telephone: +27 21 863 6100 Ext:6105

Email: renier.swart@valdevie.co.za

1.8 VAT Registration Number: 4440244285

**2. PURCHASER**

2.1 Full Name: \_\_\_\_\_

2.2 ID No/Reg No: \_\_\_\_\_

2.3 Physical Address: \_\_\_\_\_

2.4 Postal Address: \_\_\_\_\_

2.5 Telephone: \_\_\_\_\_

2.6 Telefax: \_\_\_\_\_

2.7 Email: \_\_\_\_\_

2.8 Income Tax Registration Number: \_\_\_\_\_

2.9 VAT Registration Number: \_\_\_\_\_

2.10 Married/ Unmarried: \_\_\_\_\_

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

Matrimonial  
Property Regime  
/ According to  
the laws of  
specified  
country:

\_\_\_\_\_

Name of  
Spouse:

\_\_\_\_\_

Identity Number:

\_\_\_\_\_

Income Tax  
Registration  
Number:

\_\_\_\_\_

**3. PURCHASER**

3.1 Full Name:

\_\_\_\_\_

3.2 ID / Reg No.:

\_\_\_\_\_

3.3 Physical Address:

\_\_\_\_\_

3.4 Postal Address:

\_\_\_\_\_

3.5 Telephone:

\_\_\_\_\_

3.6 Telefax:

\_\_\_\_\_

3.7 Email:

\_\_\_\_\_

3.8 Income Tax  
Registration  
Number:

\_\_\_\_\_

3.9 VAT Registration  
Number:

\_\_\_\_\_

3.10 Married/  
Unmarried:

\_\_\_\_\_

Matrimonial  
Property Regime  
/ According to the  
laws of specified  
country:

\_\_\_\_\_

Name of Spouse:

\_\_\_\_\_

Identity Number:

\_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

Income Tax  
Registration  
Number: \_\_\_\_\_

4. **Property** means Erf \_\_\_\_\_ Val de Vie on **Appendix 2**, measuring approximately \_\_\_\_\_ square meters in extent and forming part of the Development.

**5. Estate Agency:**

5.1 Full Name: \_\_\_\_\_

5.2 VAT Number: \_\_\_\_\_

5.3 Estate Agent's Name: \_\_\_\_\_

5.4 Estate Agent's Income  
Tax Number: \_\_\_\_\_

**6. Conveyancer:**

6.1 Full Name: Hayes Incorporated

6.2 Physical Address: Unit 1 Roeland Square, Roeland Street, Cape Town, 8001

6.3 Postal Address: PO Box 15276 Vlaeberg, 8018

6.4 Contact Person: Judi Hayes

Telephone: 021 461 0123

E-Mail: [judi@themis.co.za](mailto:judi@themis.co.za)

Telefax 021 461 0128

6.5 Trust Bank Account Name: Hayes Incorporated Trust Bank Account

Bank: First National Bank

Account Number: 620 960 565 12

Branch Code: 201709

**7. Mortgage Originator:**

7.1 Full Name: Val de Vie Property Finance

7.2 Physical Address: Valentia Office, Val de Vie Estate, Paarl, 7646

7.3 Postal Address: PO Box 6223 Paarl 7620

7.4 Contact person: Rika Swart

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

Telephone: +27 82 449 9290

E-Mail: Rika.Swart@valdevie.co.za

**8. Bond Registration Attorney:**

8.1 Full Name: Sandré Marais Incorporated

8.2 Physical Address: PJS Building, 20 Zandwyk Park, Old Paarl Road, Paarl, 7622

8.3 Postal Address: PO Box 3128, Paarl, 7620

8.4 Contact Person: Sandré Marais

Telephone: 0861 172 428 / +27 21 863 1089 (international)

E-Mail: sandre@lawsmi.co.za

**9. Architect means**

**10. Purchase Price:** R (including VAT)

LESS Deposit R  
(15% if SA resident & 20% if a non-SA resident)

Cash balance of  
**Purchase Price:**

**11. Subject to Finance:** Yes / No

**12. Amount of Finance required in respect of the Purchase Price:** R

**13. Anticipated Monthly Levy:** R4,128 (including VAT)

- 14. Appendices:**
- Appendix 1: Client Investment Mandate
  - Appendix 2: General Plans
  - Appendix 3: Infrastructure Plans
  - Appendix 4: Greater Estate Master Plan
  - Appendix 5: Electrical Supply Connection
  - Appendix 6: Landscaping Site Development Plan
  - Appendix 7: CPA Acknowledgements
  - Appendix 8: The Guide

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

Appendix 9:	Floor Plan
Appendix 10:	Schedule of Finishes
Appendix 11:	Optional Extras (if applicable)
Appendix 12:	Mandatory Property Practitioners Act Disclosure

**15. Applicability of Terms and Conditions**

This Schedule, the Standard Terms and Conditions and Appendices attached hereto shall form the agreement between the Seller and the Purchaser.

**16. Important Note**

Although we have taken every effort in making this Agreement understandable in plain language we also understand that concepts and phrases may be difficult and intimidating to you.

You are invited to discuss every aspect, item, phrase, word, concept, definition or any other aspect of this Agreement with our turnkey products consultant or our legal advisors who will explain them to you. You are also encouraged to obtain independent legal advice.

Please read and consider this Agreement and its Appendices carefully as it shall constitute a binding agreement. You will be requested to declare that you understand the content of this entire Agreement and more specifically the fact, nature and effect of clauses next to which you are requested to specifically initial. Please note that initialling next to any clause will not affect the enforceability of any of the other clauses of this Agreement. Please do not disregard any clauses not so emphasised as such clauses will be binding and enforceable.

The Parties are required to sign in full below and initial all other pages of this Agreement and Appendices.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

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**KEYSHA INVESTMENTS 213 (PTY) LTD**

herein represented by

---

*(Print Name)*

*(who warrants that he/she is duly authorised)*

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

---

**PURCHASER**

herein represented by

---

*(Print Name)*

*(who warrants that he/she is duly authorised)*

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

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**ESTATE AGENT**

herein represented by

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*(Print Name)*

*who warrants that he/she is duly authorised*

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

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**PURCHASER**

herein represented by

---

*(Print Name)*

*(who warrants that he/she is duly authorised)*

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

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**WITNESS 1 (SIGNATURE IN FULL)**

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**(Print Name and Surname of Witness 1)**

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**(Identity number of Witness 1)**

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

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**WITNESS 2 (SIGNATURE IN FULL)**

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**(Print Name and Surname of Witness 2)**

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**(Identity number of Witness 2)**

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**TERMS AND CONDITIONS IN RESPECT OF THE SALE OF IMMOVABLE PROPERTY  
AGREEMENT**

**1 INTERPRETATION**

1.1 In this Agreement, unless inconsistent with or otherwise indicated by the context –

1.1.1 “**the/this Agreement**” means the agreement as set out in this document and the Appendices hereto;

1.1.2 “**the Agent**” means the estate agency described at paragraph 5 of the Schedule;

1.1.3 “**Appendices**” means the documents specified at paragraph 14 of the Schedule;

1.1.4 “**Arbitration Act**” means the Arbitration Act No 42 of 1965 (as amended);

1.1.5 “**Architect**” means the architect described at paragraph 9 of the Schedule;

1.1.6 “**Bond Costs**” means all costs of and incidental to the registration of the mortgage bond, if any, referred to in clause 4.1.1 below, including but not limited to conveyancing fees, calculated at the fee chargeable in terms of the recommended guideline of conveyancing fees, and all incidental disbursements necessary to effect registration of the bond, together with VAT on such costs and disbursements;

1.1.7 “**Bond Registration Attorney**” means the bond registration attorney described at paragraph 8 of the Schedule;

1.1.8 “**Building Plans**” means the floor plans of the buildings to be erected on the Property prior to the Transfer Date, as set out in **Appendix 9** hereto;

1.1.9 “**Buildings**” the building or buildings and any other improvements to be erected on the Property in accordance with the Building Plans;

1.1.10 “**Business Day**” means any day that is not a Saturday, Sunday or South African public holiday;

1.1.11 “**Commission**” means the commission due to the Agent;

1.1.12 “**Companies Act**” means the Companies Act No 71 of 2008 (as amended);

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

- 1.1.13            **“Condition Precedent”** means the condition precedent set out in clause 4.1.1 below;
- 1.1.14            **“Constitution”** means the constitution of the HOA from time to time and it includes without limitation all annexures thereto and rules promulgated thereunder from time to time;
- 1.1.15            **“Contractor”** means a building contractor approved by the Developer or the HOA in terms of the Constitution in terms of criteria determined by the Developer or the HOA and employed by the Purchaser for the construction of Improvements;
- 1.1.16            **“Conveyancer”** means the conveyancer described at paragraph 6 of the Schedule;
- 1.1.17            **“CPA”** means the Consumer Protection Act No 68 of 2008 (as amended);
- 1.1.18            **“Developer”** means the developer, as contemplated in the Constitution;
- 1.1.19            **“Development”** means the development which the Property forms a part of being the own title residential units to be constructed on a portion of the Land, as indicated on the on the General Plans attached hereto as **Appendix 2**, the Infrastructure Plans attached hereto as **Appendix 3** and the Greater Estate Master Plan attached hereto as **Appendix 4**, which land shall be subdivided and developed generally in accordance with **Appendices 2, 3, 4, and 5**;
- 1.1.20            **“Distressed Sale”** means –
- 1.1.20.1            a distressed sale or a sale in execution where a bank or financial institution as mortgage bond holder in respect of the Property legally attaches and sells the Property due to failure of the Purchaser, as registered owner thereof, to fulfil its obligations towards such mortgage bond holder;
- 1.1.20.2            a sale where a bank or financial institution as mortgage bond holder in respect of the Property assists the Purchaser, as registered owner of the Property, with the sale of the Property in accordance with the requirements of the relevant mortgage bond holder’s formal programmes to assist distressed customers to sell their immovable properties in instances of failure of the Purchaser as registered owner of the Property to fulfil its obligations towards the relevant mortgage bond holder; and/or
- 1.1.20.3            where a bank or financial institution as mortgage bond holder in respect of the Property legally attached the Property due to failure of the Purchaser as

**INITIAL Witness 1:** \_\_\_\_\_                      **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_                      **INITIAL Purchaser:** \_\_\_\_\_



registered owner of the Property to fulfil its obligations towards the said mortgage bond holder and took transfer of the Property and thereafter sold the Property;

1.1.21 **“Existing Val de Vie Development”** means the development already constructed on Erf 1 Val de Vie, situated in the Drakenstein Municipality, Western Cape by Elements Development Projects (Pty) Ltd and known as the *“Val de Vie Winelands Lifestyle Estate”*

1.1.22 **“Fidelity Fund Certificate”** means the fidelity fund certificate contemplated in section 47(1) of the Property Practitioners Act;

1.1.23 **“General Plans”** means the Surveyor General approved plans depicting the Development, which are annexed as Appendix 2 hereto;

INITIAL\_\_\_\_\_

1.1.24 **“Greater Estate Master Plan”** means the plan depicting the Greater Val de Vie Estate (including the Development) and any future developments planned on the said greater estate as at the Signature Date, attached as Appendix 4 hereto;

INITIAL\_\_\_\_\_

1.1.25 **“Greater Val de Vie Estate”** means the areas falling under the jurisdiction of the HOA, the Val de Vie II Homeowners’ Association and the Pearl Valley Golf and Country Estate Homeowner’s Association;

1.1.26 **“the Guide”** means the guidelines referred to in clause 28.1 below, which document contains the following information and documentation in respect of the Development –

1.1.26.1 design guidelines;

1.1.26.2 building rules and regulations;

1.1.26.3 Estate rules; and

1.1.26.4 any relevant annexures to the documents listed in 1.1.26.1 to 1.1.26.3 above;

1.1.27 **“HOA”** means the Val de Vie Winelands Lifestyle Estate Homeowners’ Association, created in terms of Section 29 of Ordinance 15 of 1985;

INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_

- 1.1.28            **“Improvements”** means any structure of whatever nature constructed or erected or to be constructed or erected on the Property;
- 1.1.29            **“Infrastructure Plans”** means the plans depicting *inter alia* the infrastructure, security, fibre, fence along the Berg River, landscaping to be installed on the Development and the riparian zone on the Development, attached as Appendix 3 hereto;
- INITIAL \_\_\_\_\_
- 1.1.30            **“Land”** means Remainder of the Farm 1486 situated in the Drakenstein Municipality, Administrative District Paarl, Western Cape Province and measuring approximately 10,3789HA in extent and to be renumbered to Erf 1651 Val de Vie and thereafter subdivided into Erven 1652 and 1653 Val de Vie, as per the Appendix 2 hereto;
- 1.1.31            **“Landscaping Site Development Plans”** means the plan depicting the landscaping on the Development, attached as Appendix 6 hereto;
- INITIAL \_\_\_\_\_
- 1.1.32            **“Legal Practice Act”** means the Legal Practice Act No. 28 of 2014 (as amended);
- 1.1.33            **“Mortgage Originator”** means the mortgage originator described at paragraph 7 of the Schedule;
- 1.1.34            **“NHBRC Act”** means the Housing Consumers Protection Measures Act of 95 of 1998 (as amended);
- 1.1.35            **“Occupation Certificate”** means the certificate issued by the Drakenstein Municipality evidencing that the Buildings can be occupied;
- 1.1.36            **“the Parties”** or **“Party”** means the Party or Parties to this Agreement;
- 1.1.37            **“Property”** means the property described at paragraph 4 of the Schedule which property forms part of the Development;
- 1.1.38            **“Property Practitioners Act”** means the Property Practitioners Act No. 22 of 2019;
- 1.1.39            **“Purchase Price”** means the purchase price payable by the Purchaser in respect of the Property which purchase price includes VAT, the Transfer Costs and, in the

**INITIAL Witness 1:** \_\_\_\_\_            **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_            **INITIAL Purchaser:** \_\_\_\_\_

event that the mortgage loan finance is secured through the services of the Mortgage Originator, the Bond Costs;

- 1.1.40 “**Purchaser**” means the person or persons / entity or entities, as the case may be, described more fully in paragraph 2 and, if applicable, 3 of the Schedule;
- 1.1.41 “**Removal of Restrictions Act**” means the Removal of Restrictions Act No 84 of 1967 (as amended);
- 1.1.42 “**Schedule**” means the schedule to which these standard terms and conditions are attached;
- 1.1.43 “**Seller**” means the entity described more fully at paragraph 1 of the Schedule;
- 1.1.44 “**the Signature Date**” means the date on which this Agreement is signed by the Party signing last in time;
- 1.1.45 “**Transfer**” means registration of transfer of the Property into the name of the Purchaser in accordance with the provisions of the Deeds Registries Act No 47 of 1937 (as amended);
- 1.1.46 “**Transfer Costs**” means the cost of registration of Transfer arising herefrom calculated at the fee chargeable in terms of the recommended guideline of conveyancing fees, and all incidental disbursements necessary to effect registration, together with VAT on such costs and disbursements;
- 1.1.47 “**Transfer Date**” means the date on which the Transfer is registered;
- 1.1.48 “**Trust Account**” means the trust bank account of the Conveyancer which details are set out at paragraph 6.5 of the Schedule;
- 1.1.49 “**Val de Vie 1 Estate**” means the development already constructed and known as the “*Val de Vie Winelands Lifestyle Estate*”, which, comprises residential, sectional title units and other erven and such other recreational or other facilities/amenities as may be built by its developer from time to time, in its sole and absolute discretion;
- 1.1.50 “**VAT**” means value-added tax payable in terms of the VAT Act;
- 1.1.51 “**VAT Act**” means the Value Added Tax Act No 89 of 1991 (as amended);
- 1.1.52 words importing the singular shall include the plural and *vice versa*;

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

- 1.1.53 words importing natural persons includes legal persons and partnerships and *vice versa*;
- 1.1.54 words importing one gender includes the other genders;
- 1.1.55 any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time; and
- 1.1.56 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.2 The clause headings in this Agreement have been inserted for reference purposes only and shall not affect the interpretation of any provision of this Agreement.
- 1.3 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which the sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.4 If any provision in a definition 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 Agreement, notwithstanding that it is only contained in this interpretation clause.
- 1.5 If any period is referred to in this Agreement by way of 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 day shall be the next succeeding Business Day.
- 1.6 This Agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.
- 1.7 Expressions defined in this Agreement shall bear the same meanings in any annexure hereto which does not contain its own definitions.

**2 RECORDAL**

The Seller wishes to sell the Property with the Buildings constructed thereon to the Purchaser as a turnkey product upon the further terms and conditions of this Agreement.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

### 3 PURCHASE AND SALE

3.1 Subject to clause 4 below, the Purchaser hereby agrees to purchase the Property and the Buildings constructed thereon in terms of **Appendices 9 to 11** hereto from the Seller on the terms and conditions contained in this Agreement and the Seller hereby agrees to sell the Property and the Buildings to the Purchaser upon the terms and conditions of this Agreement.

3.2 In the event that more than 1 (one) purchaser is purchasing the Property jointly, the Purchasers shall be jointly and severally liable for all of their obligations in terms of this Agreement.

### 4 CONDITION PRECEDENT

4.1.1 Save for clauses 1, 3.2, 4, 5.1.1, 5.1.2, 5.3, 5.4, 9.3 and 24 to 30, which shall be of immediate force and effect, this Agreement is subject to the condition precedent that the Purchaser obtains final written confirmation from a commercial bank or other financial institution, that they will advance to the Purchaser the amount reflected at paragraph 12 of the Schedule, or such lesser amount as the Purchaser may agree to in writing, **within 30 (thirty) days from the Signature Date**, subject to such terms and conditions as are normally imposed by such registered credit providers when granting mortgage loans to finance the purchase of unimproved erven and/or building loans for plot-and-plan properties or turnkey properties, whichever shall be applicable.

***[Delete if not applicable]***

4.2 The Condition Precedent –

4.2.1 shall be deemed to have been fulfilled once the said financial institution issues a letter to the effect that the mortgage loan application has been approved notwithstanding the fact that such approval is granted subject to the fulfilment of a condition or conditions or subject to the reservation of the right of the said registered credit provider at any time prior to the payment of the proceeds of such mortgage loan to the Purchaser, to withdraw such approval;

4.2.2 has been inserted for the benefit of the Purchaser and accordingly fulfilment thereof may be relaxed and/or waived by Purchaser prior to the stipulated date for fulfilment thereof or any extended date; and

4.2.3 may have its date for fulfilment extended by written agreement between the Parties on or before the fulfilment date thereof.

INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_

4.3 If the Condition Precedent has not been fulfilled or waived by the due date for fulfilment thereof (or such later date as determined in accordance with clause 4.2.3 above) then this Agreement will automatically fail and be of no further force and effect (save for clauses 1, 3.2, 4, 5.1.1, 5.1.2, 5.3, 5.4, 9.3 and 24 to 30, which shall be of full force and effect from the Signature Date) and the Parties will use their respective best endeavours to restore the *status quo ante* and no Party shall, save as otherwise provided in this Agreement, have any claim against the other Party arising from this Agreement.

4.4 The Purchaser undertakes to furnish the Seller with all information and/or documentation relevant to its application for finance, as contemplated in this clause 4, on demand for such information and/or documentation by the Seller, for the purposes of enforcing its rights in terms of this Agreement.

4.5 The Purchaser shall use its best endeavours to procure the timeous fulfilment of the Condition Precedent.

4.6 **For the purposes of obtaining the loan (if any) referred to above the Purchaser hereby authorises the Mortgage Originator to submit a loan application on the Purchaser's behalf to any financial institution, and agrees and undertakes to furnish the Mortgage Originator with any such information or any document, and to sign all such documents, which are required or necessary for the purposes of such loan application forthwith after the Signature Date. The Purchaser shall not make application for the loan referred to in clause 4.1.1 through any person other than the Mortgage Originator without the prior written consent of the Seller. The Parties place on record that the Purchase Price agreed upon, insofar as it includes the Bond Costs, is based on the premise that all the purchasers of turnkey products in the Development will utilise the same Mortgage Originator in respect of the bond applications and accordingly appointing the Mortgage Originator will result in economic benefit for the Purchaser.**

INITIAL \_\_\_\_\_

4.7 **The Purchaser shall cause the Bond Registration Attorneys to be appointed as the conveyancers for the registration of the mortgage bond in respect of the loan referred to in clause 4.1.1 above. The Parties place on record that the Purchase Price agreed upon, insofar as it includes the Bond Costs, is based on the premise that all purchasers of turnkey products in the Development will utilise the same conveyancers in respect of the bond registrations and accordingly appointing the Bond Registration Attorneys as such will result in an economic benefit for the Purchaser.**

INITIAL \_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

**5 PURCHASE PRICE AND PAYMENT**

5.1 The Purchase Price shall be paid as follows -

5.1.1 the deposit shall be paid into the Trust Account within 3 (three) Business Days of the Signature Date; and

5.1.2 the balance of the Purchase Price shall be paid against Transfer, provided that the balance shall be secured by a bank guarantee made payable to the Trust Account on Transfer, which bank guarantee must be provided to the Conveyancer within 30 (thirty) days from being called upon to do so by the Conveyancer, provided that the Condition Precedent, if applicable, has been fulfilled or waived, as the case may be.

5.2 The Purchaser shall be released from its obligation to provide the bank guarantee referred to in clause 5.1.2 above by making payment of the balance of the Purchase Price into the Trust Account.

5.3 The Conveyancer is hereby irrevocably authorised and required to invest any cash amount received from the Purchaser in terms of this clause 5 in an investment account as contemplated in Section 86(4) of the Legal Practice Act, with the interest accruing for the benefit of the Purchaser until Transfer whereupon the Conveyancer shall pay the balance of the Purchase Price to the Seller.

**5.4 In the event that the Purchaser fails to make payment of the deposit in accordance with clause 5.1.1 above within 4 (four) months of the Signature Date, then without prejudice to any other rights that the Seller may have, the Purchase Price shall be increased by 12% (twelve percent) per annum, calculated daily and compounded monthly in arrears, from the expiry of the aforesaid 4 (four) month period until such time as the Purchaser has complied with his aforesaid obligations.**

INITIAL\_\_\_\_\_

**5.5 In the event that the Purchaser fails to deliver the guarantee referred to in clause 5.1.2 above or make payment of the balance of the purchase price in accordance with clause 5.2 above, within 4 (four) months from being called to do so by the Conveyancer, then without prejudice to any other rights that the Seller may have, the Purchase Price shall be increased by 12% (twelve percent) per annum, calculated daily and compounded monthly in arrears, from the expiry of the aforesaid 4 (four) month period until such time as the Purchaser has complied with his aforesaid obligations.**

INITIAL\_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

**6 PURCHASE PRICE FINANCE**

In the event of the Purchaser obtaining mortgage loan finance in respect of payment of the Purchase Price, as contemplated in paragraph 11 of the Schedule and clause 4.1.1 above, the Purchaser acknowledges and undertakes to ensure that the conditions set by the relevant commercial bank or other financial institution in respect of such mortgage loan shall, insofar as same is in the control of the Purchaser, not in any way result in any delays in Transfer of the Property.

**7 MORA**

**Should there be a delay in the registration of Transfer, other than as contemplated in clause 5.4 above, for which the Purchaser is solely responsible then the Purchaser shall pay to the Conveyancer, upon written demand, interest calculated at a rate of 2% (two percent) of the Purchase Price per month, and calculated from the date on which the Purchaser is notified in writing by the Conveyancer as being in *mora* to the date upon which the Purchaser has ceased to be in *mora*.**

INITIAL\_\_\_\_\_

**8 VALUE ADDED TAX**

8.1 The Parties record that the Seller is registered as a VAT vendor for purposes of the VAT Act, and that this transaction is subject to the payment of VAT, which VAT amount is included in the Purchase Price.

**8.2 In the event that the VAT rate changes between the Signature Date and payment of the Purchase Price, the Purchaser shall pay the additional VAT then applicable against demand for such payment from the Conveyancer.**

INITIAL\_\_\_\_\_

**9 TRANSFER AND COSTS**

**9.1 Transfer of the Property shall be effected by the Conveyancer as soon as reasonably possible after the fulfilment or waiver, as the case may be, of the Condition Precedent and as soon as reasonably possible after the Seller has provided the Purchaser with an Occupation Certificate and on condition that the Purchaser has complied with all of his obligations in terms of this Agreement. The Purchaser acknowledges that owing to the complexities and interrelated steps involved in establishing the Development and registering title to all the**

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_



**prospective purchasers, it is beneficial and in the best interests of the Purchaser that the Conveyancer attends to the Transfer.**

INITIAL \_\_\_\_\_

9.2 The Purchaser undertakes to sign all requisite documents for purposes of registration of Transfer as well as registration of any simultaneous bond, if applicable, upon being so requested by the Conveyancer and/or Bond Registration Attorney.

9.3 In addition to the Purchase Price, the Purchaser agrees to pay to the Conveyancer upon written demand received from the Conveyancer and, if applicable the Bond Registration Attorney –

9.3.1 any costs of drafting any required addenda or amendments to this Agreement at the special instance and request of the Purchaser;

9.3.2 the Purchaser's *pro rata* share of the rates and taxes payable in respect of the Property as well as the levy for 3 (three) months after the anticipated date of Transfer;

9.3.3 in the event that the mortgage loan finance is not secured through the services of the Mortgage Originator or in the event that mortgage loan finance is secured through the services of the Mortgage Originator, but the Purchaser decides to make use of other mortgage loan finance that he secured in the alternative, the Bond Costs; and

9.3.4 all other charges which the financial institution or any competent authority may charge in respect of the Purchaser's bond, if applicable, including but not limited to, initiation and valuation fees.

**9.4 The Parties agree that, as a *stipulatio alteri* to and in favour of the Conveyancer, in the event that this Agreement is cancelled as a result of the Purchaser's breach thereof, the Conveyancer shall be entitled to deduct from the deposit paid by the Purchaser, the costs for which the Purchaser is liable in terms of clause 9.3.1 above.**

INITIAL \_\_\_\_\_

9.5 **As a result of the South African Revenue Services ("SARS") doing risk analysis on both the transferor and the transferee on all property transactions, the Purchaser warrants to the Seller that he is not aware, and should not reasonably have been aware, of any tax issues (whether personally or otherwise), including but not limited to tax returns and/or tax payments, that are not current and up to**

17

INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_

date. In the event of the Purchaser, notwithstanding his prior belief to the contrary, becoming aware of any such outstanding issues on his side, he shall immediately do the necessaries to set the matter right so as not to delay the registration of the transfer. Without prejudice to any other rights that the Seller may have in law or may have in terms of this Agreement by virtue of a delay caused by any such outstanding tax issues, notwithstanding the efforts of the Purchaser to rectify the issues, the Seller shall be entitled to be compensated by the Purchaser for damages suffered by it due to such delay.

INITIAL\_\_\_\_\_

## 10 OCCUPATION, POSSESSION & RISK

10.1 Occupation and possession of the Property will be given and taken up by the Purchaser on the Transfer Date, from which date the Purchaser shall be entitled to every benefit and income arising from the Property and from which date the Property shall be held by the Purchaser at his sole risk.

10.2 The Purchaser shall, from the Transfer Date, be liable for the payment of the Property's rates, electricity, water, refuse and sewerage costs, connection fees, municipal deposits, all other related charges in respect of the Property and all amounts due to the HOA in terms of clause 15 below, the Constitution and otherwise in terms of this Agreement.

10.3 Any payments made by the Seller towards the amounts referred to in clause 10.1 for the period after the Transfer Date shall be refunded by the Purchaser against the Seller's demand for such payment or the date of Transfer, whichever occurs first.

10.4 **The Purchaser acknowledges that after the Transfer Date, development operations will be in progress on the Development and on the Greater Val de Vie Estate as indicated on Appendix 4 and that it may suffer inconvenience, noise and dust as a result thereof. The Purchaser waives all claims which it may acquire against the Seller arising from such inconvenience, noise or dust and, as a *stipulatio alteri* in favour of the Developer and/or the HOA, such claims are also waived by the Purchaser against the Developer and the HOA.**

INITIAL\_\_\_\_\_

10.5 Under no circumstances whatsoever shall the Seller be liable to the Purchaser for any loss, damage, liability, and expense suffered by the Purchaser pursuant to the Purchaser's occupation of the Property prior to the Transfer Date.

INITIAL\_\_\_\_\_

18

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

**10.6 The Purchaser shall indemnify and hold harmless the Seller and its employees, agents, contractors, successors and assigns from and against all loss, damage, liability, and expense arising from any claim brought against any such indemnified party by a third party as result of the Purchaser's occupation of the Property prior to the Transfer Date.**

INITIAL \_\_\_\_\_

## **11 THE BUILDINGS**

**11.1 It is recorded that the Seller is a "supplier" as defined in the CPA and that the Property is sold with an "implied warranty of quality" as provided for in section 56 of the CPA, being a warranty that the Property complies with the requirements and standards contemplated in section 55 of the CPA, which section 55 provides that the Purchaser has a right to receive the Property on the basis that –**

**11.1.1 it will be reasonably suitable for the purposes for which it is generally intended;**

**11.1.2 it is of good quality, in good working order and free of any defects;**

**11.1.3 it will be usable and durable for a reasonable period of time, having regard to the use to which the Property would normally be put and to all the surrounding circumstances of its supply except to the extent that the Buildings have been altered after having left the control of the Seller.**

**11.2 It is, however, (as provided for in section 55(6) of the CPA) recorded that–**

**11.2.1 the Purchaser has been expressly informed that the Property is offered to the Purchaser in the condition as it stands with certain patent (visible) defects and possible latent (invisible) defects; and**

**11.2.2 that the Seller has allowed the Purchaser a reasonable opportunity to examine the Property that the Purchaser has carefully inspected the Property and hereby expressly agrees to accept the Property in the condition that it stands or, if the Buildings still needs to be erected in terms of the provisions of this Agreement, the Purchaser agrees to accept the Property as it stands provided the Buildings are erected in a workmanlike fashion and in substantially in terms of the attached plans and specifications.**

INITIAL \_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

- 11.3 In the event of a dispute as to whether the Buildings have been erected in a workmanlike fashion and in substantially in terms of **Appendices 9 to 11**, the matter shall be referred to the Architect, acting as expert and not as arbitrator, who shall determine whether the Buildings have been erected in a workmanlike fashion and substantially in terms of the attached plans and specifications and if he determines that same is not the case, the Seller shall do everything required by the Architect until the Architect is satisfied that the Buildings have been erected in a workmanlike fashion and in substantially in terms of the **Appendices 9 to 11**.
- 11.4 If the Architect, after his first inspection, determines that the Buildings have been erected in a workmanlike fashion and substantially in terms of the attached plans and specifications, the Purchaser shall pay his costs, otherwise his costs shall be paid by the Seller.
- 11.5 In terms of the provisions of section 13(2) of the NHBRC Act, the Seller gives the following warranties to the Purchaser in respect of the Buildings –
- 11.5.1 the Buildings constructed or to be constructed in terms of this Agreement –
- 11.5.1.1 is or shall (if they still need to be erected in terms of this Agreement) be constructed in a workmanlike manner;
- 11.5.1.2 is or shall be fit for habitation; and
- 11.5.1.3 is or shall be constructed in accordance with –
- 11.5.1.3.1 the NHBRC Technical Requirements to the extent applicable to the Buildings at the date of enrolment of the Buildings with the Council; and
- 11.5.1.3.2 the plans and specifications hereunto annexed as **Appendices 9 to 11**;
- 11.5.2 The Seller shall –
- 11.5.2.1 subject to the limitations and exclusions that may be prescribed by the Minister of Housing, at the cost of the Seller and upon demand by the Purchaser, rectify major structural defects in the Buildings caused by the non-compliance with the NHBRC Technical Requirements and accruing within a period of 5 (five) years as from the Transfer Date, and notified to the Seller by the Purchaser within that period;

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

- 11.5.2.2 rectify non-compliance with or deviation from the terms, plans and specifications of the Agreement or any deficiency related to design, workmanship or material notified to the Seller by the Purchaser within a period of 3 (three) months as from the Transfer Date; and
- 11.5.2.3 repair roof leaks attributable to workmanship, design or materials occurring and notified to the Seller by the Purchaser within 12 (twelve) months as from the Transfer Date.
- 11.6 The Purchaser shall, within 30 (thirty) days of the Transfer Date notify the Seller in writing of all or any material faults or defects in the Buildings, failing which the Purchaser shall be deemed to have accepted the Buildings in good order and condition. The Seller shall accordingly be relieved of its obligations in terms of this clause if the Purchaser fails to notify the Seller during the aforesaid period of any faults or defects.
- 11.7 Within a reasonable time of receiving such written advice, the Seller shall cause all or any reasonable repairs as notified by the Purchaser to be effected as soon as is reasonably possible during normal working hours.
- 11.8 A certificate issued by the Architect stating that any defects for which the Seller is liable in terms of this clause 11 has been made good, shall be final and binding on the Parties and shall relieve the Seller from any further obligations whatever in respect of any such defect. Any installation work carried out by the Purchaser is expressly excluded from this clause

**12 VARIATIONS**

- 12.1 Should the Purchaser, after the Signature Date, require that the Buildings be varied and/or any extra work be carried out by the Seller, then such request shall be made in writing whereupon the Seller may (but is not obliged) to submit a written quotation in respect of the cost of such variations/extras.
- 12.2 On signature of the quotation by the Purchaser this Agreement will be deemed to be accordingly varied.
- 12.3 All costs arising from such variations/extras shall be paid by the Purchaser to the Seller prior to the Seller proceeding with such variations.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**13 ELECTRICAL COMPLIANCE CERTIFICATE**

- 13.1 The Seller shall provide the Purchaser at his own cost, on or before the date of occupation mentioned above, or the date of registration, with a certificate of compliance in accordance with the provisions of Government Regulation 2920 of 1992 issued in terms of the Machinery and Occupational Safety Act No. 6 of 1983 by an accredited person registered with the Electrical Contracting Board of South Africa, in a form acceptable to the supplier of electricity, certifying that the electrical installation on the property is in accordance with SABS 0142. Should the aforesaid person report that there is a fault or defect in the electrical installation, the Seller shall be obliged, at his own cost, within 21 (twenty one) days of receipt of such report and recommendations, to contract with an electrical contractor or any other person to issue the certificate of compliance. Should the certificate predate this Agreement, the Seller warrants that the certificate is valid in respect of all existing electrical installations on the Property.
  
- 13.2 The Seller undertakes to effect no alteration of whatever nature to the electrical installation in the Property hereby sold after the date of issue of the certificate.

**14 CONDITIONS OF PROPERTY, SERVITUDES AND REZONING**

- 14.1 Provided that the CPA does not apply to this Agreement, the Property is sold “voetstoots” to the Purchaser, subject to the provisions of clause 11 below.
  
- 14.2 The Parties acknowledge that they have not made any representations or warranties not expressly contained herein and they have not been influenced by any representations made by or on behalf of a Party to enter into this Agreement, save as expressly set out in this Agreement. No representations or agreements or warranties shall be binding unless expressly contained herein.
  
- 14.3 If upon the measurement of the Property the extent of the Property is found to be greater than the extent as set out in paragraph 4 of the Schedule, the Purchaser shall not be liable for any excess. Conversely, if the extent thereof is found to be less than the extent as set out in paragraph 4 of the Schedule, the Seller shall not be liable for any shortfall.
  
- 14.4 The Seller shall indicate to the Purchaser the beacons or boundary pegs of the Property prior to the Transfer Date and the Seller shall not be obliged again to indicate to the Purchaser or to locate the beacons or boundary pegs of the Property after the Transfer Date. The Purchaser furthermore acknowledges that he will satisfy himself as to the location of the boundary pegs or beacons and that same are an accurate reflection of the General Plans attached hereto as **Appendix 2** before date of Transfer.

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_  
**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

14.5 If the Property has been erroneously described herein, such mistake or error shall not be binding upon the Parties but the correct description, as agreed by the Parties, shall apply, and they shall effect rectification of this Agreement accordingly.

**14.6 The Parties acknowledge that the sub-divisional plans for the Development must still be finalised and accordingly the exact layout, nature and extent of the Property shall be finally determined by the land surveyor acting as an expert, whose determination shall be final and binding upon the Parties.**

INITIAL \_\_\_\_\_

**14.7 The Property is sold subject to the provisions of the Constitution, all such conditions as are mentioned and/or referred to in the title deed/s relating to the Property, all rights and encumbrances set out in the conditions of establishment and/or contained in the relevant township plan, such conditions as are or may hereafter be imposed by any local authority, including the conditions imposed in respect of the rezoning and/or subdivision of the Land.**

INITIAL \_\_\_\_\_

14.8 The Seller warrants that as at the Signature Date the Property is zoned as "*Residential Zone I*" and the rights attaching to such zoning in respect of the Development are specifically set out in the Guide, as attached hereto and marked **Appendix 8**.

14.9 The Purchaser acknowledges and agrees that it has satisfied itself as to the condition of the Property and it is accordingly agreed that the Seller shall not be required to level the Property or carry out any earthworks or landscaping in respect thereof.

**14.10 The Purchaser acknowledges that it is liable to do its own surveying of the Property at its own cost and that the Seller has indicated all trees on the Property to the Purchaser.**

INITIAL \_\_\_\_\_

14.11 The Purchaser undertakes to have the soil conditions on the Property independently appraised at its cost in order to obtain the most efficient and appropriate foundation design for any proposed structure on the Property. It is recorded that the ground conditions in the Development, of which the Property forms a part, vary in certain areas. The Purchaser hereby acknowledges that it will be its sole obligation to ensure that the ground foundation conditions are suitable for the relevant 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 by the Purchaser of any

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

buildings thereon. The Purchaser acknowledges that it has been advised that a geotechnical investigation of the Property is required to be done to ensure that the foundation design of any improvements on the Property is appropriate for the actual founding conditions which prevail.

- 14.12 The Purchaser acknowledges that compaction may be required on the Property due to infilling and that special precautions might be necessary to ensure safe development and construction on the Property.**

INITIAL\_\_\_\_\_

*[Clause 14.12 above is only applicable if the Property is situated along the Berg River, i.e. Erf 1671]*

- 14.13 The Purchaser acknowledges that it is aware of the location of the building line, the 1:50 flood line on the Property, as indicated on Appendix 3.**

INITIAL\_\_\_\_\_

- 14.14 The Purchaser acknowledges that it is responsible to rehabilitate the riparian zone on the Property (i.e. the area below the 1:50 flood line on the Property) at its own costs and in accordance with the provisions of the Guide.**

*[Only applicable if Property has a riparian zone, i.e. Erf 1671]*

INITIAL\_\_\_\_\_

- 14.15 The Purchaser hereby acknowledges that he is aware of the building restrictions applicable to the Property in that the building guidelines pertaining to height, boundary restrictions, distance from the access road and the like, attached hereto as Appendix 8 will be binding on the Purchaser and his successors-in-title.**

- 14.16 The Seller shall ensure that the electrical supply connection for the Property as set out in Appendix 5 hereto is installed on the Property as at the Transfer Date.**

- 14.17 The Purchaser shall, at its cost, be entitled to establish landscaping/gardens on the Property cost with effect from the Transfer Date, but the Purchaser acknowledges that the establishment of such gardens will be limited due to civil works on the Development, which will be ongoing after the Transfer Date.**

- 14.18 The Seller shall be entitled to register such servitudes across the Property and Development as may be necessary for the purposes of the installation of**

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_



services, including, *inter alia*, gas, electricity, telephone, television, sewerage, storm water drainage, solid waste removal and water supply.

INITIAL \_\_\_\_\_

## 15 HOMEOWNERS' ASSOCIATION

15.1 The Purchaser acknowledges that the Property will fall under the jurisdiction of the HOA, which HOA has been established for the benefit of, *inter alia*, all of owners of erven in the Development and the rest of the Val de Vie 1 Estate and to control and maintain roads, services and amenities within the Development and the rest of the Val de Vie 1 Estate. The Seller has accordingly furnished the Purchaser with a copy of the HOA's constitution.

INITIAL \_\_\_\_\_

15.2 The Purchaser agrees to be bound by the constitution of the HOA.

INITIAL \_\_\_\_\_

15.3 The HOA shall be responsible for the duties imposed by the Constitution and for which all members of the HOA will contribute a levy to be determined by the HOA from time to time.

15.4 The Purchaser shall be and remain a member of the HOA for as long as he is the registered owner of the Property and –

15.4.1 undertakes to familiarise himself with the contents of the Constitution and acknowledges that he is aware of the impact it will have on him and other owners of property within the Development;

15.4.2 shall comply with (and ensure that all occupants of the Property and his employees, agents, contractors and guests comply with) the provisions of the Constitution;

15.4.3 confirms that he understands that the engineering services provided in the Development are private in nature and that the HOA will be responsible for the maintenance and sub-metering of such services; and

15.4.4 **shall be responsible for and pay promptly on due date all levies and other charges as may be payable to the HOA in accordance with its Constitution.**

INITIAL \_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

15.5 The Purchaser acknowledges and agrees that no Improvements may be effected by the Purchaser other than by a Contractor, it being recorded that in terms of the Constitution the Developer or the HOA shall designate a list of Contractors who will be allowed to do building work of whatever nature and effect Improvements in the Development.

INITIAL\_\_\_\_\_

15.6 The Purchaser further acknowledges that it will have no claim for damages or loss against the Developer or the HOA, arising from whatever cause as a result of any acts or omissions of the Contractor and hereby indemnifies the Developer and the HOA against any claim from any third party arising from the construction of such Improvements.

INITIAL\_\_\_\_\_

15.7 The Seller records that 5% (five percent) of the levies that the Purchaser shall pay to the HOA from time to time shall be paid by the HOA to the Val de Vie Foundation, a foundation established with the sole aim of providing assistance to the disadvantaged communities in the Winelands area surrounding the Development, and the Purchaser consents to such contribution being made to the aforesaid foundation.

INITIAL\_\_\_\_\_

15.8 The Purchaser agrees that 1% (one percent) of the purchase price of the Property (or if there is no purchase price paid or payable, then 1% (one percent) of the fair market value of the Property) when it is sold by the Purchaser to a third party up to a maximum of R116,480 (one hundred sixteen thousand four hundred eighty Rand) per sale transaction will be paid by the Purchaser (as seller of the Property) to the HOA as an exit levy. The aforesaid amount payable to the HOA will form part of the clearance to be obtained from the HOA in respect of registration of transfer of the Property in the name of such third party purchaser and it shall be allocated by the HOA towards its reserve levy fund and shall only be utilised by the HOA for the benefit of the home owners in the Greater Val de Vie Development. The provisions of this clause 15.8 in relation to the payment of the said amount payable to the HOA by the Purchaser shall not apply in the event of a Distressed Sale.

INITIAL\_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

**15.9 The amount payable to the HOA in terms of clause 15.8 can be adjusted annually by the HOA in accordance with the provisions of the Constitution, provided such increase shall not be more than prevailing rate of inflation in South Africa at the time of such increase.**

**INITIAL\_\_\_\_\_**

15.10 The Purchaser agrees that the HOA shall be entitled to make rules with regard to the use and enjoyment of facilities forming part of the Development, including in particular and without limiting the generality of the foregoing, with regard to –

15.10.1 the preservation of the natural environment including vegetation and flora and fauna on the land comprising the Development;

15.10.2 the maintenance and upkeep of any agricultural areas in the Development;

15.10.3 the use and allocation of private parking areas on the private open spaces for owners of property forming part of the Development, including their guests;

15.10.4 the use of recreation and entertainment areas and amenities and facilities;

15.10.5 the storage of flammable and other harmful substances;

15.10.6 the conduct of any person and the prevention of nuisance of any nature of the owner of any property forming part of the Development;

15.10.7 the introduction of traffic calming measures;

15.10.8 the introduction and maintenance of security facilities;

15.10.9 the imposition of fines and other penalties that may be payable by and enforced against members of the HOA; and

15.10.10 generally, such other matters as may be necessary for the harmonious and beneficial use and enjoyment of the Development.

**15.11 The Purchaser acknowledges that it is aware that the HOA will be liable for the maintenance and upkeep of the services infrastructure, street lights and roads in the Development.**

**INITIAL\_\_\_\_\_**

**INITIAL Witness 1: \_\_\_\_\_**

**INITIAL Seller: \_\_\_\_\_**

**INITIAL Witness 2: \_\_\_\_\_**

**INITIAL Purchaser: \_\_\_\_\_**

**16 ADVERTISING ON THE COMMON PROPERTY**

- 16.1 The Seller shall be entitled at any time to erect such signage, flagpoles, messages or any other form of notices or advertising on the Development for the purposes of selling and/or letting of properties in the Development.
- 16.2 The Purchaser shall not be entitled to display any "For Sale" and/or "To Let" signs on the Property or the Development.

**17 RESTRICTION AGAINST ALIENATION**

**17.1 Until the Purchaser has complied with all of its obligations in terms of this Agreement, the Purchaser shall not be entitled to sell the Property to any third party, without the prior written consent of the Seller and its successors-in-title and/or the HOA, as the case may be and unless the Purchaser and/or transferee of the Property agrees in writing to observe the terms and conditions of this Agreement and in which event the Seller may charge a fee in respect of such resale for documentation, vetting of purchaser, obtaining legal advice, administration fee, etc in an amount not exceeding 2% (two percent) of the resale price.**

**INITIAL\_\_\_\_\_**

- 17.2 It is further recorded and agreed that should the Purchaser be a –
  - 17.2.1 company, the alienation by a shareholder of any of his shares in the Purchaser, including his beneficial ownership thereof; or
  - 17.2.2 close corporation, the alienation by a member of any percentage of his member's interest in the Purchaser; or
  - 17.2.3 trust, the alienation by a beneficiary of any of his beneficial interest in the Purchaser,

shall be deemed to be an alienation of the Property for purposes of clause 17.1.

17.3 The Property may not be sold, transferred, leased or otherwise alienated or disposed of to any person other than in accordance with the provisions of the Constitution.

**INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_**

**INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_**

**18 IMPROVEMENTS TO PROPERTY**

- 18.1 The Property shall be maintained and all Improvements thereon shall be erected and maintained in accordance with the requirements of the Constitution and to the satisfaction of the HOA.
- 18.2 All Improvements to the Property, including any alterations to existing Improvements, shall be carried out in accordance with building plans approved by the HOA.
- 18.3 The plans of all buildings, boundary walls or other structures to be erected on the Property shall comply with any architectural guidelines prescribed by the HOA, as amended by the HOA, from time to time.
- 18.4 The Purchaser acknowledges that it is fully aware and satisfied with the contents of the Guide.
- 18.5 All plans must be submitted to the HOA for its approval prior to submission to the Drakenstein Municipality for its approval. A fee for the scrutinising and approval of such plans by the HOA will be payable by the Purchaser. Such fees for scrutinising work done by the HOA will be determined by them from time to time.
- 18.6 Building operations on the Property, including any alterations to existing improvements on the Property, may not commence before the written consents of the HOA and local authority have been endorsed on the Purchaser's building plan.
- 18.7 Any amendments and/or variations to the building plans may only be undertaken by the Purchaser with the HOA and local authority's prior written consent, which consent shall not be unreasonably withheld.
- 18.8 It is agreed that the foregoing and any architectural guidelines prescribed by the HOA may be included in the title deed of the Property.
- 18.9 The Purchaser acknowledges and agrees that it shall ensure that all of its visitors, invitees, employees, representatives and/or contractors comply with the provisions of the Constitution.
- 18.10 The Purchaser shall grant the Seller's and/or the HOA's representatives access to the Property in order to ensure compliance with the provisions of this clause 18.
- 18.11 The Purchaser shall grant the Seller's and/or the HOA's representatives access to the Property in order to ensure compliance with the provisions of this clause 18.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**19 TITLE DEED CONDITIONS**

19.1 The Seller and/or its successors in title shall be entitled to ensure that in addition to all the conditions of title, conditions of sub-division and servitudes, the following conditions of title be included in any title deed in terms of which a Purchaser and/or its successor in title obtain transfer of the Property –

1. *“The within property may not be sold or transferred, mortgaged or encumbered without the prior written consent of the **VAL DE VIE WINELANDS LIFESTYLE ESTATE HOMEOWNERS' ASSOCIATION**, which consent shall not be unreasonably withheld and every transferee and his successors-in-title shall automatically become and remain a member of the **VAL DE VIE WINELANDS LIFESTYLE ESTATE HOMEOWNERS' ASSOCIATION** and be subject to its Constitution until it ceases to be owner as aforesaid.*

2. *Only a single storey dwelling may be constructed on the Property.*

3. *The Property shall require compaction due to infilling and special precautions will be necessary to ensure safe development of the Property.*

***[Point 3 above shall only apply if the Property is situated on the Berg River, i.e. Erf 1671]***

4. *Every owner of the erf or any subdivision thereof or any interest therein shall be obliged to –*

a. *develop the erf within a period of 24 (twenty four) months from the date of the first owner’s possession of the erf by the erection of a dwelling house and outbuildings thereon within and in accordance with the requirements of its Constitution and architectural guidelines prescribed by the **VAL DE VIE WINELANDS LIFESTYLE ESTATE HOMEOWNERS' ASSOCIATION** from time to time;*

b. *complete all building works as aforesaid within 36 (thirty six) months after the date of registration of transfer of the erf into the name of the first owner thereof.*

5. *The owner of the erf or any subdivision thereof or any interest therein shall not be entitled to dispose of the property prior to the completion of the building works referred to above without the prior written consent of the transferor or its successor in title.”*

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**20 RIGHTS AND OBLIGATIONS OF THE SELLER**

- 20.1 The Seller is entitled to utilise any one or more of its unsold houses/buildings on the Development until all the erven in the Development have been sold as a sales office and/or a show house and/or temporary functional clubhouse.
- 20.2 The Seller shall develop and market the Development in phases (as the Seller deems fit) and, for as long as the Seller is a member of the HOA, the Seller shall enjoy unrestricted rights with regard to the marketing of the Development and, in particular, the right to erect signage within and outside of the Development.
- 20.3 With regards to facilities situated on the Development and the Val de Vie 1 Estate, the Purchaser shall be entitled to access to the facilities and land forming part of the Development and the Val de Vie 1 Estate subject to conditions of membership or other rules laid down by the owners of such land or the HOA or any other relevant homeowners association and this will include –
  - 20.3.1 the right to become a member of the polo club, subject to such club's rules and constitution, including the obligation to pay membership fees as determined by the club; and
  - 20.3.2 the right of reasonable access to the farm land along servitudes created in favour of the HOA, subject to the rules laid down by the relevant owner thereof.
- 20.4 The Seller has reserved the right and is entitled to build and establish on the Development other amenities and facilities as it in its sole discretion deems fit. The Seller shall in its sole discretion, be entitled to establish such aforementioned amenities and facilities on any portion of the Development with the approval of the local or relevant authority and operate same for its own benefit, separate and independent from the remainder of the Development.
- 20.5 With regards to facilities situated on the so-called Greater Val de Vie Estate adjacent to the Development, the Purchaser shall be entitled to access to the facilities and land forming part of the Greater Val de Vie Estate subject to conditions of membership or other rules laid down by the owners of such land or the relevant homeowners' associations having jurisdiction over the land forming part of the Greater Val de Vie Estate or any other relevant homeowners association and such access and usage shall at all times be at the discretion of the relevant owners of such facilities and land and the relevant homeowners' associations having jurisdiction in respect thereof.
- 20.6 **The Seller, or its successors-in-title shall, be entitled to apply for, and subject to the necessary approval being granted by the local authority, vary the layout**

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

and/or zoning and/or size and/or boundaries of erven and/or the extent and position of streets comprising the Development, provided that the Seller shall do so in consultation with the Purchaser if any such variation shall materially adversely affect the rights of the Purchaser and shall be bound thereby and shall have no claim of whatsoever nature against the Seller or its successors-in-title arising therefrom.

INITIAL\_\_\_\_\_

## 21 THE GYMNASIUM AND OTHER RECREATIONAL FACILITIES

- 21.1 The Purchaser shall be entitled to make use of current and future gymnasiums situated on the Val de Vie 1 Estate and agrees to use the gymnasiums in accordance with the rules formulated from time to time regarding the usage of the gymnasiums.
- 21.2 No entrance fee shall be payable for such membership. Membership fees for such gymnasiums and other recreational facilities will be included in the levies payable by the Purchaser to the HOA, but this shall at all times subject to the provisions of the Constitution from time to time.
- 21.3 The Purchaser shall be entitled to make use of current and future recreational facilities situated on the Development and on the Val de Vie 1 Estate and agrees to use such facilities in accordance with the rules formulated from time to time regarding the usage thereof, subject at all times to the provisions of clause 22.5 below.

## 22 ACKNOWLEDGEMENTS

- 22.1 The Purchaser acknowledges that –
- 22.1.1 the Development is adjacent to the Val de Vie 1 Estate;
- 22.1.2 it is aware that the land comprising the Development and the land comprising the Val de Vie 1 Estate adjoins an operating farm. The Purchaser hereby acknowledges that it may be exposed to such associated activities which may accordingly result in an amount of inconvenience;
- 22.1.3 equestrian and recreational activities will potentially take place on the private open spaces forming part of the Val de Vie 1 Estate. Game farming activities will potentially also take place on the aforesaid spaces and on the Val de Vie 1 Estate. The Purchaser hereby acknowledges that it may accordingly be exposed to such associated activities which may result in an amount of inconvenience;

INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_



22.1.4 it is aware that the Seller shall develop and market the Development in phases (as the Seller deems fit). The Purchaser hereby acknowledges that it may accordingly be exposed to such associated activities which may result in an amount of inconvenience and specifically agrees not to interfere with or obstruct the Seller from proceeding with the Development in phases or to lodge an objection with any competent authority in respect of any such phased development. In particular, but without derogating from the generality of the foregoing the Purchaser agrees that he will not object to any application made by or on behalf of the Seller for special usage consent, licences for shopping, commercial, rezoning, removal of conditions of title under the Removal of Restrictions Act or by way of an application to Court or to any local or other competent authority in respect of any property within the Development; and

22.1.5 the owners of land surrounding the Property will be erecting buildings and other structures thereon which may block or otherwise interfere with the views from the Property and the Purchaser specifically agrees that he shall have no right to object to the construction of any building or other structure which blocks or otherwise interferes with the views, as aforesaid, nor will he have a claim for diminution in value of the Property arising out of any interference with the views from the Property by reason of the construction of any such buildings and/or structures.

**22.2 In addition to the aforesaid acknowledgements, the Purchaser hereby accepts and agrees that it will be exposed to the aforesaid activities which may result in an amount of inconvenience.**

**INITIAL\_\_\_\_\_**

22.3 The Seller further records that the Seller may in future apply for further or amended use rights in respect of their respective developments, including but not limited to single residential, group housing, townhouses, hotel use, religious use rights, business/commercial, restaurants, theatre facility/ies, sport, light industrial and educational use rights. The Purchaser hereby consents to such use rights and agrees not to object or to oppose to any application which may be made by the Seller to the local or competent authority concerned in this regard.

**22.4 The Purchaser acknowledges that he understands that the Seller makes no representations regarding the aforementioned developments or facilities and that the purpose of the inclusion of the aforementioned clauses into this Agreement is merely in order to bring potential inconvenience to the Purchaser's attention, and the Seller shall not be obliged or bound to proceed with the uncompleted**

**INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_**

**INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_**

phases of the Development but may do so in stages or phases and within periods in the Seller's sole discretion.

INITIAL \_\_\_\_\_

22.5 The Purchaser hereby waives any claim of any nature against either of the Seller, its agents, employees and officials from any liability or responsibility to the Purchaser or any other person, claiming through it by way of subrogation or otherwise, for any loss or damage to the Purchaser's property or the property of any of its visitors, agents, employees, representatives or invitees as a result of the activities contemplated in clauses 21.2 and 22.1 above, regardless of how such loss or damage may occur, even if such damage or loss may have been caused by the negligence of the Seller, its agents, employees or officials.

INITIAL \_\_\_\_\_

### 23 AGENT'S COMMISSION

23.1 The Purchaser warrants that the Agent was the effective cause of the sale and indemnifies and holds the Seller harmless against any claim (including all legal costs on attorney and own client scale incurred by the Seller in connection therewith) which may be made by any other agent in respect of any commission arising out of the sale of the Property to the Purchaser.

INITIAL \_\_\_\_\_

23.2 The Seller shall pay the Commission to the Agent directly, which payment shall be made by the Seller after Transfer.

23.3 The Agent hereby warrants the validity of his Fidelity Fund Certificate as at the Signature Date, to the extent that the Property Practitioners Act may be applicable.

23.4 To the extent that the Property Practitioners Act is found to be applicable to the Seller, the Seller shall (as soon as reasonably practicable) obtain a Fidelity Fund Certificate.

23.5 In the event that this Agreement is cancelled by the Seller as a result of the Purchaser's breach thereof or if this Agreement is rescinded by the Purchaser as contemplated in clause 30.2, the Agent shall have no claim against the Seller for the payment of the Commission and in such event the Purchaser agrees to pay the Agent the Commission immediately on demand by the Agent.

INITIAL \_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

23.6 If no Agent is reflected in paragraph 5 of the Schedule, the Purchaser warrants that he was not introduced to the Seller by any agent and hereby agrees to indemnify the Seller against any claim (including all legal costs on attorney and own client scale incurred by the Seller in connection therewith) made by an agent for commission as a result of the transaction contemplated in this Agreement.

INITIAL\_\_\_\_\_

## 24 BREACH

24.1 In the event of either of the Parties hereto ("**the Defaulting Party**") committing a breach of any of the provisions of this Agreement, then the Party not in default ("**the Aggrieved Party**") shall be entitled to give the Defaulting Party 7 (seven) days written notice to remedy such breach. Should the Defaulting Party fail to comply with such notice, the Aggrieved Party shall be entitled, without prejudice to any other rights that it may have in law, at its option either to -

24.1.1 cancel this Agreement and claim damages or to claim immediate payment and/or;

24.1.2 claim immediate performance by the Defaulting Party of all the Defaulting Party's obligations and claim damages.

24.2 In any such event and on condition that the Defaulting Party is the Purchaser, any amounts paid by the Purchaser shall accrue to the Seller as damages without prejudice to the right of such seller to claim further damages or to such other remedies as it may have by law.

INITIAL\_\_\_\_\_

24.3 Should the Aggrieved Party instruct its attorneys to take any steps against the Defaulting Party to enforce any of the Aggrieved Party's rights in terms of this Agreement or to claim payment of any monies payable in terms of this Agreement, the Defaulting Party shall be liable for payment of all tracing fees, collection fees and other legal costs on the scale of attorney and own client.

## 25 COMPANY, CLOSE CORPORATION, TRUST AS PURCHASER

25.1 If the Purchaser purchases the Property as representative of a third party and fails to disclose the name of his principal and furnish written proof of his mandate to the Seller on the Signature Date and/or the Seller is not supplied with proof to its satisfaction that the representative's principal has ratified this Agreement on the Signature Date, the representative will be personally liable for all the obligations of the Purchaser in terms

35

INITIAL Witness 1: \_\_\_\_\_ INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_ INITIAL Purchaser: \_\_\_\_\_

of this Agreement, and the Agreement will be regarded as having been entered into in the personal capacity of the person who signed this Agreement as Purchaser or on behalf of the Purchaser.

25.2 Should this Agreement be signed by a person entering into this Agreement as trustee or agent for a company to be incorporated as the Purchaser in terms hereof -

25.2.1 such company shall be duly incorporated within 30 (thirty) days of signature hereof by the Purchaser;

25.2.2 such company shall duly adopt, ratify and render itself bound by this Agreement within 5 (five) days after the date of incorporation of the company;

25.2.3 the provisions of the Companies Act applicable to pre-incorporation contracts, must be duly and properly complied with; and

25.2.4 the person so signing this Agreement shall be deemed to have entered into this Agreement as Purchaser in his personal capacity should the provisions of clause 25.2.1 to 25.2.3 above not be complied with strictly in accordance with applicable legislative provisions concerning incorporation and pre-incorporation contracts.

**25.3 The person signing this Agreement on behalf of any company or company to be formed, close corporation or trust, as aforesaid, shall be liable, jointly and severally, with the Purchaser to the Seller as surety and co-principal debtor for all the obligations of the Purchaser to the Seller arising out of or in connection with this Agreement and, provided that the CPA does not apply to this Agreement, renounces the benefits of excussion and division.**

INITIAL\_\_\_\_\_

## **26 ADDRESSES FOR RECEIVING NOTICES**

26.1 The Parties choose as the address for receiving any notices or legal process in terms of this Agreement, their respective addresses set out in the Schedule for all purposes arising out of or in connection with this Agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

26.2 Should any Party at any time wish to change its abovementioned physical address and/or postal address, written notice of such change shall be delivered to or sent by registered post to the other Party provided that such changed physical address or postal address shall be a physical address or postal address within the Republic of

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

South Africa and provided further that such change shall only be effective as from the date of receipt of such notice or such later date as may be stipulated in such notice.

- 26.3 Any notice given in terms of this Agreement shall be in writing and shall –
- 26.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
  - 26.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8<sup>th</sup> (eighth) day following the date of such posting;
  - 26.3.3 if transmitted by facsimile be deemed to have been received by the addressee on the day following the date of despatch;
  - 26.3.4 if transmitted by electronic mail message be deemed to have been delivered to and received by the addressee upon receipt of an automated acknowledgement of receipt by the addressee or any conduct of the addressee sufficient to indicate to the sender that the electronic mail message has been received,
- unless the contrary is proved.

26.4 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from another, including by way of facsimile transmission, shall be adequate written notice or communication to such Party.

## 27 DISPUTE RESOLUTION

- 27.1 Any Party may, after written notice to this effect, refer any dispute arising from the terms of this Agreement to arbitration to be determined in terms of this clause 27 in accordance with the Expedited Rules of the Arbitration Foundation of Southern Africa (“AFSA”), subject to the provisions of clause 11.3 above.
- 27.2 This clause shall not prevent any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of an arbitrator.
- 27.3 The Parties hereby consent to the arbitration being dealt with on an urgent basis in terms of the Rules of AFSA should either Party, by written notice, require the arbitration to be held on an urgent basis. In such event either Party may apply to the AFSA Secretariat as required in terms of the said Rules to facilitate such urgent arbitration.
- 27.4 The arbitration shall be held –

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

- 27.4.1 at Cape Town;
- 27.4.2 with only the legal and other representatives of the Parties to the dispute present thereat; and
- 27.4.3 otherwise in terms of the Arbitration Act, unless otherwise provided for herein.
- 27.5 The arbitrator shall be a practising advocate of the Cape Bar of at least ten years' standing, appointed by agreement between the parties to the dispute, subject to clause 27.6.
- 27.6 Should the Parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of clause 27.1, the arbitrator shall be appointed by the Chairperson of the Cape Bar Council (or by AFSA if the Cape Bar Council no longer exists), at the request of either Party to the dispute.
- 27.7 The Parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to in clause 27.8.
- 27.8 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the court referred to in clause 27.7, at the instance of any of the parties to the dispute.
- 27.9 The Parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.
- 27.10 It is recorded that it is the intention of the Parties, that any dispute referred to arbitration in terms of clause 27.1 shall be resolved strictly in accordance with the provisions of this clause 27. The Parties accordingly agree and undertake as follows -
- 27.10.1 that it shall not make any application to Court as contemplated in terms of section 3(2) of the Arbitration Act;
- 27.10.2 that it shall not make any application as contemplated in terms of section 20(1) of the Arbitration Act; and
- 27.10.3 the periods set out in section 23 of the Arbitration Act shall not be applicable to any arbitration proceedings arising out of this Agreement.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**28 FURTHER DOCUMENTS**

**Notwithstanding anything to the contrary contained in this Agreement, the Purchaser acknowledges and declares, by affixing his signature hereto, he has studied the undermentioned documents and that he is satisfied with the contents thereof and accepts that this Agreement will be subject to the provisions thereof, namely:**

- 28.1 the Constitution;**
- 28.2 the Guide;**
- 28.3 the Infrastructure Plans;**
- 28.4 the Greater Estate Master Plan; and**
- 28.5 the Landscaping Site Development Plan.**

**INITIAL\_\_\_\_\_**

**29 GENERAL**

29.1 Each of the provisions of this Agreement is separate and severable and enforceable accordingly. If any such term or condition is or becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition contained in this Agreement.

29.2 The expiration, cancellation or other termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after such expiration, cancellation or other termination or which of necessity must continue to endure after such expiration, cancellation or other termination, notwithstanding that the relevant clause may not expressly provide for such continuation.

29.3 If the operation of this Agreement is suspended or conditional upon the happening of any event and if any obligation or restriction imposed on the parties or any of them is clearly intended to be implemented and given effect to notwithstanding the fact that this Agreement in its entirety may at that time not yet be unconditional, then the relevant obligation or restriction shall nevertheless apply and be given effect to, and the relevant provisions shall create binding obligations on the parties.

29.4 Provided that the CPA does not apply to this Agreement, the Parties agree that this Agreement constitutes the entire agreement between the Parties as to the subject matter hereof and save as may be expressly set out herein, no agreements,

**INITIAL Witness 1: \_\_\_\_\_**

**INITIAL Seller: \_\_\_\_\_**

**INITIAL Witness 2: \_\_\_\_\_**

**INITIAL Purchaser: \_\_\_\_\_**

representations or warranties between the Parties regarding the subject matter hereof other than those set out herein are binding on the Parties.

29.5 No indulgence, leniency or extension of time which any Party may give or allow to the other Party in respect of the performance of any obligation hereunder, shall in any way prejudice the Party giving or allowing the indulgence, leniency or extension or preclude such Party from exercising any of its rights an enforcing the obligations of the other Party in terms of this Agreement.

29.6 No addition to, alteration, cancellation, variation or novation of this Agreement and no waiver of any right arising from this Agreement 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.

29.7 The Seller shall be entitled to cede, assign or delegate any of his rights and/or obligations in terms of or arising from this Agreement to any third party without the prior written consent of the Purchaser and the Purchaser further agrees, notwithstanding anything to the contrary contained in this Agreement, the Seller shall have the right to sell the Development to a third party without first having to obtain the consent of the Purchaser.

**29.8 The Purchaser shall not be entitled to cede, assign or delegate any of his rights and/or obligations in terms of or arising from this Agreement to any third party without the prior written consent of the Seller.**

INITIAL\_\_\_\_\_

### 30 CONSUMER PROTECTION ACT

**30.1 The Purchaser confirms that it has considered all of the clauses in terms whereof he, amongst other things, limit the liability of the Seller or any other person and acknowledges any fact, in detail. The Parties further acknowledge that none of the terms of this Agreement should be construed as an acknowledgement that the CPA applies to this transaction in circumstances where the CPA would not have been applicable to the transaction.**

INITIAL\_\_\_\_\_

**30.2 In so far as section 16 of the CPA applies to the provisions of this Agreement and in so far as this sale has resulted from direct marketing by the Seller or its agents, the Purchaser has the right to cancel this Agreement without reason or penalty by written notice within 5 (five) Business Days after the Signature Date,**

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_



or within 5 (five) Business Days after Transfer. If the Purchaser exercises its rights in terms of section 16 of the CPA –

30.2.1 the Purchaser shall return the Property, together with vacant occupation, to the Seller within 10 (ten) Business Days of Transfer in the same condition in which it was given to the Purchaser. The return of the Property shall be at the Purchaser's risk and expense and shall include the costs of transfer (such as transfer duty or VAT, conveyancing fees and other costs associated with returning ownership of the Property);

30.2.2 the Purchaser shall be liable to the Seller for any expenses necessary to restore and repair any damage to the Property; and

30.2.3 the Seller shall return all payments made by the Purchaser on account of the Purchase Price within 15 (fifteen) Business Days from the date on which the Purchaser returns the Property as contemplated in clause 30.2.1, provided that the Seller may deduct from the aforesaid payments such amounts as the Seller deems necessary for the restoration and repair referred to in clause 30.2.2.

INITIAL\_\_\_\_\_

30.3 The Purchaser acknowledges that in terms of the CPA he has the right to receive goods, in this case the Property, that:

30.3.1 are reasonably suitable for the purposes for which the goods are generally intended;

30.3.2 are of good quality, in good working order and free of defects; and

30.3.3 comply in general with the requirements and standards contemplated in section 55 of the CPA,

and accordingly, the Purchaser declares and acknowledges that when requested to do so prior to date of Transfer, the Purchaser will satisfy himself that taking into account the usage of the Property for residential purposes, the provisions of the CPA are complied with to the extent applicable.

INITIAL\_\_\_\_\_

30.4 If and to the extent applicable, for the purposes of the CPA, the Purchaser and the signatory on its behalf (where applicable), after due consideration, by his signature of this Agreement acknowledge and agree that -

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

30.4.1 he has entered into this Agreement freely and voluntarily and that no circumstances exist for his alleging either now or at any future time that he was at a disadvantage in agreeing to the terms and conditions contained herein or was in anything other than an equal bargaining position with the Seller agreeing to such terms and conditions as are contained herein;

30.4.2 he has done his own investigations whether to enter into this Agreement or not without any undue influence, pressure, duress, harassment or unfair tactics from the Seller;

30.4.3 he understands the content, significance and import of this Agreement without undue effort, having regard to –

30.4.3.1 the context, comprehensiveness and consistency of the Agreement;

30.4.3.2 the organisation, form and style of the Agreement;

30.4.3.3 the vocabulary, usage and sentence structure of the Agreement; and

30.4.3.4 the use of any illustrations, examples, headings or other aids to reading and understanding.

INITIAL \_\_\_\_\_

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

**CLIENT INVESTMENT MANDATE**  
**INSTRUCTION TO INVEST TRUST MONEYS**

*Section 86(4) of the Legal Practice Act (No 28 of 2014) (as amended)*

**[DELETE WHICHEVER IS NOT APPLICABLE]**

To: **HAYES INCORPORATED**  
Attorneys, Notaries & Conveyancers  
Cape Town

**TRANSFER**

**FROM:** Keysha Investments 213 (Pty) Ltd

**Registration number:** 2007/022692/07

**TO: PURCHASER 1:** \_\_\_\_\_  
(Purchaser full name)

**Registration / ID Number:** \_\_\_\_\_

**PURCHASER 2:** \_\_\_\_\_  
(Purchaser full name)

**Registration / ID Number:** \_\_\_\_\_

**OF:** **ERF** \_\_\_\_\_ **Val de Vie**  
(Property description)

I/We, the undersigned, being the Transferee in the abovementioned transaction, hereby confirm our instructions to Hayes Incorporated to invest with Investec all funds paid to Hayes Incorporated on account of the purchase price, on the basis that:

1. the amount is invested in a trust savings account or other interest-bearing account;
2. the account contains a reference to Section 86(4) of the Legal Practice Act (No 28 of 2014) (as amended);
3. the interest which accrues on such investment is to be for my/our benefit and is to be paid to me/us, after deducting your professional fee and costs for administering the investment, as soon as possible after the date of registration of the above-mentioned transaction, subject to the provisions of Section 86(5)(b) of the Legal Practice Act, which requires all banks to sweep 5% of interest earned on Section 86(4) investment accounts and to pay such amount over on a monthly basis to an account nominated by the Legal Practitioners Fidelity Fund.

**INITIAL Witness 1:** \_\_\_\_\_ **INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_ **INITIAL Purchaser:** \_\_\_\_\_

4. I/we acknowledge that the agent is entitled to levy a professional fee and cost for administering the investment, which fee will be levied as a flat percentage of the interest earned on the invested monies, depending on the size and/or nature of the deposit held
5. the capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.
6. I/we am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.

\_\_\_\_\_  
**PURCHASER 1**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**PURCHASER 2**

\_\_\_\_\_  
**DATE**

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

GENERAL PLANS

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

INFRASTRUCTURE PLANS

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

GREATER ESTATE MASTER PLAN

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

ELECTRICAL SUPPLY CONNECTION

\_\_\_\_\_ ampere \_\_\_\_\_ phase electrical supply connection to be installed by the Seller on the Property

*[Note: to be completed on signature on the basis that erven located in the Eastern Precinct of the development will have an **80 ampere single phase connection** and those located in the River Precinct of the Development will have an **80 ampere 3 phase connection**]*

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_



LANDSCAPING SITE DEVELOPMENT PLAN

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_

CPA ACKNOWLEDGEMENTS

1. The Purchaser confirms that:

(a) he has read this Agreement and understands the contents thereof

YES/NO

(b) the Property was not introduced to him by means of direct marketing

YES/NO

(c) he is aware and understands his rights to the cooling-off period after direct marketing

YES/NO

(d) the Purchaser is a juristic person (Company, Close Corporation, Trust, Partnership, etc.)

YES/NO

(e) if the Purchaser's answer to clause (d) above is YES, on date hereof its annual turnover or asset value is more than R2,000,000 (Two Million Rand)

YES/NO

*(the above clause (e) is not applicable if Purchaser is a natural person)*

(f) he has purchased and will use the Property only for residential purposes

YES/NO

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**THE GUIDE**

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**FLOOR PLAN**

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**SCHEDULE OF FINISHES**

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

**OPTIONAL EXTRAS**

*(Delete if not applicable)*

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

MANDATORY PROPERTY PRACTITIONERS ACT DISCLOSURE

**IMMOVABLE PROPERTY CONDITION REPORT IN RELATION TO THE SALE OF ANY  
IMMOVABLE PROPERTY**

1. Disclaimer

This condition report concerns the Property. This report does not constitute a guarantee or warranty of any kind by the Seller or by the Agent. This report should, therefore, not be regarded as a substitute for any inspections or warranties that the Purchaser may wish to obtain prior to concluding this Agreement in respect of the Property.

2. Definitions

In this form -

- a. **“to be aware”** means to have actual notice or knowledge of a certain fact or state of affairs; and
- b. **“defect”** means any condition, whether latent or patent, that would or could have a significant deleterious or adverse impact on, or affect, the value of the Property, that would or could significantly impair or impact upon the health or safety of any future occupants of the Property or that, if not repaired, removed or replaced, would or could significantly shorten or adversely affect the expected normal lifespan of the Property.

3. Disclosure of information

The Seller discloses the information hereunder in the full knowledge that, even though this is not to be construed as a warranty, the Purchaser may rely on such information when deciding whether, and on what terms, to purchase the Property. The Seller hereby authorises the Agent marketing the Property for sale to provide a copy of this statement, and to disclose any information contained in this statement, to any person in connection with any actual or anticipated sale of the Property.

4. Provision of additional information

The Seller represents that to the best of his or her knowledge the responses to the statements in respect of the Property contained herein have been accurately noted as "yes", "no" or "not applicable". Should the Seller have responded to any of the statements with a

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

"yes", it shall be obliged to provide, in the additional information area of this form, a full explanation as to the response to the statement concerned.

5. Statements in connection with Property

	YES	NO	N/A
The Seller is aware of the defects in the roof.			
The Seller is aware of the defects in the electrical systems.			
The Seller is aware of the defects in the plumbing system, including in the swimming pool (if any).			
The Seller is aware of the defects in the heating and air conditioning systems, including the air filters and humidifiers.			
The Seller is aware of the defects in the septic or other sanitary disposal systems.			
The Seller is aware of any defects to the Property and/or in the basement or foundations of the Property, including cracks, seepage and bulges. Other such defects include, but are not limited to, flooding, dampness or wet walls and unsafe concentrations of mould or defects in drain tiling or sump pumps.			
The Seller is aware of structural defects in the Property.			
The Seller is aware of boundary line dispute, encroachments or encumbrances in connection with the Property.			
The Seller is aware that remodelling and refurbishment have affected the structure of the Property.			
The Seller is aware that any additions or improvements made to or any erections made on the property, have been done or were made, only after the required consents, permissions and permits to do so were properly obtained.			
The Seller is aware that a structure on the Property has been earmarked as a historic structure or heritage site.			

<b>ADDITIONAL INFORMATION</b>

INITIAL Witness 1: \_\_\_\_\_

INITIAL Seller: \_\_\_\_\_

INITIAL Witness 2: \_\_\_\_\_

INITIAL Purchaser: \_\_\_\_\_




6. Seller's certification

The Seller hereby certifies that the information provided in this report is, to the best of its knowledge and belief, true and correct as at the date when the Seller signs this report.

7. Certification by person supplying information

If a person other than the Seller provides the required information that person must certify that he/she is duly authorised by the Seller to supply the information and that he/she has supplied the correct information on which the Seller relied for the purposes of this report and, in addition, that the information contained herein is, to the best of that person's knowledge and belief, true and correct as at the date on which that person signs this report.

8. Notice regarding advice or inspections

Both the Seller as well as the Purchaser may wish to obtain professional advice and/or to undertake a professional inspection of the Property. Under such circumstances adequate provisions must be contained in any agreement of sale to be concluded between the Parties pertaining to the obtaining of any such professional advice and/or the conducting of required inspections and/or the disclosure of defects and/or the making of required warranties.

9. Purchaser's acknowledgement

The Purchaser acknowledges that he/she has been informed that professional expertise and/or technical skill and knowledge may be required to detect defects in and non-compliant aspects concerning the Property.

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_

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**KEYSHA INVESTMENTS 213 (PTY) LTD**  
herein represented by

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**PURCHASER**  
herein represented by

---

*(Print Name)*  
(who warrants that he/she is duly authorised)

---

*(Print Name)*  
(who warrants that he/she is duly authorised)

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

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**ESTATE AGENT**  
herein represented by

---

**PURCHASER**  
herein represented by

---

*(Print Name)*  
*who warrants that he/she is duly authorised*

---

*(Print Name)*  
*(who warrants that he/she is duly authorised)*

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**INITIAL Witness 1:** \_\_\_\_\_

**INITIAL Seller:** \_\_\_\_\_

**INITIAL Witness 2:** \_\_\_\_\_

**INITIAL Purchaser:** \_\_\_\_\_