

SALE OF IMMOVABLE PROPERTY AGREEMENT
Pearl Valley

1. Seller

1.1 Full Name: Pearl Valley Investments (Pty) Ltd

1.2 Reg No: 2015/068356/07

1.3 Physical Address: Polo Pavilion, the Seller Estate, Paarl, 7620

1.4 Postal Address: Polo Pavilion, 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: 021 863 6100

Email: renier.swart@valdevie.co.za

1.8 VAT Registration Number: 4120270170

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: _____

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 Identity/
Registration
Number:

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:

Income Tax
Registration Number:

4. **Property** means Erf _____ Pearl Valley Estate, situated in the Drakenstein Municipality Administrative District Paarl, Western Cape Province as indicated on **Appendix 2** and measuring approximately _____ square meters in extent

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: _____

5.5 Commission R_____ plus VAT _____

6. Conveyancer:

6.1 Full Name : Hayes Incorporated _____

6.2 Physical Address: Unit 32 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 _____

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. Erf Purchase Price: R _____

LESS Deposit on the Purchase Price R _____

Balance of Erf **Purchase Price:** R _____

8. **Subject to Finance:** Yes / No _____
9. **Amount of Finance required in respect of the Purchase Price:** R_____
10. **Anticipated Monthly Levy:** R_____ (including VAT)
11. **Appendices:**
- | | |
|-------------|---|
| Appendix 1: | Client Investment Mandate |
| Appendix 2: | Layout Plan |
| Appendix 3: | Extract of General Plan |
| Appendix 4: | Adjacent Development |
| Appendix 5: | CPA Acknowledgements |
| Appendix 6: | Resolution by Purchaser (if applicable) |

12. 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.

13. 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 development 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 initialing 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.

PEARL VALLEY INVESTMENTS (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: _____

ESTATE AGENT

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: _____

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 “**Adjacent Land**” means the land as depicted in **Appendix 4** hereto;
- 1.1.3 “**the Agent**” means the estate agency described at paragraph 5 of the Schedule;
- 1.1.4 “**Appendices**” means the documents specified at paragraph 11 of the Schedule, which forms part of this Agreement;
- 1.1.5 “**Arbitration Act**” means the Arbitration Act No 42 of 1965 (as amended);
- 1.1.6 “**Attorneys Act**” means the Attorneys Act No. 53 of 1979 (as amended);
- 1.1.7 “**Business Day**” means any day that is not a Saturday, Sunday or South African public holiday;
- 1.1.8 “**Club**” means the Pearl Valley Golf Club, but shall exclude the Golf Course, the Club Facilities and the Recreational Facilities;
- 1.1.9 “**Club Facilities**” means the club house, driving range, pavilions, refreshment rooms and other conveniences built and/or erected on the Pearl Valley Development for the general functioning of the Club and any improvements thereto;
- 1.1.10 “**Commission**” means the commission due to the Agent and which amount stipulated at paragraph 5.5 of the Schedule;
- 1.1.11 “**Companies Act**” means the Companies Act No 71 of 2008 (as amended);
- 1.1.12 “**Condition Precedent**” means the condition precedent set out in clause 3 below;
- 1.1.13 “**Conditions of Subdivision**” means the conditions imposed by the relevant authorities when approving the subdivision of the Land, or any portion thereof;

- 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 “**Conveyancer**” means the conveyancer described at paragraph 6 of the Schedule;
- 1.1.16 “**CPA**” means the Consumer Protection Act No 68 of 2008, as amended;
- 1.1.17 “**Developer**” means the developer, as contemplated in the Constitution;
- 1.1.18 “**Development Period**” means the period as defined in the Constitution;
- 1.1.19 “**Erf**” means a demarcated property identifiable by means of an Erf number;
- 1.1.20 “**General Plan**” means the Approved General Plan(s) in respect of the various phases of the subdivision of the Land as approved from time to time by the Surveyor General at Cape Town, an extract of which approved general plan as at the Signature Date is attached hereto as **Appendix 3**;
- 1.1.21 “**Golf Course**” means the 18 hole golf course constructed on the Land;
- 1.1.22 “**HOA**” means the Pearl Valley Golf & Country Estate Home Owners’ Association created in terms of Section 29 of LUPO on approval by the relevant authorities of the development which the Property forms a part of;
- 1.1.23 “**Land**” means the Remainder Erf 493, Pearl Valley Estate, situated in the Drakenstein Municipality, Administrative District Paarl, Western Cape Province and may also include, if required by the Developer for any extension of the Pearl Valley Development, any other properties which the Developer may own or acquire from time to time, in its sole and absolute discretion;
- 1.1.24 “**Layout Plan**” means the plan annexed hereto as **Appendix 2** substantially depicting the current development layout of the Pearl Valley Development and which the Seller may, at its sole discretion, change from time to time, to which changes the Purchaser agrees not to submit any objection against;
- 1.1.25 “**LUPO**” means the Land Use Planning Ordinance No. 15 of 1985;
- 1.1.26 “**the Parties**” or “**Party**” means the Party or Parties to this Agreement;
- 1.1.27 “**Pearl Valley Development**” means the development already constructed on the Land and known as the “*Pearl Valley Golf and Country Estate*”, which, comprises residential, sectional title units and other Erven, including an 18-hole signature

golf course, Club Facilities and such other proposed recreational or other facilities/amenities as may be built by the Developer from time to time, in its sole and absolute discretion;

- 1.1.28 **“Private Areas”** means all Erven on the Pearl Valley Development, which are designated as private roads, private open spaces, lakes and waterways and the like;
- 1.1.29 **“Property”** means the property described at paragraph 4 of the Schedule which property forms part of the Pearl Valley Development;
- 1.1.30 **“Purchase Price”** means the purchase price payable by the Purchaser in respect of the Property which purchase price includes VAT and the Transfer Costs, which amount is stipulated in paragraph 7 of the Schedule;
- 1.1.31 **“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;
- 1.1.32 **“Recreational Facilities”** means such facilities established/proposed to be established by the Seller on the Land from time to time, but which shall exclude the Golf Course, Club Facilities and the hotel, spa, restaurants and other amenities and facilities proposed to be established by the Seller;
- 1.1.33 **“Removal of Restrictions Act”** means the Removal of Restrictions Act No 84 of 1967 (as amended);
- 1.1.34 **“Restitution of Land Rights Act “** means the Restitution of Land Rights Act No.22 of 1994 (as amended);
- 1.1.35 **“Schedule”** means the schedule to which these standard terms and conditions are attached;
- 1.1.36 **“Seller”** means the entity described more fully at paragraph 1 of the Schedule, being Pearl Valley Investments (Pty) Ltd;
- 1.1.37 **“the Signature Date”** means the date on which this Agreement is signed by the Party signing last in time;
- 1.1.38 **“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);
- 1.1.39 **“Transfer Costs”** means the cost of registration of Transfer arising herefrom calculated with reference to 50% (fifty percent) of 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, but specifically excluding any costs relating to mortgage bond registration;

- 1.1.40 “**Transfer Date**” means the date on which the Transfer is registered;
- 1.1.41 “**Trust Account**” means the trust bank account of the Conveyancer which details are set out at paragraph 6.5 of the Schedule;
- 1.1.42 “**VAT**” means Value-Added Tax payable in terms of the VAT Act;
- 1.1.43 “**VAT Act**” means the Value-Added Tax Act No 89 of 1991 (as amended);
- 1.1.44 words importing the singular shall include the plural and *vice versa*;
- 1.1.45 words importing natural persons includes legal persons and partnerships and *vice versa*;
- 1.1.46 words importing one gender includes the other genders;
- 1.1.47 any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 1.1.48 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 PURCHASE AND SALE

- 2.1 Subject to clause 3 below, the Purchaser hereby agrees to purchase the Property from the Seller on the terms and conditions contained in this Agreement and the Seller hereby agrees to sell the Property to the Purchaser upon the terms and conditions of this Agreement.
- 2.2 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.

3 CONDITION PRECEDENT

- 3.1 Save for clauses 1, 2.2, 3, 4.1.1, 4.1.2, 4.3, 4.4, 4.5, 7.3 and 17 to 25, which shall be of immediate force and effect, this Agreement is subject to the fulfilment of 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 9 of the Schedule, or such lesser amount as the Purchaser may agree to in writing, **within 30 (thirty) days from the Signature Date** at the relevant financial institutions 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, whichever shall be applicable.

[Delete if not applicable]

INITIAL_____

- 3.2 The Condition Precedent set out in clause 3.1 above –
- 3.2.1 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; and

- 3.2.2 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.
- 3.3 If the Condition Precedent has not been fulfilled on or before the fulfilment date thereof the period within which the Condition Precedent must be fulfilled may be extended by written agreement between the Parties on or before the fulfilment date thereof.
- 3.4 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 3.3 above) then this Agreement will automatically fail and be of no further force and effect (save for clauses 1, 2.2, 3, 4.1.1, 4.1.2, 4.3, 4.4, 4.5, 7.3 and 17 to 25, 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.
- 3.5 The Purchaser undertakes to furnish the Seller with all information and/or documentation relevant to its application for finance, as contemplated in this clause 3, on demand for such information and/or documentation by the Seller, for the purposes of enforcing its rights in terms of this Agreement.
- 3.6 The Parties shall use their best endeavours to procure the timeous fulfilment of the Condition Precedent.

4 PURCHASE PRICE AND PAYMENT

- 4.1 The Purchase Price for the Property shall be paid as follows -
- 4.1.1 the deposit shall be paid into the Trust Account within 5 (five) Business Days of the Signature Date; and
- 4.1.2 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.
- 4.2 The Purchaser shall be released from its obligation to provide the bank guarantee referred to in clause 4.1.2 above by making payment of the balance of the Purchase Price into the Trust Account.

4.3 The Conveyancer is hereby irrevocably authorised and required to invest any cash amount received from the Purchaser in terms of this Agreement in an investment account as contemplated in Section 78(2A) of the Attorneys 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.

4.4 In the event that the Purchaser fails to make payment of the deposit in accordance with clause 4.1.1 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_____

4.5 In the event that the Purchaser fails to deliver the guarantee referred to in clause 4.1.2 above or make payment of the balance of the purchase price in accordance with clause 4.2 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.

5 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 9 of the Schedule and clause 3.1 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 not in any way result in any delays in Transfer of the Property and shall accordingly do all things necessary to ensure that such conditions shall be on the normal terms and conditions pertaining to a loan for vacant land only and shall under no circumstance contain any conditions related to building finance.

6 VALUE ADDED TAX

6.1 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.

6.2 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.

7 TRANSFER AND COSTS

7.1 Transfer of the Property shall be effected by the Conveyancer as soon as possible after the fulfilment or waiver, as the case may be, of the last Condition Precedent and as soon as possible after the Drakenstein Municipality or its successors in title has issued a rates clearance certificate in respect of the Property to the Seller for transfer purposes 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 Pearl Valley Development and registering title to all the prospective purchasers, it is beneficial and in the best interests of the Purchaser that the Conveyancers attend to the Transfer.

INITIAL_____

7.2 The Purchaser undertakes to sign all requisite documents for purposes of registration of Transfer upon being so requested by the Conveyancer.

7.3 In addition to the Purchase Price, the Purchaser agrees to pay to the Conveyancer upon written demand received from the Conveyancer –

7.3.1 any costs of drafting any required addenda to this Agreement;

7.3.2 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; and

7.3.3 all costs of and incidental to the registration of the mortgage bond, if any, referred to in clause 3.1 above including but not limited to conveyancing fees, all disbursements and VAT thereon. The Purchaser shall further pay 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.

7.4 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 7.3.1 above.

INITIAL_____

7.5 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 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_____

8 OCCUPATION, POSSESSION & RISK

8.1 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.

8.2 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 the Constitution and this Agreement.

8.3 Any payments made by the Seller towards the amounts referred to in clause 8.2 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.

8.4 The Purchaser acknowledges that after the Transfer Date, development operations will be in progress on the Pearl Valley Development 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 and/or the HOA arising from such inconvenience, noise or dust.

INITIAL_____

INITIAL_____

8.5 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 date of Transfer.

INITIAL_____

8.6 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 date of Transfer.

INITIAL_____

9 CONDITIONS OF PROPERTY AND SERVITUDES

9.1 Provided that the CPA does not apply to this Agreement, the Property is sold *voetstoots* to the Purchaser.

9.2 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.

9.3 The Purchaser acknowledges and agrees that he has not been influenced or induced into entering into this Agreement by any express or implied information, statement, warranty or representation in any way given or made by or on behalf of the Seller, or information and details contained in any advertising material, pictures, drawings or brochures, other than as is set out in this Agreement. The Seller may deviate from the Layout Plan and exclude or re-locate any amenities or facilities including the hotel as indicated on the Layout Plan. The Seller shall not be bound by any representation contained in any advertising material of whatever nature and the Seller shall be entitled to exclude and/or relocate any Recreational Facilities and other facilities as may be indicated on any advertising material, models and brochures.

9.4 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.

9.5 Neither the Purchaser nor the Seller shall be liable to pay for any excess or shortfall in the extent of the Property, unless the variation in the extent is found to be greater than 10% (ten percent) of the extent set out in paragraph 4 of the Schedule.

9.6 The Property is sold subject to the provisions of the Constitution, all such conditions as are mentioned and/or referred to in the current and antecedent 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 and subject to those servitudes that may be designated in the General Plan.

INITIAL_____

9.7 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.

9.8 It is recommended that the Purchaser should have the soil conditions on the Property independently appraised 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 Pearl Valley Development, of which the Property forms a part, vary in certain areas. Accordingly, the Purchaser is advised that a geotechnical investigation of the Property be done to ensure that the foundation design of any improvements on the Property is appropriate for the actual founding conditions which prevail. 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 buildings thereon.

9.9 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, which will be binding on the Purchaser and his successors-in-title.

9.10 Insofar as may be necessary for the installation of surveillance and communications systems, water pipes, irrigation and any other services, the Purchaser hereby consents to the requisite servitudes being registered over the Property and undertakes, when requested to do so, to sign all documents as may be necessary for such purpose and hereby irrevocably grants the Seller power of attorney to sign all such documents should the Purchaser fail to do so after written request from the Seller or the HOA.

9.11 The Purchaser acknowledges that from the Transfer Date, the Developer shall have no further obligations regarding the boundary pegs in respect of the Property. After the Transfer Date, the Purchaser shall, upon demand, at his cost, cause any missing pegs to be replaced by a qualified land surveyor, in the correct positions as indicated on the

INITIAL_____

General Plan, whether or not such peg/s relate to the Property or are common with any adjoining properties.

9.12 The Seller accepts no liability whatsoever for loss or damage of whatever nature directly or indirectly arising from or caused by subsidences or faults in the Property or in the vicinity of the Property. The Purchaser shall be responsible for the cost of any special foundation measures required on the Property in connection with the erection of any improvements thereon.

9.13 The Property is sold without any water rights to which the Land may be entitled.

9.14 From enquiries made at the offices of the Regional Land Claims Commissioner, the Seller has been informed that no claims in terms of the Restitution of Land Rights Act have been made in respect of the Land.

9.15 The Purchaser acknowledges that he is aware of the Seller's intention to develop separately, alternatively, extend the existing Pearl Valley Development to other adjacent land *inter alia* by developing a residential development thereon. Accordingly, the Purchaser, by purchasing the Property, consents to the extension of the Development as aforesaid, alternatively, to the separate development of the Adjacent Land, and undertakes not to object thereto.

INITIAL_____

10 HOME OWNERS ASSOCIATION

10.1 The HOA has been established for the benefit of, *inter alia*, all of owners of erven in the Pearl Valley Development and to control and maintain roads, services and amenities within the Pearl Valley Development.

10.2 The Purchaser shall automatically become a member of the HOA on Transfer.

INITIAL_____

10.3 Should the Purchaser sell the Property, the Purchaser will ensure that his successor purchaser is made fully aware of the existence of the HOA and the fact that such successor purchaser will automatically become a member of the HOA.

10.4 The Purchaser shall be entitled to download copies of the Constitution from the HOA's website or, prior to Transfer, request the Seller to furnish him with copies of the Constitution, and the Purchaser agrees to be bound thereby.

- 10.5 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.
- 10.6 The Purchaser shall be and remain a member of the HOA for as long as he is the registered owner of the Property and—
- 10.6.1 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 Pearl Valley Development. In particular the Purchaser hereby confirms that he understands that the engineering services provided in the Pearl Valley Development are private in nature and that the HOA will be responsible for the maintenance and sub-metering of such services;
- 10.6.2 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; and
- 10.6.3 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.
- 10.7 The Seller and/or its successors in title shall be entitled to ensure that, to the extent allowed by the Registrar of Deeds, 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 owner of the Property, or of any subdivision thereof, or of any sectional title unit, or of any interest therein (“Owner”), shall not be entitled to transfer the Property, or any subdivision or consolidation thereof, or any unit or any interest therein, without the HOA’s prior written consent, which will not unreasonably be withheld, and without the HOA having confirmed in writing that all amounts due to it by the Owner shall have been paid.*
 2. *Every Owner shall automatically be and become and shall remain a member of the HOA and be subject to the Constitution until the Owner ceases to be an owner as aforesaid.*
 3. *Neither the Property nor any subdivision or consolidation thereof, nor any unit erected thereon, nor any interest therein or thereto, shall be transferred to any person who has not agreed to become a member of the HOA and to be bound by its Constitution; and who has not secured payment by way of a debit order of the*

monthly levy due to the HOA.

4. The Owner shall not make any application for the rezoning, consolidation or subdivision of his Erf without the prior written consent of the HOA.”

INITIAL_____

- 10.8 The Purchaser shall pay levies calculated in accordance with the Constitution.
- 10.9 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 Pearl Valley Development.
- 10.10 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 Pearl Valley Development.
- 10.11 The above provisions of this clause 10 are inserted for the benefit of the HOA and the Seller as the case may be and insofar it constitutes a benefit for the HOA, it constitutes a *stipulatio alteri*, which the HOA may accept at any time.

11 BUILDING REQUIREMENTS

- 11.1 No building or structure may be erected on the Property nor may the external appearance (including the colour) of any existing or future building or structure be changed unless the architectural design plans and specifications (including materials) of such building or structure have been approved by the HOA, or a person nominated by the HOA.
- 11.2 All buildings and structures shall be built in a good and proper and workmanlike manner and strictly in accordance with the plans and specifications approved in accordance with clause 11.1 above.
- 11.3 Any dwelling or improvements to be erected on the Property shall comply with the Architectural and Landscape Design Guidelines and other specifications as set out therein, and the following:
- 11.3.1 Residential Lodges (Phase 1A):

The Developer during the Development Period and thereafter, the HOA, shall appoint an architect or architects (“**Designated Architect**”) to design and supervise the construction of same. Each Purchaser purchasing a Property in

INITIAL_____

Phase 1A shall in such case be obliged to utilise the services of the Designated Architect and shall be liable for the costs incurred in the preparation and approval of such plans and any supervision fees. Fees will be in accordance with the Standard Service as prescribed by the South African Institute of Architects.

11.3.2 Dwellings other than Residential Lodges:

The Purchaser may mandate an architectural firm (non-designated architect) to design and supervise the construction of the dwelling and other improvements to be erected on the Property. Plans for any such dwelling or improvements shall be submitted to and be approved by the Developer during the Development Period and thereafter the HOA, prior to submission thereof to the relevant local authority.

11.4 An Architectural scrutiny fee and a landscape scrutiny fee in such amounts as may be determined from time to time by the Developer during the Development Period and, thereafter by the HOA, shall be paid by the Purchaser to the Developer or the HOA, as the case may be, simultaneously with the submission of the plans as aforesaid.

11.5 The costs of preparing detailed building plans as well as the cost of obtaining local authority approval of any plans and scrutiny fees shall be payable by the Purchaser.

11.6 The Purchaser shall complete the construction of the dwelling and establish and landscape the garden on the Property within 24 (twenty four) months calculated from the Transfer Date ("**Completion Date**"). The Completion Date shall have occurred only upon the issue of the requisite certificates of completion by the HOA.

11.7 The Purchaser acknowledges that his attention has been drawn to the Constitution whereby the trustees may impose sanctions or penalties on owners who fail to complete construction of a dwelling within the time limit prescribed above.

11.8 The stipulations contained in this clause 11 shall be binding on the Purchaser and his successors in title and the Purchaser undertakes to include such stipulations in any deed of alienation for the sale or disposal of the Property to a purchaser or other party.

11.9 The Developer, during the Development Period and the HOA thereafter, shall provide a panel of pre-selected and accredited building contractors and the Purchaser shall select a building contractor from such panel, alternatively a building contractor approved by the Developer or the HOA, as the case may be, to erect any improvements on the Property, and the Purchaser shall sign an agreement with such contractor for the construction of improvements on the Property.

11.10 Notwithstanding anything to the contrary foregoing, in the event that the construction of the dwelling and the establishment and landscaping of the garden have not been completed by the Completion Date, the rights to the use of the Golf Course, Club Facilities and Recreational Facilities by the Purchaser shall automatically be suspended until such time as the dwelling and the garden have been completed as per clause 11.6 above. The Purchaser shall be obliged to pay his Subscription Fees during the period of his suspension and shall not be entitled to claim a discount or rebate on his Subscription Fees for any period during which his rights have been suspended.

INITIAL_____

12 RIGHTS AND OBLIGATIONS OF THE SELLER

12.1 The Seller is entitled to utilise any one or more of its unsold houses/ buildings on the Pearl Valley Development until all the erven in the Pearl Valley Development have been sold as a sales office and/or a show house and/or temporary functional clubhouse.

12.2 The Seller shall develop and market the Pearl Valley 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 Pearl Valley Development and, in particular, the right to erect signage within and outside of the Pearl Valley Development.

12.3 The Seller has reserved the right and shall be entitled, in its sole and absolute discretion to –

12.3.1 build and establish on the Land a hotel, spa, restaurants and any other amenities and facilities as it in its sole discretion deems fit;

12.3.2 subdivide from the Land the sites for such aforesaid amenities and facilities as separate Erven and shall be entitled to dispose of and/or operate the aforementioned amenities and facilities for its own benefit, separate and independent from the remainder of the Pearl Valley Development;

12.3.3 establish and locate the amenities and facilities referred to in clause 12.4 on any portion of the Land, save such Erven that have already been sold to owners other than the Seller, with the approval of the relevant local authority; and

12.3.4 to designate the Golf Course, Club Facilities, Recreational Facilities and such other amenities and facilities referred to above as separate erven and to retain or transfer or sell the ownership thereof for its own benefit.

INITIAL_____

12.4 The Seller may at any time and in its sole discretion, sell or transfer one or some or all of the Golf Course, the Club, the Club Facilities and the Recreational Facilities to any third party or entity provided that it has first offered the HOA the right to purchase the asset(s) in question at the same price and on the same terms as proposed. The HOA shall not have a right of first refusal as set out above in circumstances where the Seller has a direct or indirect interest in the third party or entity in question.

INITIAL_____

12.5 In the event of any of the aforementioned assets being transferred or sold to a third party or entity, then such third party or entity shall assume the rights and obligations of the Seller under the Constitution and/or the constitution of the Club in respect of the asset in question, which shall include the handover of the Club to the HOA in accordance with the provisions of the Constitution.

13 THE GOLF COURSE, CLUB, CLUB FACILITIES AND RECREATIONAL FACILITIES

13.1 By acquiring the Property, the Purchaser acknowledges and agrees that he shall automatically become a member of the Club as from the Transfer Date and shall remain a member of the Club for so long as he is the registered owner of the Property, it being compulsory for the Purchaser as a property owner to become and so remain a member of the Club.

13.2 The Purchaser shall be entitled, as a member, to make use of the Club Facilities and/or Recreational Facilities and/or acquire playing rights in respect of the Golf Course in accordance with the Club rules as formulated from time to time, depending on his category of membership.

13.3 In the event that the Purchaser sells the Property, the Purchaser's membership of the Club shall lapse upon transfer of the Property to the new purchaser. The new purchaser shall likewise be obliged to become a member of the Club and shall pay the entrance fee and Club subscription fees.

13.4 By virtue of the fact that the Purchaser is acquiring the Property from the Seller as the Developer, no entrance fee shall be payable for such Membership, provided however that the Purchaser shall make payment of the annual subscription fee ("**Subscription Fee**") on the Transfer Date, failing which the right to use the Golf Course, Club

INITIAL_____

Facilities and Recreational Facilities shall automatically be suspended until the Subscription Fee has been paid. The Purchaser shall be obliged to pay his Subscription Fee even though his Membership has been suspended and the Purchaser shall not be entitled to claim a discount or a rebate on his Subscription Fee during the period of his suspension.

- 13.5 Subscription Fees shall be payable as determined from time to time in accordance with the Club constitution.

14 ACKNOWLEDGEMENT REGARDING ADJACENT DEVELOPMENT

- 14.1 The Purchaser acknowledges and agrees that:

14.1.1 it is aware that certain properties that may be located adjacent to or in the vicinity of the Property are to be developed generally in accordance with the attached plan prepared in accordance with LUPO, which plan is attached hereto as **Appendix 4** (“**Adjacent Development**”).

14.1.2 it has satisfied itself as to the nature and extent of the Adjacent Development, and the Purchaser accordingly confirms that it has no objection thereto and the Purchaser agrees and undertakes to and in favour of the Seller and the developer of the Adjacent Development, not to object to any aspects related to the Adjacent Development including, but not limited to any details thereof as set out in **Appendix 4** hereto;

14.1.3 it is aware that it may potentially suffer a certain amount of inconvenience during the building operations on the Adjacent Development and that it will have no claim against the Seller for compensation or damages by reason of such inconvenience.

14.2 The Purchaser accordingly hereby waives any claim of any nature whatsoever as against 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 person, or the property or person of any of its visitors, invitees, employees and contractors as a result of the Adjacent Development, regardless of how such loss or damage may occur, and even if such damage or loss may have been caused by the negligence of the Seller, its agents, employees or officials.

14.3 To the extent that this clause confers certain rights upon the developer of the Adjacent Development, the Seller is hereby authorised to accept such rights on behalf of the said developer.

15 GENERAL ACKNOWLEDGEMENTS

15.1 The Purchaser acknowledges that –

15.1.1 it is aware that the Seller shall develop and market the Pearl Valley Development and the Pearl Valley 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 Pearl Valley 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 Pearl Valley Development;

15.1.2 it is further anticipated that a hotel shall be built on certain properties forming part of the Pearl Valley Development. The Purchaser hereby acknowledges that it may accordingly be exposed to activities related to the operations of such a hotel, which may result in an amount of inconvenience; and

15.1.3 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.

15.2 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_____

INITIAL_____

15.3 The Seller further records that as developer of the Pearl Valley Development it has obtained and may in future apply for further or amended use rights in respect of the Pearl Valley Development, 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 a developer to the local or competent authority concerned in this regard.

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

INITIAL_____

15.5 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 clause 15.1 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_____

16 AGENT'S COMMISSION

16.1 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_____

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

INITIAL_____

16.3 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 cancelled by the Purchaser as contemplated in clause 25.2, 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_____

16.4 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_____

17 MORA

Should there be a delay in the registration of Transfer, other than as contemplated in clause 4.4 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*.

18 BREACH

18.1 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 -

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

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

18.2 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_____

18.3 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.

19 COMPANY, CLOSE CORPORATION, TRUST AS PURCHASER

19.1 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 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.

19.2 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 -

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

19.2.2 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;

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

19.2.4 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 19.2.1 to 19.2.3 above not be complied with strictly in accordance with applicable legislative provisions concerning incorporation and pre-incorporation contracts.

19.3 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_____

20 NOMINATION

20.1 The Purchaser shall be entitled to nominate a third party as the Purchaser in terms of this Agreement provided that such nomination is made –

20.1.1 on the Signature Date; and

20.1.2 by means of a written notice delivered to the Seller and signed by the nominee in a form to the satisfaction of the Seller.

20.2 Should the Purchaser validly nominate a nominee in terms of this Agreement, then –

20.2.1 all references to the Purchaser in this Agreement shall be deemed to be a reference to such nominee, save that there shall be no further right of nomination;

20.2.2 all rights of the Purchaser in and to the deposit and all other monies paid in terms hereof shall be ceded to the nominee; and

20.2.3 The Purchaser shall be liable with the nominee as surety and co-principal debtor to the Seller for all the obligations of the nominee 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.

20.3 Should the Purchaser fail to nominate a nominee in terms of this Agreement, he shall not thereafter be entitled to nominate a nominee and shall be bound to perform all the obligations of the Purchaser in terms of this Agreement.

20.4 The renunciations contained in 19.3 and 20.2.3 above means that the Seller shall be entitled to claim payment from the surety (i.e. the person signing this Agreement) without first exhausting the legal remedies against the principal debtor (i.e. the Purchaser) and entitles the Seller to recover the full debt owed by the principal debtor (i.e. the Purchaser) against that surety (i.e. the person signing this Agreement).

INITIAL_____

INITIAL_____

21 ADDRESSES FOR RECEIVING NOTICES

- 21.1 The Parties choose as the address for receiving any notices or legal process in terms of this Agreement, their respective addresses set out in paragraphs 1, 2 and 3 of 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.
- 21.2 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 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.
- 21.3 Any notice given in terms of this Agreement shall be in writing and shall –
- 21.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
- 21.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8th (eighth) day following the date of such posting;
- 21.3.3 if transmitted by facsimile be deemed to have been received by the addressee on the day following the date of despatch;
- 21.3.4 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.
- 21.4 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.

22 DISPUTE RESOLUTION

- 22.1 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 22 in accordance with the Expedited Rules of the Arbitration Foundation of Southern Africa (“AFSA”).
- 22.2 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.
- 22.3 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.
- 22.4 The arbitration shall be held –
- 22.4.1 at Cape Town ;
- 22.4.2 with only the legal and other representatives of the Parties to the dispute present thereat; and
- 22.4.3 otherwise in terms of the Arbitration Act, unless otherwise provided for herein.
- 22.5 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 22.6.
- 22.6 Should the Parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of clause 22.1, 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.
- 22.7 The Parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to in clause 22.8.
- 22.8 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 22.7, at the instance of any of the parties to the dispute.
- 22.9 In the event that a party to a dispute wishes to appeal the decision of the arbitrator, such party shall apply to the arbitrator for leave to appeal within 14 (fourteen) days from the date of the decision of the arbitrator.

- 22.10 In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator, such appeal shall be held before 3 (three) arbitrators appointed in accordance with clauses 22.5 and 22.6, it being agreed that for the purposes of appeal the appointed arbitrators may include a retired judge otherwise appointed in accordance with clauses 22.5 and 22.6
- 22.11 In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator such party shall furnish security for the costs of the appeal in an amount of R150 000 (one hundred and fifty thousand Rand) within 30(thirty) days from the date on which leave to appeal is granted. Should the relevant party fail to furnish security to this effect the leave to appeal shall lapse and the prospective appellant will no longer be entitled to proceed with an appeal and the arbitrator's decision shall be final and binding upon the Parties.
- 22.12 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.
- 22.13 It is recorded that it is the intention of the Parties, that any dispute referred to arbitration in terms of clause 22.1 shall be resolved strictly in accordance with the provisions of this clause 22. The Parties accordingly agree and undertake as follows -
- 22.13.1 that it shall not make any application to Court as contemplated in terms of section 3(2) of the Arbitration Act;
- 22.13.2 that it shall not make any application to the arbitration tribunal as contemplated in terms of section 20(1); and
- 22.13.3 the periods set out in section 23 of the Arbitration Act shall not be applicable to any arbitration proceedings arising out of this Agreement.

23 FURTHER DOCUMENTS

- 23.1 Notwithstanding anything to the contrary contained in this Agreement, the Purchaser acknowledges and declares, by affixing his signature hereto, the 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:
- 23.1.1 the Constitution as at the Signature Date;
- 23.1.2 Plan depicting the Pearl Valley Development on the Land; and

23.1.3 Layout Plan and an extract of the General Plan.

INITIAL_____

23.2 The Purchaser further acknowledges that his attention has been drawn to the fact that there exists or shall exist a number of important and related agreements and documents in connection with the HOA and the Club, which include the constitution of the Golf Club, the architectural guidelines of the HOA and the builders code of conduct issued by the HOA and the Purchaser will familiarise himself with such documents.

INITIAL_____

24 GENERAL

24.1 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.

24.2 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.

24.3 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.

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

24.5 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.

24.6 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.

24.7 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 Pearl Valley Development to a third party without first having to obtain the consent of the Purchaser.

24.8 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_____

25 CONSUMER PROTECTION ACT

25.1 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_____

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

25.2.1 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);

INITIAL_____

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

25.2.3 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 25.2.1, 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 25.2.2.

INITIAL_____

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

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

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

25.3.3 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_____

25.4 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 -

25.4.1 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;

25.4.2 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;

INITIAL_____

- 25.4.3 he understands the content, significance and import of this Agreement without undue effort, having regard to –
- 25.4.3.1 the context, comprehensiveness and consistency of the Agreement;
 - 25.4.3.2 the organisation, form and style of the Agreement;
 - 25.4.3.3 the vocabulary, usage and sentence structure of the Agreement; and
 - 25.4.3.4 the use of any illustrations, examples, headings or other aids to reading and understanding.

INITIAL_____

CLIENT INVESTMENT MANDATE
INSTRUCTION TO INVEST TRUST MONEYS

Section 78(2A) of the Attorneys Act 1979 (No 53 of 1979) (as amended)

To: Hayes Incorporated
Attorneys, Notaries & Conveyancers
Cape Town

TRANSFER

FROM: the Pearl Valley Investments (Pty) Ltd
Registration Number **2015/068356/07**

TO: _____
Registration / ID Number _____

Registration / ID Number _____

OF: ERF _____

I/We, the undersigned,

Registration / ID Number _____

Registration / ID Number _____

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 78(2A) of the Attorneys Act 1979 (No 53 of 1979) (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;
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

the capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.

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

DATE

PURCHASER

DATE

LAYOUT PLAN

EXTRACT OF GENERAL PLAN

ADJACENT DEVELOPMENT

CPA ACKNOWLEDGEMENTS

The Purchaser confirms that:

- 1 he has read this Agreement and understands the contents thereof

YES/NO

- 2 the Property was not introduced to him by means of direct marketing

YES/NO

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

YES/NO

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

YES/NO

- 5 if the Purchaser's answer to paragraph 4 above is YES, on date hereof its annual turnover or asset value is more than R2 000 000,00 (Two Million Rand)

YES/NO

(the above paragraph 5 is not applicable if Purchaser is a natural person)

- 6 he has purchased and will use the Property only for residential purposes

YES/NO

RESOLUTION BY PURCHASER (if applicable)