



AGREEMENT OF SALE

AFTER OPENING OF A TOWNSHIP REGISTER

Between

CORPORATE AONE TRADE AND INVEST 8 (PROPRIETARY) LIMITED

Registration Number. 2008/005234/07

("Seller")

And

("Purchaser")

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

COVERING SCHEDULE

1. PARTIES											
1.1. Seller:	Corporate Aone Trade and Invest 8 (Proprietary) Limited Registration Number: 2008/005234/07										
Address:	MSP Chambers 4 Howick Close Tyger Falls Bellville 7530										
1.2. Purchaser/s (full names):											
Identity No. / Registration No. / Date of Birth:											
Purchaser's Income Tax Reference No.:											
Representative's full names (if signing on behalf of a legal entity) :											
Residential Address (street address):											
Postal Address:											
Telephone No: (Home)											
(Work)											
(Cell)											
Fax:											
E-mail Address:											
Marital Status:	<table border="1"> <tr> <td>Single</td> <td></td> <td>Married</td> <td></td> </tr> </table>	Single		Married							
Single		Married									
(How married?)	<table border="1"> <tr> <td>in community of property</td> <td></td> </tr> <tr> <td>out of community of property without accrual</td> <td></td> </tr> <tr> <td>out of community of property with accrual</td> <td></td> </tr> <tr> <td>Married by Customary Law</td> <td></td> </tr> <tr> <td>Foreign marriage</td> <td></td> </tr> </table>	in community of property		out of community of property without accrual		out of community of property with accrual		Married by Customary Law		Foreign marriage	
in community of property											
out of community of property without accrual											
out of community of property with accrual											
Married by Customary Law											
Foreign marriage											
If foreign marriage, governed by the laws of:	(state country)										
Names Full of Spouse:											
Identity No. / Date of Birth:											
Name of alternative contact person:											
Telephone No: (Home)											
(Work)											
(Cell)											
E-mail address:											

2. SUBJECT MATTER	
2.1. Erf number	
2.2. Extent	m ²
3. PURCHASE PRICE	
3.1. Purchase Price of the Property (Erf only) (Inclusive of VAT)	R
3.2. Total Contract Price in terms of Building Agreement (Inclusive of VAT)	R
3.3. Total Purchase Price (Inclusive of VAT)	R
3.4. Deposit	R
3.5. Balance on Transfer Date	R
3.5.1. Cash	R
3.5.2. Loan Amount	R
3.6. Date for payment of the Deposit	7 (Seven) days after the Signature Date
3.7. Date Loan must be granted by	Within 30 (Thirty) days after the Signature Date or such extended period as provided for in this Agreement
4. ESTIMATED TRANSFER DATE	
Date:	
5. ESTIMATED OCCUPATION DATE	
Date:	
6. ESTIMATED LEVY (EXCLUDING RATES)	
Amount	R210.00
7. ESTIMATED RATES & TAXES	
Rates and taxes	To be determined by the Local Authority
8. TRANSFERRING ATTORNEY	
Name of Attorney:	Mostert & Bosman Attorneys, MSP Chambers, 4 Howick Close, Tygerfalls, Bellville, Att: Pieter Goosen, Tel no: 021 914 3322. Bank Account details: Mostert & Bosman Trust account, Absa Bank, Account No: 4049105047, Branch Code 632005, Reference No: (Erf number) _____ client's surname;
9. BOND BROKER	
Name of Bond Broker:	I-Mortgage (Pty) Ltd Registration Number: 2005/002512/07 Reference: Hugo Vermeulen Tel: (021) 914 6703
10. ESTATE AGENT	
Company:	
Agent:	
Address:	
Telephone number:	
Email:	

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ANNEXURES

ANNEXURE A: SDP

ANNEXURE B: FICA REQUIREMENTS

ANNEXURE C: SPECIMAN BANK GUARANTEE

1. PARTIES

1.1. SELLER

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

1.2. PURCHASER

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

2. INTERPRETATION

In this Agreement:

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

- 2.7.1. Agent: means the Agent referred to in Clause 10 of the Covering Schedule;
- 2.7.2. Agreement: means this Agreement together with all the Annexures thereto;
- 2.7.3. Architectural Guidelines: means the Architectural Guidelines approved by the Local Authority and available on the Website or per request from the Agent;
- 2.7.4. ARC: means the Architectural Review Committee as provided for in the Constitution of the BMHOA;
- 2.7.5. Balance of the Purchase Price: means the Purchase Price described in Clause 3.5 of the Covering Schedule;
- 2.7.6. BEM means the Buyers Education Manual explaining the home buying process;
- 2.7.7. BMHOA: means the Belladonna Estate Master Home Owners Association established for the Development in terms of LUPO and which Association has a Constitution approved by the Local Authority;
- 2.7.8. Bond Broker: means the Bond Broker referred to in Clause 9 of the Covering Schedule;

- 2.7.9. BUDLG means the Belladonna Urban Design Landscaping Guidelines applicable on the Scheme, and which is available on the Website;
- 2.7.10. Building Agreement: means the Building Agreement to be concluded between MPS Developments (Pty) Ltd and the Purchaser, on the Signature Date, providing for the construction of a dwelling on the Property by the Contractor as defined in the Building Agreement;
- 2.7.11. Business Day: means any Day except a Saturday, Sunday or Officially proclaimed public holiday;
- 2.7.12. Covering Schedule means the Covering Schedule contained in the first part of this Agreement;
- 2.7.13. Constitution: means the Constitutions of the BMPOA and the Sub-Homeowners Association approved by the Local Authority, available on the Website or per request from the Agent;
- 2.7.14. CPA means the Consumer Protection Act, Number 68/2008, as amended;
- 2.7.15. Deposit: means the Deposit described in Clause 3.4 of the Covering Schedule;
- 2.7.16. Development: means the residential development established on the Land and which is to be known as Belladonna Estate;
- 2.7.17. Development Period: means
- 2.7.17.1. the date of transfer of the last saleable Unit/Erf in the development of the Parent Property by the Seller, or
- 2.7.17.2. the date when the Seller notifies the BMHOA that it waives its rights herein, whichever is the earliest;
- 2.7.18. Direct Marketing: means to approach a person, either in person or by mail or electronic communication for the direct or indirect purpose of promoting or offering to supply, the Property to that person;
- 2.7.19. Due Date means the date for the fulfillment of any condition referred to in this Agreement or the date for the payments of any amounts due in terms of this Agreement, as the case may be;
- 2.7.20. EMP: means the Environmental Management Plan available on the Website or per request from the Agent;
- 2.7.21. FICA: means the Financial Intelligence Centre Act No. 38 of 2001, as amended;
- 2.7.22. General Plan: means the General Plan approved by the Surveyor General;

- 2.7.23. Initiation Fee: means the Initiation Fee due and payable by the Purchaser to the bank or other financial institution approving the loan referred to in Clause 9.3 of this Agreement;
- 2.7.24. Land: means Erf 29644 Blue Downs, City of Cape Town, Stellenbosch RD, Western Cape Province;
- 2.7.25. Levies: means the Levies payable by the Purchaser to the BMHOA and/or the Sub-Association, as the case may be;
- 2.7.26. Loan Amount: means the amount as referred to in Clause 3.5.2 of the Covering Schedule;
- 2.7.27. Local Authority: means the Local Authority having jurisdiction over the Land, being at present the City of Cape Town, and shall include its successor in title;
- 2.7.28. LUPO: means the Land Use Planning Ordinance No. 15 of 1985, (Western Cape) as amended, and includes any superseding legislation or sub-ordinate legislation;
- 2.7.29. NCA: means the National Credit Act, No 34/2005, as amended;
- 2.7.30. Occupation Date: means the estimated Transfer Date referred to in Clause 4 of the Covering Schedule;
- 2.7.31. Parent Property: means Erf 17974 and Erf 17975 Blue Downs, City of Cape Town, Stellenbosch RD, Western Cape Province;
- 2.7.32. Parties: means the Seller and the Purchaser;
- 2.7.33. Prime Overdraft Rate: means the rate of interest per year, which is equal to Absa Bank's Limited publicly quoted Prime Overdraft Rate;
- 2.7.34. Property: means the Erf as described in Clause 2 of the Covering Schedule;
- 2.7.35. Public Open Space: means the land that comprises the Parent Property that does not form part of an Erf and designated as such on the General Plan;
- 2.7.36. Purchase Price: means the Purchase Price described in Clause 3.1 of the Covering Schedule;
- 2.7.37. Purchaser: means the Purchaser referred to in Clause 1.2 of the Covering Schedule;
- 2.7.38. Restriction Date: means 3 (Three) years after the Transfer Date;
- 2.7.39. SARS: means the South African Revenue Services;
- 2.7.40. SDP: means the Site Development Plan, approved by the Local Authority;
- 2.7.41. Seller: means the Seller as described in Clause 1.1 of the Covering Schedule;

- 2.7.42. Signatory: means the person who signs this Agreement for the benefit of a Company, Trust or other legal person formed or as Trustee for a Company not yet incorporated;
- 2.7.43. Signature Date: means the date on which the Seller signs the Agreement;
- 2.7.44. Sub-Home Owners Association: means the Sub-Home Owners Associations established by the Seller in respect of the Land, which Association is subject to its Constitution, the Constitution of the BMHOA as well as the Conduct Rules and established in terms of Section 29 of LUPO;
- 2.7.45. Total Contract Price means the Total Contract Price as determined in Clause 3 of the Covering Schedule of the Building Agreement;
- 2.7.46. Township Register: means the Township opened in terms of Section 46 of the Deeds Registries Act;
- 2.7.47. Transferring Attorneys: means the Transferring Attorneys as referred to in Clause 8 of the Covering Schedule;
- 2.7.48. Transfer Date: means the estimated date referred to in Clause 4 of the Covering Schedule;
- 2.7.49. VAT: means Value Added Tax payable in terms of the VAT Act;
- 2.7.50. VAT Act: means The Value Added Tax Act No 89 of 1991;
- 2.7.51. Website: means the Website of the Development available on the internet at the following website address: www.mspd.co.za.

3. **RECORDAL**

- 3.1. The Seller is in the process to develop the Land, being a portion of the Parent Property.
- 3.2. The Seller has procured the approval of the SDP and the General Plan.
- 3.3. The Seller wishes to sell the Property after the opening of the Township Register.
- 3.4. The General Plan has been drawn and registered and accordingly the exact extent and final boundaries of the Property is reflected on the approved General Plan.

4. **SALE**

The Seller sells to the Purchaser who hereby purchases the Property:

- 4.1. subject to the terms and conditions contained in this Agreement and the Annexures.
- 4.2. as fully described on the SDP and the General Plan.
- 4.3. **The Purchaser hereby confirms that:**
- 4.3.1. **He has inspected the Property or the Agent has supplied him with sufficient documentation that enabled him to identify the Property, and**
- 4.3.2. **He is aware of the BEM, the BUDLG and the EMP.**

5. PURCHASE PRICE

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

5.1.1 the Purchaser shall pay the Deposit in cash, on the date set in Clause 3.6 of the Covering Schedule, to the Transferring Attorneys, which Deposit will be held in trust by the Transferring Attorneys to be invested by them in terms of Section 78(2A) of the Attorneys Act, until the Transfer Date. The interest of the above, less an administration fee of 1 (One) % per year in respect of management and/or administration fees payable by the bank to the Transferring Attorneys, will accrue to the Purchaser. The Transferring Attorneys will not be able to invest the Deposit unless the Purchaser has furnished the Transferring Attorneys with:

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

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

5.1.2 the Purchaser shall within 14 (fourteen) days after fulfillment of the condition precedent referred to in Clause 6 of this Agreement, or, if this Agreement is not subject to the condition precedent referred to in Clause 6, within 30 (Thirty) days after the Signature Date, furnish the Transferring Attorneys with a guarantee issued in favour of the Transferring Attorneys for the Balance of the Purchase Price, in favour of the Seller or a payee nominated by the Transferring Attorneys. The guarantee is to be issued by a bank in the form as prescribed on Annexure C being the Specimen Bank Guarantee and must be payable against registration of transfer of the Property into the name of the Purchaser, or the Purchaser may elect to pay such amount in cash in which instance the amount must be paid to the Transferring Attorneys, which amount must be invested by them, subject to the terms and conditions provided for in Clause 5.1.1. above.

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

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

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

6. CONDITION PRECEDENT - LOAN

6.1. In the event of an amount having been inserted in Clause 3.5.2 of the Covering Schedule, this Agreement is subject to the condition precedent that the Purchaser is granted a loan within the period specified in Clause 3.7 of the Covering Schedule from a bank or financial institution in the amount specified in Clause 3.5.2 of the Covering Schedule on the terms that the aforesaid bank or financial institution normally approves mortgage loans for the purchase of Single Residential Erven.

- 6.2. **In the event of the aforesaid condition not being fulfilled within the abovementioned time period, the time period will automatically be extended with a maximum period of 60 (Sixty) days after the Due Date, or such shorter or longer period as the Parties may agree to in writing.**
- 6.3. The condition set out in Clause 6.1 above will be deemed fulfilled once the aforesaid bank or financial institution to which application has been made for the loan has issued a quotation in terms of Section 92(2) of the National Credit Act to the effect that the application has been approved notwithstanding the fact that such an approval is granted subject to the fulfillment of a condition or conditions or subject to the reservation of the right by such a bank or other financial institution to, at any time prior to payment of the proceeds of the loan to the Purchaser, withdraw such approval.
- 6.4. **If the loan is approved for an amount less than the amount stipulated in Clause 3.5.2 of the Covering Schedule and the Purchaser accepts such lower amount in writing by his signature to the quotation as referred to in Clause 6.3 above, this condition will be deemed to be fulfilled.**
- 6.5. The Purchaser expressly authorizes the Bond Broker as its agent to submit a mortgage bond application on the Purchaser's behalf to any financial institution, based on the economic benefit and convenience to the Purchaser. The Purchaser agrees and undertakes to sign all necessary documents and to supply the Bond Broker with any information and/or document/s which is/are required for this purpose. **The Purchaser hereby warrants that the information so provided shall be true, accurate and correct.**
- 6.6. It is recorded that the abovementioned condition precedent is inserted solely for the benefit of the Purchaser. The Purchaser may waive the benefit of this condition by communicating such waiver to the Seller in writing at any time before the expiry of the abovementioned time limit. In the event the waiver by the Purchaser as aforesaid, this Agreement will not lapse despite the fact that the Purchaser was not successful in the fulfillment of the abovementioned condition.
- 6.7. The parties agree that should the abovementioned condition precedent not be fulfilled or waived timeously, then in that instance this Agreement will lapse, be of no further force or effect and the parties will be restored in the position that they were in when they entered into this Agreement.
- 6.8. In the event of the Purchaser, after acceptance of the loan by the Purchaser, breach the terms and conditions of this Agreement or does not proceed with the bond registration on the Transfer Date, and the Bond Broker receives an account from the bank or financial institution whose loan was not taken up by the Purchaser, then and in that instance, the Purchaser will be liable for the payment of such account and costs, on demand.
- 6.9. The Seller or its appointees will, at any time after the Signature Date, be allowed to approach the Purchaser with proposals referring to Short Term Insurance and Long Terms Insurance Policies.

7. **VAT**

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

8. **CANCELLATION**

- 8.1 **Should the Seller prior to the fulfillment of the condition precedent as referred to in Clause 6 of this Agreement, receive another offer which it, in its sole discretion, wishes to accept, then the Seller shall be obliged to notify the Purchaser of its intention in writing. The Purchaser shall then have 3 (Three) Business Days after the sending of such notification, to waive in writing the benefit of the condition precedent as referred to in Clause 6 of this Agreement, thereby binding himself unconditionally and declaring himself financially able to fulfill all its obligations provided for in this Agreement, failing which this Agreement shall lapse, be of no further force or effect and whereafter the Parties will be restored in the position that they were in when they entered into this Agreement.**

- 8.2 In the event of this Agreement lapsing by reason of the condition in Clause 8.1, the Seller will:
- 8.2.1 immediately instruct the Transferring Attorneys to repay the Deposit plus interest earned thereon to the Purchaser; and
- 8.2.2 neither the Seller nor the Purchaser will have any claim for damages or for any other amount or any other claim whatsoever against the other party arising from this Agreement.**

9. TRANSFER AND TRANSFER COSTS

- 9.1 Provided the Purchaser has complied with all his obligations as set out in this Agreement and in particular has paid the Deposit, delivered the guarantee referred to in Clause 5.1.2 above and paid the Levies and any other amounts owing in terms of this Agreement, registration of transfer of the Property shall be given by the Seller and taken by the Purchaser as close as possible to the Transfer Date.
- 9.2 In the event that registration of transfer of the Property and/or, where applicable, registration of a mortgage bond, is delayed or frustrated by any act or omission of the Purchaser, the Purchaser shall pay to the Seller interest calculated at the Prime Overdraft Rate plus 2 (Two)% calculated on the Purchase Price from the date on which the transfer would, but for such delay, otherwise have been registered up to the Transfer Date.**
- 9.3 The Seller shall be liable for and shall on demand pay to the Transferring Attorneys any transfer fees plus VAT that may be payable by reason of this Agreement. If the Purchaser has to register a mortgage bond over the Property the Seller shall pay all costs in respect of the registration of such a mortgage bond, excluding the Initiation Fee as referred to in Clause 2.7.23 of this Agreement, which fee will be for the account of the Purchaser, subject to the following conditions:
- 9.3.1 the mortgage bond is granted by ABSA Bank Ltd, FirstRand Bank Ltd, Nedcor Bank Ltd or Standard Bank Ltd as the Purchaser's financial institution of choice, and
- 9.3.2 the registration of the mortgage bond is effected by the Transferring Attorneys, and
- 9.3.3 the mortgage bond was procured by the Bond Broker,
- 9.4 If Clauses 9.3.1 to 9.3.3 are not complied with, all transfer and bond registration fees will be for the account of the Purchaser.**
- 9.5 **The Purchaser shall not be entitled to delay transfer or withhold any monies by virtue of the fact that any portion of the Development is not fully completed on the date that transfer is tendered to him.**
- 9.6 The Parties irrevocably authorizes the Transferring Attorneys to sign all necessary declarations and applications on their behalf to enable them to obtain the necessary transfer duty exemptions.**

10. CO-OPERATION TO EXPEDITE TRANSFER

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

11. EXTENT, ONEROUS CONDITIONS AND WARRANTIES

- 11.1 The Property is sold on the basis that the extent of the Erf is as set out in Clause 2.2 of the Covering Schedule.
- 11.2 The Property is sold subject to all conditions and servitudes pertaining thereto, imposed by any competent authority, the Local Authority, the Seller, any professional consultant of the Seller or in terms of LUPO. The Seller may amend the lay-out of the Development, as indicated on the SDP, if required by any competent authority, the Local Authority or in terms of LUPO.
- 11.3 The various budgets presented to the Purchaser are estimates of income and expenditure as at the time of conclusion of this Agreement.
- 11.4 The Purchaser acknowledges that he has not been influenced into entering into this Agreement by any express or implied information, statement or representation given or made by or on behalf of the Seller, and that fixtures, fittings or extras displayed by the Seller in the Show Village/House, does not form part of the improvements on or to the Property, unless same is expressly and specifically recorded in this Agreement. The Purchaser hereby waives in favour of the Seller any rights whatsoever which he otherwise may have obtained against the Seller as result of any such information, statement or representation given or made by or on behalf of the Seller which is not so expressly and specifically recorded. It is recorded that all artistic, architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets and the show unit used by the Seller or its Agents in the marketing and selling of the erven hereby purchased and sold, have been prepared and distributed as advertising material only; and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby; and that no representation is thereby made by the Seller, and that the Parties shall be bound by the terms contained in this Agreement only.
- 11.5 A portion of the Development may be utilized by the Seller as a Show Village.
- 11.6 The Purchaser acknowledges that he is aware that the view currently enjoyed and/or the projected view from the Property hereby sold, may be affected by the development of the Scheme and/or the construction of any further buildings on the Land or any adjacent plot/development in the vicinity of the Property. The Purchaser accordingly acknowledges and agrees that the Purchaser shall have no claim or right of action whatsoever against the Seller arising from such impact on or impairment of the view from the Property, or any derogation from the value thereof, as a result of any such ongoing development or further buildings.
- 11.7 All undertakings and commitments given by the Seller to the Purchaser in terms of this Agreement are personal to the Purchaser who shall not be entitled to cede, assign or make over its rights thereto.
- 11.8 The Seller may effect reasonable earthworks or land-filling on the Property.

12. POSSESSION AND OCCUPATION

- 12.1 The Purchaser shall be placed in possession and vacant occupation of the Property, free of a rental agreement, on the date as referred to in Clause 5 of the Covering Schedule or on such another date as the Parties may agree on in writing, from which date the Purchaser will be entitled to all income and be liable for all expenses pertaining to the Property.
- 12.2 Provided the Purchaser has complied with all his obligations in terms of this Agreement, including, without limiting the generality of the foregoing, payment of the Deposit and due delivery of a valid guarantee for the Balance of the Purchase Price, occupation of the Property shall be given by the Seller and taken by the Purchaser on the Occupation Date.

- 12.3 Where the Occupation Date is a date prior to the Transfer Date, risk in the Property will pass to the Purchaser on the Transfer Date. The Purchaser hereby irrevocably indemnifies the Seller against any claims or damages relating to the Property after the Completion Date, as is provided for in the Building Agreement, in respect of the dwelling constructed on the Property and in respect of any contents held in the dwelling. The Purchaser acknowledges his responsibility to insure the Property, all improvements thereon and the contents thereof.
- 12.4 The right to rent the Property passes to the Purchaser on the Transfer Date.
- 12.5 The Purchaser shall not be entitled to make any alterations or modifications of any nature to the Property between the Occupation Date and the Transfer Date.
- 12.6 Occupational Interest calculated at 1% (One) of the Total Purchase Price referred to in Clause 3.3 of the Covering Schedule per month, is payable by the Purchaser if the Transfer Date is after the Occupation Date, whether or not occupation has actually been given to and taken by the Purchaser.
- 12.6.1 The Purchaser shall pay the Occupational Interest to the Seller monthly in advance and thereafter on the first day each subsequent month.
- 12.6.2 The Purchaser shall, on the Transfer Date, be refunded a pro rata share of any Occupational Interest that has been paid in advance in respect of the period after the Transfer Date.
- 12.7 In the event that the Seller anticipates that the actual Occupation Date will be later than the date referred to in Clause 5 of the Covering Schedule, it shall give notice to the Purchaser, at least 30 (Thirty) days prior to the Occupation Date, of the new expected Occupation Date. The Purchaser shall have no claim against the Seller for damages or for compensation of any other nature by reason of the Occupation Date having been amended.
- 12.8 The Purchaser acknowledges that on the Occupation Date construction of parts of the Development and the Public Open Space may not yet have been completed. The Purchaser accordingly hereby acknowledges that he might be subjected to nuisance, noise and other inconvenience from whatsoever cause arising and howsoever arising.
- 12.9 Between the Occupation Date and the Transfer Date the provisions of the Constitution will be binding on the Purchaser.

13. DEFECTS AND VOETSTOOTS

- 13.1 The Seller shall remedy any material patent and latent defect in the Property manifesting itself within 6 (Six) months of the Transfer Date, provided that the Purchaser notifies the Seller thereof in writing within the said period of 6 (Six) months.
- 13.2 In the absence of notice as referred to in Clause 13.1 above, the Purchaser shall be deemed to have accepted the Property in a fit and proper condition and be deemed to have acknowledged that the Seller has fully complied with its obligations as set out in the aforesaid Clause and the purchase of the Property will become "voetstoots". The Seller, other than as provided for herein, shall not be liable for any defects in the Property or in respect of anything relating thereto, whether patent or latent after expiry of the period as referred to in Clause 13.1.
- 13.3 The Seller shall not be liable for any defects in the Property in respect of normal wear and tear or any defects or damages caused by the conduct of the Purchaser, whether wilfully or by his negligence.
- 13.4 The Purchaser shall be obliged to give the Seller, its Agents and Contractors all access reasonably required to remedy the patent or latent defects that are required to be remedied in terms of Clause 13.

14. NATIONAL CREDIT ACT AND OUTSTANDING TAXES

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

- 14.1 Once the bond as referred to in Clause 6 is approved and the pre-agreement and quotation is accepted, the Purchaser shall not do anything that may cause the Purchaser to become over-indebted in terms of the National Credit Act or cause the bank to withdraw the bond.
- 14.2 The Purchaser shall not do anything between the date of acceptance of the pre-agreement and quotation, and registration of the bond, which may cause the Purchaser's financial position to deteriorate.
- 14.2.1 At the time of the Signature Date, the Purchaser is not:
- 14.2.2 over-indebted; and/or
- 14.2.3 subject to debt review; and/or
- 14.2.4 subject to an administration order.
- 14.3 The Purchaser does not and will not be, on the Signature Date and until the Transfer Date, in default of any income or other tax law obligations to the South African Revenue Services which will serve to delay the obtaining of transfer duty receipts or exemption certificates from the South African Revenue Services or not do anything or omit to do anything that will or can cause such a delay.

15 CAPACITY OF PURCHASER

- 15.1 If more than one Purchaser signs this Agreement, the Purchasers will be jointly and severally liable for the due performance of the terms and conditions of this Agreement.
- 15.2 The Signatory shall in his personal capacity be liable for the due fulfilment of all the terms and conditions of this Agreement.
- 15.3 Should the company not be founded within 30 (Thirty) days after the Signature Date, or if the company is founded, but does not ratify this Agreement, or if the company does not comply with the terms and conditions of this Agreement, then in that instance the Signatory will be liable to perform all terms and conditions of this Agreement in his personal capacity.

16 HOMEOWNERS ASSOCIATION

- 16.1 The Purchaser will become a member of the BMHOA and the Sub-Home Owners Association as from the Transfer Date and become obliged to comply with all the obligations imposed upon him by the Constitution and the Conduct Rules, including the payment of Levies.
- 16.2 The BMHOA and the Sub-Home Owners Association have been established for the benefit of all owners of erven within the Development as provided for in the Constitution and the Conduct Rules.
- 16.3 The Seller shall, on the Transfer Date, register a title deed condition against the Property, in terms of which the Property shall not be transferred without the written consent of the BMHOA and the Sub-Home Owners Association. The Purchaser and his/her/its successors in title will be bound by the Architectural Guidelines. Any buildings erected on the Property (including any improvements thereto) shall conform to the Architectural Guidelines and shall be subject to the approval thereof by the ARC.

17 LEVIES

- 17.1 After the Transfer Date, the Purchaser shall be liable to pay the Levies to the BMHOA and the Sub-Homeowners Association.
- 17.2 It is estimated that the Levy payable in terms of Clause 17.1 will approximately be equal to the amount described in Clause 6 of the Covering Schedule.
- 17.3 **The Levies will be payable monthly in advance on the 1st first day of the month, save for the first month after the Transfer Date, in which instance the Purchaser will pay for 2 (Two) months in advance.**

18 RESALE OF PROPERTY PENDING TRANSFER

- 18.1 **The Purchaser may not sell the Property prior to the Restriction Date without the written consent of the Seller, which consent will not be unreasonable withheld. The Seller may charge a fee in respect of any such consent granted.**
- 18.2 **This condition will be registered by the Seller against the Title Deed of the Property on the Transfer Date.**
- 18.3 **During the Development Period, the Purchaser shall not be entitled to display any "For Sale" and/or "To Let" signs on the Building or on the Property or outside the Property without the prior written consent of the Seller having been obtained, which consent will not be unreasonable withheld.**

19 BROKERAGE

- 19.1 Commission in the amount agreed to between the Seller and the Agent shall be payable by the Seller to the Agent on the Transfer Date.
- 19.2 The said commission will be earned by the Agent upon signature of this Agreement by both the Purchaser and the Seller and the fulfillment (or waiver, as the case may be) of all conditions precedent contained herein.
- 19.3 **If this Agreement is cancelled as a result of a breach by either one of the Parties, the defaulting party will be liable for the payment of the Agent's commission.**
- 19.4 **The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any Agent other than the Selling Agent/s stipulated in Clause 10 of the Covering Schedule. The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against or suffered by the Seller arising out of a breach of this warranty.**

20 BREACH

- 20.1 **If any party commits a breach of any of the provisions of this Agreement and fails to remedy such breach within 30 (Thirty) days, or in the instance of any financial obligation or a breach in terms of Clause 10.1 of this Agreement, within 7 (Seven) days after receipt of written notice from the other party calling upon it to remedy such breach, then the innocent party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement and or at Law to:**
- 20.1.1 **cancel this Agreement and claim such damages as it may have sustained from the defaulting party;**
- 20.1.2 **claim immediate performance by the defaulting party of all its obligations in terms of this Agreement whether or not the due date for performance shall otherwise have arrived;**

- 20.2 The Seller may retain any cash payments made by the Purchaser prior to cancellation as liquidated damages, without prejudice to any other right that the Seller may have.
- 20.3 Upon cancellation of this Agreement for any reason whatsoever, the Purchaser hereby undertakes to vacate the Property forthwith, and to procure that the Property shall be vacated by any persons who occupy it through the Purchaser's title or by his permission. Occupation shall be redelivered in the same good order and condition as at the Occupation Date.
- 20.4 The defaulting party shall pay all legal and other costs, including costs on the attorney and client scale, incurred by the innocent party in successfully enforcing the provisions of this Agreement.
- 20.5 It is specifically recorded that should any breach by the Purchaser occur at a time critical to the registration procedure, the Seller shall be entitled to require the Purchaser to remedy such breach within a period of 24 (Twenty Four) hours, and not within the 7 (Seven) days or 30 (Thirty) days period provided for in Clause 20.1.
- 20.6 Where the Seller is entitled to retain any cash payments in terms of Clause 20.2, the Transferring Attorneys is hereby authorized to pay such amounts to the Seller on its request.
- 20.7 Should the Purchaser dispute the Seller's right to cancel this Agreement, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by him in terms of this Agreement which will include Levies and Interest on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any other rights of the Seller whatsoever. Failure to pay any of the aforesaid amounts will constitute a material breach of this Agreement.

21 NOTICE AND ADDRESS FOR SERVICE OF NOTICES

- 21.1 The Parties choose their addresses as set out on in Clause 1 of the Covering Schedule of this Agreement above to serve as their addresses for service and delivery of legal documents for all purposes of the Agreement, which includes the giving of notice and the serving of documents or process.
- 21.2 Any notice given in terms of the Agreement which is:
- 21.2.1 delivered by hand during normal business hours to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser at the time of delivery;
 - 21.2.2 posted by prepaid registered post to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser on the 7th day after the day of its posting.
 - 21.2.3 communicated by facsimile or e-mail, shall be deemed to have been received by the Seller or Purchaser on received confirmation of the successful transmission thereof.
- 21.3 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by telex, facsimile or e-mail. Communications by telex, facsimile or e-mail shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee on the day of transmission provided that transmission occurred during business hours.

22 GENERAL

- 22.1 The Parties undertake to do all such things that may be necessary, incidental or conducive to the implementation of the terms, conditions and import of the Agreement.

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

23 CONDITION PRECEDENT IN FAVOUR OF THE SELLER

23.1 BUILDING AGREEMENT

- 23.1.1 This Agreement is subject to the condition precedent that MSP Developments (Pty) Ltd and the Purchaser must enter into a Building Agreement in respect of the construction of a dwelling on the Property on the Signature Date, which Building Agreement must in writing and signed by the abovementioned.
- 23.1.2 In the event of this condition not being fulfilled, this Agreement will be automatically cancelled and the Parties will have no claim against each other.

24 COOLING-OFF IN TERMS OF THE CPA

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

25 CONFIRMATION BY THE PURCHASER IN TERMS OF THE CPA

The Purchaser confirms that:

- | | | |
|------|---|----------|
| 25.1 | he has read this Agreement and understands the contents thereof | YES / NO |
| 25.2 | that the Property was not introduced to him by means of Direct Marketing | YES / NO |
| 25.3 | that he is aware and understands his right to the cooling-off period after Direct Marketing | YES / NO |
| 25.4 | the Purchaser is a juristic person | YES / NO |
| 25.5 | if the answer in clause 25.4 above is yes, it's annual turnover or asset value is more than R2 000 000.00 (Two Million Rand), as on the Signature Date <i>(not applicable if Purchaser is a natural person)</i> | YES / NO |
| 25.6 | he has purchased and will use the Property only for residential purposes. | |

26 OFFER

The offer to the Seller constituted by the Purchaser having signed this Agreement shall be irrevocable and may not be withdrawn except by written notice sent to the Seller by registered post, which, in any event, may not be given prior to the expiry of a period of 30 (Thirty) Business Days from the date of signature by the Purchaser.

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

BY THE SELLER

At _____ on the _____ Day of _____ 20__

AS WITNESSES:

1. _____

2. _____

 SELLER

BY THE PURCHASER

At _____ on the _____ Day of _____ 20__

AS WITNESSES:

1. _____

2. _____
 _____ PURCHASER(1) _____ PURCHASER(2)

If Purchaser is a Company, Close Corporation or Trust: Name of Signatory:

Designation of Signatory:
