

ORIGINS IN EYE OF AFRICA GOLF AND RESIDENTIAL ESTATE

AGREEMENT OF SALE OF LAND AND BUILDINGS

TRANSACTION SCHEDULE

1 PARTIES

1.1 Seller

VALOBEX 173 CLOSE CORPORATION

Registration Number: 2011/050364/23

Authorised Signatory: Mr Timothy Kloeck

Vat Number: 4900262215

Registered Address: The Houghton Estate Office Park, 2 Osborn Road
4th Floor, Marvel Grove Building, Houghton, 2198

Email Address: tim@tricol.co.za

Telephone Number: (w): 011 483 3655 (f) 086 676 5766 (c) 082 453 7827

1.2 Purchaser

1.2.1 Individual 1

Full Names: _____

Identity Number: _____

Marital status: Single / In / Out / Other _____

Date of Marriage: _____

Nationality: _____

Income Tax Number: _____

Physical Address: _____

Postal Address: _____

Email Address: _____

Telephone Number: (w): _____ (f) _____

(c) _____

1.2.2 Individual 2

Full Names: _____

Identity Number: _____

Marital status: Single / In / Out / Other _____

Date of Marriage: _____

Nationality: _____

Income Tax Number: _____

Physical Address: _____

Postal Address: _____

Email Address: _____

Telephone Number: (w): _____ (f) _____

(c) _____

1.2.3 Company/Close Corporation/Trust

Full Names: _____

Registration/Master's Reference Number: _____

Authorised Signatory: _____

Income Tax/Vat Number: _____

Physical Address: _____

Postal Address: _____

Company Registered Office: _____

Email Address: _____

Telephone Number: (w): _____ (f) _____

(c) _____

2 LAND

The Land means Portion No _____ of Erf 2538 in the Eye of Africa Estate Extension 1 Township, measuring: _____ square metres, on which the

Buildings are situated, as depicted on the Sub-divisional Diagram, a copy of which is attached to this Agreement marked as **Appendix 4**.

3 SUMMARY OF PRINCIPAL TERMS

3.1 Purchase Price: R_____ (_____) including VAT.

3.2 A deposit equivalent to 10% (ten per cent) of the Purchase Price, R_____ is payable within 7 (seven) days of the date of signature of the Purchaser to the Conveyancer's Trust Bank Account set out below -

The Standard Bank of South Africa Limited;
Account Name: Glyn Marais Inc. Trust Account;
Account Number: 000 348775;
Branch: Johannesburg;
Branch Code: 00 02 05;
Payment Reference: Stand Number

3.3 Balance of Purchase Price: R_____

3.4 Loan Amount: R_____

3.5 Date to obtain Loan: 45 (forty five) days from the Date of Signature.

3.6 Date to deliver Guarantees: The date referred to in 4.5.2 of the Agreement.

4 OPTIONAL EXTRAS

The Purchaser selects the Optional Extras set out in the Schedule of Theme Selection and Optional Extras – Appendix 2.

5 **MARKETING**

5.1 The Purchaser, for the purposes of the Purchaser's right in terms of section 16 of the Consumer Protection Act as set out in 18.11 of the Agreement, records that the Purchaser was firstly introduced to the Land as result of the following –

newspaper advertisement; ☐

recommendation by another person than the Seller or Estate Agent; ☐

the Purchaser approached the Seller or Estate Agent first; ☐

the Seller or Estate Agent approached the Purchaser first via post, email, sms or personally; ☐

(mark which is applicable)

SALE OF LAND AND BUILDINGS AGREEMENT

In respect of Origins in Eye of Africa Golf and Residential Estate

between

VALOBEX 173 CLOSE CORPORATION

and

THE PURCHASER

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APPENDIX

- 1 DRAFT BUILDING PLANS
- 2 SCHEDULE OF THEME SELECTION AND OPTIONAL EXTRAS
- 3 SPECIFICATIONS
- 4 SUB-DIVISIONAL DIAGRAM

SALE OF LAND AGREEMENT

This Agreement is made and entered into between -

- (1) **Valobex 173 Close Corporation** (Registration Number 2011/050364/23); and
- (2) **The Purchaser.**

RECORDALS

The Parties enter into this Agreement to agree the terms of the sale of the Land from the Seller to the Purchaser.

PART A: DEFINITIONS AND INTERPRETATION

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement and the Recordals, unless clearly inconsistent with or otherwise indicated by the context, -

- 1.1.1 **"Agreement"** means the agreement set out in this document, the Transaction Schedule;
- 1.1.2 **"Architectural Guidelines"** means the architectural, landscaping and design guidelines determined by the Home Owners Association from time to time, set out in Revision 6 of the guidelines dated 1 June 2015, a copy of which is available on request;
- 1.1.3 **"Attorneys Act"** means the Attorneys Act, No. 53 of 1979;

- 1.1.4 **"Balance of the Purchase Price"** means the amount set out in Item 3.3 of the Transaction Schedule being the Purchase Price less the Deposit;
- 1.1.5 **"Board"** means the members of the board of directors of the Home Owners Association;
- 1.1.6 **"Buildings"** means the residential buildings and the other improvements on the Land, including all appurtenances, fixtures and fittings and **"Building"** means one of the Buildings as the context may indicate;
- 1.1.7 **"Building Plans"** means the approved building, landscaping and construction plans, Specifications, Optional Extras, site plans and architectural plans in respect of the Building, substantially in the format of the draft building plans attached to this Agreement marked as **Appendix 1**;
- 1.1.8 **"Building Works"** means the building works relating to the construction of the Building on the Land in accordance with the Building Plans and Optional Extras;
- 1.1.9 **"Business Day/s"** means any day of the week excluding Saturdays, Sundays and any recognised public holiday in the Republic of South Africa;
- 1.1.10 **"Certificate of Practical Completion"** means the certificate issued by the Principal Agent certifying that the Building is capable of being used for residential purposes subject to the completion of minor building works, snagging and the like;
- 1.1.11 **"Companies Act"** means the Companies Act, No. 71 of 2008;
- 1.1.12 **"Consumer Protection Act"** means the Consumer Protection Act, No. 68 of 2008;

- 1.1.13 "**Conveyancers**" means attorneys Glyn & Marais Incorporated of 2nd Floor, The Place, 1 Sandton Drive, Sandton, Tel: (011) 286-3700, Fax: (011) 286-3900;
- 1.1.14 "**Date of Practical Completion**" means the date upon which the Principal Agent issues the Certificate of Practical Completion to the Seller with a copy to the Purchaser;
- 1.1.15 "**Date of Signature**" means the date on which this Agreement is signed by the Party signing last in time;
- 1.1.16 "**Date of Transfer**" means the date on which Transfer takes place;
- 1.1.17 "**Deeds Office**" means the office of the Registrar of Deeds at Johannesburg;
- 1.1.18 "**Deposit**" means the amount/s payable by the Purchaser in terms of 4.4 of the Agreement on the date and in the amounts set out in Item 3.2 of the Transaction Schedule;
- 1.1.19 "**Eye of Africa**" means Eye of Africa Developments Proprietary Limited (Registration Number 2005/021292/07), a company duly registered and incorporated with limited liability in accordance with the company laws of the Republic of South Africa, herein represented by Mr David Nagle and/or Mr Mark McGovern, in their capacity as directors of the Eye of Africa;
- 1.1.20 "**Estate**" means the residential and golf estate situate on Eye of Africa Township Extension 1, as depicted on the General Plan S.G No 5452/2007 of the township, a copy of which is available on request;
- 1.1.21 "**Estate Agent**" means **Kent Gush Properties** (Registration Number 2008/025230/07), or such other estate agent as appointed by the Seller from time to time;

- 1.1.22 "**Estate Rules**" means the Estate Rules of the Home Owners Association as amended from time to time, set out in Revision 11 dated January 2014, a copy of which is available on request;
- 1.1.23 "**Home Owners Association**" means the non-profit company known as the Eye of Africa Home Owners Association NPC (Registration Number 2007/030516/08);
- 1.1.24 "**Housing Consumers Protection Measures Act**" means the Housing Consumers Protection Measures Act, No. 95 of 1998;
- 1.1.25 "**Land**" means the residential erf in the Estate, together with the Buildings, purchased by the Purchaser under this Agreement, described in Item 2 of the Transaction Schedule;
- 1.1.26 "**Levies**" means the Monthly levies payable by the owners of erven in the Estate to cover the costs of the Home Owners Association including membership fees, and "**Levy**" has a corresponding meaning;
- 1.1.27 "**Loan**" means the loan required by the Purchaser to fund the Balance of the Purchase Price as contemplated in 2.1.1 and 2.1.2 of the Agreement;
- 1.1.28 "**Loan Amount**" means the amount of the Loan set out in Item 3.4 of the Transaction Schedule;
- 1.1.29 "**Loan Grant Date**" means the date by which the Loan is to be granted by the bank set out in Item 3.5 of the Transaction Schedule;
- 1.1.30 "**Local Authority**" means the Midvaal Local Municipality;
- 1.1.31 "**Memorandum of Incorporation**" means the Memorandum and Articles of Association of the Home Owners Association, a copy of which is available on request;

- 1.1.32 "**Month**" means in reference to a number of months, from a specific date, a period commencing on that date to the same date of any subsequent Month, and in any other context, a Month of the calendar that is one of the 12 (twelve) Months of the calendar;
- 1.1.33 "**NHBRC**" means the National Homebuilders Registration Council established under the Housing Consumers Protection Measures Act;
- 1.1.34 "**Optional Extras**" means the extra construction work on the Land, or finishes and equipment installed in the Building that are selected by the Purchaser and which the Seller undertakes to construct and/or install in accordance with the provisions of 9, as set out in the Schedule of Theme Selection and Optional Extras attached to this Agreement marked as **Appendix 2**;
- 1.1.35 "**Parties**" means the Purchaser and the Seller and "**Party**" means one of the Parties;
- 1.1.36 "**Prime Rate**" means the nominal annual, compounded Monthly in arrear, rate of interest from time to time publicly quoted as such by the Standard Bank of South Africa Limited, calculated on a 365 (three hundred and sixty five) day factor irrespective of whether or not the year is a leap year;
- 1.1.37 "**Principal Agent**" means the principal agent appointed under the building contract;
- 1.1.38 "**Project Period**" means the period from the Date of Signature until the date that the Seller notifies the Home Owners Association that the Seller has ceased the development of the Estate of which the Land forms part;
- 1.1.39 "**Purchase Price**" means the Purchase Price for the Land set out in Item 3.1 of the Transaction Schedule;

- 1.1.40 "Purchaser" means the Purchaser described in Item 1.2 of the Transaction Schedule;
- 1.1.41 "Seller" means Valobex 173 Close Corporation (Registration Number 2011/050364/23), a close corporation duly registered and incorporated with limited liability in accordance with the company laws of the Republic of South Africa, herein represented by Mr Tim Kloeck, he being duly authorised thereto by virtue of a resolution of the board of directors of the Seller;
- 1.1.42 "Specifications" means the schedule of specifications and finishes of the Building attached to this Agreement marked as **Appendix 3** and initialled by the Parties for identification purposes;
- 1.1.43 "Sub-divisional Diagram" means the draft sub-divisional diagram depicting the Land which is hatched in black on the sub-divisional diagram, a copy of which is attached to this Agreement marked as **Appendix 4**;
- 1.1.44 "Surviving Provisions" means the provisions which come into force and effect on the Date of Signature and bind the Parties, namely the provisions of 1, 2.2, 2.3, 2.4, 2.5, 16, 17 and 18;
- 1.1.45 "Suspensive Condition" means the Suspensive Condition referred to in 2 of the Agreement;
- 1.1.46 "Transaction Schedule" means the schedule appearing on the face of this Agreement;
- 1.1.47 "Transfer" means registration of transfer of ownership of the Land in the Deeds Office into the name of the Purchaser; and
- 1.1.48 "VAT" means Value-added Tax payable in terms of the Value-added Tax Act, No. 89 of 1991.

1.2 Interpretation

- 1.2.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context, any reference to the singular includes the plural and *vice versa*, any reference to natural persons includes legal personas and *vice versa*, and any reference to a gender includes other genders.
- 1.2.2 Where this Agreement requires a Party to use "**Reasonable Endeavours**" in relation to an act or omission, that Party shall do all such things as are necessary or desirable so as to achieve that act or to omit taking an action, unless the Parties agree that it is not reasonable to take the action or to omit taking an action.
- 1.2.3 The Transaction Schedule to this Agreement shall form an integral part of this Agreement.
- 1.2.4 The rule of interpretation that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract shall not apply.

1.3 Consumer Protection Act

- 1.3.1 **The Seller, in selling the Land to the Purchaser in terms of this Agreement, is acting in the ordinary course of its business. If the Purchaser is a natural person, or a legal entity with an annual turnover or asset value of less than R2 000 000 (two million rand) at the time of entering into this Agreement, then the Consumer Protection Act applies to this Agreement. If the Consumer Protection Act applies to this Agreement, then the bold print and the impact, nature and effect of the clause in question is brought to the attention of the Purchaser. The Purchaser is called upon to initial next to the applicable clause in accordance with the provisions of 1.3.2.**

1.3.2 **Notification is hereby given to the Purchaser in terms of section 49 of the Consumer Protection Act of the provisions of 2.1.3.1, 2.1.3.2, 2.1.3.3, 2.1.3.4, 2.4, 6.5, 6.6, 7, 8.2, 8.5, 8.10, 8.12, 8.13.3, 8.13.4, 8.13.5, 8.13.5, 8.16, 8.19, 11.1.2, 11.2, 11.3, 11.4, 11.6, 12.3, Error! Reference source not found., 13.1, 16.2, 16.3, 16.4, 18.10 and 18.13 of this Agreement because these clauses limit the risk or liability of the Seller constitute an assumption of risk or liability by the Purchaser impose an obligation on the Purchaser to indemnify the Seller constitute an acknowledgement of fact by the Purchaser are of an unusual character or nature and/or are such that the Purchaser could not reasonably be expected to be aware or notice. The Purchaser is given notice to read these provisions and if necessary obtain legal advice in order for the Purchaser to be aware of the full meaning, effect and consequences of the clauses before the Purchaser signs this Agreement. The Purchaser by initialling at the foot of the clause in question agrees to be bound by the clause.**

[Note: The Purchaser, by the Purchaser's initials at the foot of this 1.3.2, acknowledges having read and understood the provisions of 1.3.]

.....

Purchaser

2 SUSPENSIVE CONDITIONS

2.1 Granting of Loan

2.1.1 This Agreement is subject to the fulfilment or waiver of the Suspensive Condition that, by no later than 17h00 on the Loan Grant Date, the Purchaser obtains a loan from a registered bank in an amount equal to the Balance of the Purchase Price or for a lesser amount with the Seller's consent in terms of 2.1.2, for the purposes of purchasing the Land, and if needs be, the construction of a home on the Land, evidenced by a letter of grant signed by the bank granting the loan.

- 2.1.2 The Purchaser is entitled, on written notice to the Seller, to accept a final grant of the loan in an amount less than the Balance of the Purchase Price, provided that the Purchaser –
- 2.1.2.1 notifies the Seller in writing of the grant of the loan in an amount less than the amount of the Balance of the Purchase Price prior to the expiry of the Loan Grant Date and obtains the Seller’s consent thereto subject to the Purchaser complying with 2.1.2.2; and
- 2.1.2.2 deliver bankers guarantee/s to the Conveyancers within 30 (thirty) days of the written notice in 2.1.2.1, in an amount equal to the difference between the Balance of the Purchase Price and the amount of the loan granted by the bank concerned, as accepted by the Seller in terms of this 2.1.2.
- 2.1.3 The Purchaser -
- 2.1.3.1 **warrants that the Purchaser’s financial position is such that, having regard to the criteria or requirements usually applied by the bank when granting loans in the private sector to be secured by the registration of mortgage bonds over residential erven in the ordinary course of business, the Purchaser’s application for the Loan will not be refused;**
- 2.1.3.2 undertakes to take all necessary steps to ensure that the Loan is granted and agrees to comply with the requirements stipulated by the registered bank pursuant to the granting of the Loan. **If the Purchaser fails to take such steps in order to obtain fulfilment of the Suspensive Condition, or fails to comply with or accept any condition reasonably imposed by the bank, then the Purchaser shall be in breach of this Agreement, and by that fact alone the Suspensive Condition may be deemed to have been fulfilled, whereupon the Seller is entitled to**

the remedies set out in 16 of this Agreement without prejudice to its rights to invoke the provisions of 2.4;

2.1.3.3 warrants that the Purchaser has the legal capacity and the financial ability to enter into this Agreement, to fund and to pay the Purchase Price, to lawfully complete and sign all documents necessary to apply for the Loan, to register a mortgage bond against the title deed of the Land and to take Transfer without undue delay; and

2.1.3.4 undertakes to pay the costs of and incidental to the registration of the first mortgage bond plus VAT, including the conveyancing fees in accordance with conveyancing tariff set by the Law Society of the Northern Provinces and the relevant bank's initiation fees, and the other costs or duties payable of a similar nature, in respect of the registration of the first mortgage bond against the title deed of the Land.

[Note: The Purchaser, by the Purchaser's initials at the foot of this 2.1.3.4, acknowledges having read and understood the provisions of 2.1.3.1, 2.1.3.2, 2.1.3.3 and 2.1.3.4.]

.....

Purchaser

2.2 Time Limit for Fulfilment of Suspensive Condition

2.2.1 The Purchaser shall use the Purchaser's Reasonable Endeavours to procure that the Suspensive Condition is fulfilled as soon as practicable and in any event on or before the Loan Grant Date or the extended date contemplated in 2.2.2 and 2.2.3.

2.2.2 If the Suspensive Condition is not fulfilled by the Loan Grant Date, then the Loan Grant Date is automatically extended for a further period of 15 (fifteen) days, which latter date shall then be regarded as the "**Extended Loan Grant Date**".

- 2.2.3 If the Suspensive Condition has not been fulfilled on or before the Extended Loan Grant Date, then the Parties may agree in writing to further extend the Extended Loan Grant Date to a date or dates extending beyond the Extended Loan Grant Date (the "**Further Extended Loan Grant Date**").

2.3 **Waiver of Suspensive Condition**

The Suspensive Condition is inserted for the sole benefit of the Purchaser. The Purchaser is entitled by written notice to the Seller to be received by the Seller before the Loan Grant Date or the Extended Loan Grant Date or the Further Extended Loan Grant Date, whichever is applicable, to waive compliance with the Suspensive Condition, whereupon the Suspensive Condition shall be deemed to have been fulfilled.

2.4 **Lapsing of Agreement**

If the Suspensive Condition has not been fulfilled or waived on or before the Loan Grant Date, the Extended Loan Grant Date or Further Extended Loan Grant Date, as the case may be, then this Agreement, other than the Surviving Provisions, shall lapse and be of no further force or effect and **no Party shall have any claim against the other Party by reason of the lapsing of this Agreement, except for breach of the provisions of 2.1.2 and the Surviving Provisions. To the extent that this Agreement has been partially implemented, the Parties shall be restored to their respective positions in which they were prior to the Date of Signature.**

[Note: The Purchaser by the Purchaser's initials at the foot of this 2.4, acknowledges having read and understood the provisions of 2.4]

.....

Purchaser

2.5 **Surviving Provisions**

Notwithstanding the provisions of 2.1, the Surviving Provisions shall come into force and effect on the Date of Signature and shall bind the Parties. The remainder

of this Agreement shall come into force and effect on the fulfilment or waiver, as the case may be, of the Suspensive Condition.

PART B: SALE

3 SALE AND PURCHASE OF THE LAND

The Seller hereby sells to the Purchaser, who hereby purchases, the Land in accordance with the provisions of this Agreement.

4 PURCHASE PRICE, PAYMENT AND RELATED PROVISIONS

4.1 Purchase Price

The Purchase Price is the amount set out in Item 3.1 of the Transaction Schedule.

4.2 VAT

The Purchase Price is inclusive of VAT at the applicable standard rate. If the applicable VAT rate changes at any time prior to Transfer, then the Seller is entitled to adjust the Purchase Price accordingly by giving the Purchaser written notice to that effect.

4.3 Payment of Purchase Price

The Purchase Price shall be paid in accordance with the provisions of this 4.3.

4.4 The Deposit

The Deposit shall be paid in cash to the Conveyancers, who are hereby instructed and authorised to invest the Deposit in an interest bearing call account in terms of section 78(2A) of the Attorneys Act (the "**Account**") for the benefit of the Purchaser, pending the Date of Transfer. The Account shall be in the name of the Conveyancers but shall be identified with the Purchaser's name and contain a

suitable reference to section 78(2A) of the Attorneys Act. Interest whilst earned in the Account shall accrue for the benefit of the Purchaser and the Conveyancers are hereby instructed and authorised to pay such interest to the Purchaser as soon as possible after the Date of Transfer, less the Conveyancers professional fee for administering the Account in an amount of 0.05% (zero point zero five per cent) of the amount of the interest accrued whilst the Deposit was invested in accordance with this 4.4.

4.5 Payment of the Balance of the Purchase Price

4.5.1 On the Date of Transfer, the Purchaser shall pay the Balance of the Purchase Price in cash to the Seller.

4.5.2 As security for payment of the Balance of the Purchase Price, the Purchaser shall deliver bankers guarantee/s in an amount equal to the Balance of the Purchase Price, subject to the provisions of 2.1.2.2, if applicable, to the Conveyancers within 30 (thirty) days of the receipt of written notice from the Conveyancers calling upon the Purchaser to deliver the guarantee/s.

4.5.3 The guarantee/s referred to in 4.5.2 must be expressed to be immediately payable to the Seller on written notification of the Conveyancers of the Transfer and in a form reasonably acceptable to the Seller.

5 PASSING OF OWNERSHIP, POSSESSION, OCCUPATION, RISK AND BENEFIT

From the Date of Transfer, -

5.1 ownership, occupation, possession and the other benefits of ownership attaching to the Land shall pass to the Purchaser;

5.2 the sole risk, loss or profit in and to the Land shall pass to the Purchaser; and

5.3 the Purchaser shall be liable for payment of the Levies referred to in 8.7.

6 TRANSFER AND RELATED PROVISIONS

- 6.1 Transfer will be effected by the Conveyancers as soon as possible after the Date of Practical Completion, the Deposit has been paid in terms of 4.4, the Balance of the Purchase Price has been secured in terms of 4.5.2, the Purchaser has paid the costs of Transfer in terms of 6.2; and simultaneously with the registration in the Deeds Office of the cancellation of the existing mortgage bonds registered against the title deeds of the Land, if any, and a first mortgage bond passed by the Purchaser over the Land in favour of the mortgagee concerned, if applicable.
- 6.2 The costs of and incidental to the Transfer plus VAT, including the conveyancing fees in accordance with the conveyancing tariff set by the Law Society of the Northern Provinces, together with VAT payable thereon as at the Date of Transfer, and any other costs or duties payable of a similar nature, in respect of the Transfer, shall be paid by the Purchaser to the Conveyancers against delivery to the Purchaser of the Conveyancer's tax invoice/s setting out these costs. No transfer duty is payable as the Seller is a registered VAT vendor for purposes of this transaction.
- 6.3 Within 7 (seven) Business Days after being required by the Conveyancers to do so the Seller and the Purchaser undertake in favour of each other to complete and/or sign the documents necessary to effect Transfer, and to take the steps, pay the amounts and do and procure the doing of things that are reasonable in the circumstances so as to place the Conveyancers in a position to effect Transfer without unnecessary delay or hindrance.
- 6.4 The amounts paid by the Seller in respect of the Land, for any period after the Date of Transfer, including the Levies, the amounts paid by the Seller to the Local Authority for electricity, water, refuse, sewerage and other amounts, in order to obtain a rates clearance certificate to effect Transfer, shall, if received by the Purchaser or credited to the Purchaser's account held with the Local Authority be immediately refunded by the Purchaser to the Seller.

6.5 If Transfer is delayed as a result of the Purchaser's negligence or wilful default, then the Purchaser shall pay to the Seller monthly in advance, interest on the Purchase Price at the Prime Rate plus 2% (two per cent) calculated from the date upon which Transfer would have taken place had it not been for the Purchaser's default until the Date of Transfer (both dates inclusive).

6.6 The date upon which Transfer would have taken place shall be determined by the Conveyancers whose determination shall, in the absence of manifest error, be final and binding on the Parties.

[Note: The Purchaser by the Purchaser's initials at the foot of this 6.6, acknowledges having read and understood the provisions of 6.5 and 6.6]

.....
Purchaser

7 LIMITATION OF LIABILITY

7.1 Subject to 11, The Land is sold without warranties expressed or implied, and subject to the conditions, burdens, encumbrances and servitudes referred to in the title deeds of the Land, the other conditions, burdens, encumbrances and servitudes which may exist in regard thereto, the Estate Rules, and the Architectural Guidelines.

7.2 The Purchaser is deemed to be acquainted with the nature, condition, beacons, extent and locality of the Land, the conditions, burdens, encumbrances and servitudes which may exist in regard thereto, and the Seller and the Sellers' agent/s being entirely free from liability in respect thereof.

7.3 The Purchaser confirms that the Purchaser has carefully inspected the Land and expressly agrees to accept the Land in the condition as it stands.

7.4 The Seller is not liable to the Purchaser, nor shall the Purchaser be liable to the Seller, if the extent of the Land is found to differ from that stated in the title

deeds to the Land and the Seller is not required by the Purchaser to point out the beacons, pegs, boundaries or boundary marks of the Land to the Purchaser.

[Note: The Purchaser by the Purchaser's initials at the foot of this 7.4 acknowledges having read and understood the provisions of 7.1, 7.2, 7.3, and 7.4]

.....

Purchaser

8 PURCHASER'S OBLIGATIONS AND ACKNOWLEDGEMENTS

8.1 On the Date of Transfer, the Purchaser shall become and shall remain a member of the Home Owners Association, until the Purchaser ceases to be the registered owner of the Land.

8.2 **The Purchaser shall perform all the obligations laid out in the Memorandum of Incorporation, the Estate Rules and the Architectural Guidelines. If the Home Owners Association requests the Purchaser to rectify a breach, then the Purchaser agrees that the Home Owners Association is entitled to rectify the breach on the Purchaser's behalf and claim the costs incurred in respect thereof from the Purchaser and also to issue fine, as the Home Owners Association may deem proper in the circumstances, which costs and/or fine will be paid by the Purchaser within 7 (seven) days of being notified thereof.**

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.2, acknowledges having read and understood the provisions of 8.2]

.....

Purchaser

8.3 The Seller is entitled to procure that, in addition to all other conditions of title referred to above or imposed by the Local Authority, the following conditions of title be inserted in the deed of transfer of the Land in terms of which the Purchaser takes title to the Land -

- 8.3.1 *“Every owner of the erf, or any subdivision thereof, or any interest therein, or any unit as defined in terms of the Sectional Title Act, shall become and remain a Member of the Home Owners Association and be subject to its constitution until he/she ceases to be an owner as aforesaid. Neither the erf, nor any subdivision thereof, any interest therein, nor shall any unit thereon be transferred to any person who has not bound himself to the satisfaction of such Home Owners Association to become a member of the Home Owners Association.*
- 8.3.2 *The owner of the erf or any subdivision thereof, or any interest therein, or any unit as defined in the Sectional Titles Act shall not be entitled to transfer such erf, subdivision thereof, interest therein or unit thereon without a Clearance Certificate from the Home Owners Association stating that provisions of the Memorandum and Articles of Association of the Home Owners Association, Estate Rules and Architectural Guidelines have all been complied with, and that all monies due to the Home Owners Association has been paid.*
- 8.3.3 *The term ‘Home Owners Association’ in the aforesaid conditions of title shall mean the Eye of Africa Home Owners Association NPC with registration Number 2007/030516/08.*
- 8.3.4 *The owner of the erf or any successors in title is obliged to commence building operations of the main house and outbuildings within 24 (twenty four) months from the date of first registration of the erf and to complete such construction within 36 (thirty six) months after date of first registration of the erf.*
- 8.3.5 *The owner of the erf or any successor in title undertakes to at all times comply with the Memorandum and Articles of Association, the Estate Rules and Architectural Guidelines laid down by the Home Owner Association from time to time.”*

8.4 The Purchaser undertakes to sign the documents and to do all things necessary as the Seller may reasonably require for the purpose of imposing the conditions referred to in 8.3 of this Agreement on the title deeds of the Land.

8.5 **The Purchaser acknowledges that the Purchaser has been advised that the Home Owners Association will acquire from Eye of Africa certain erven which will be utilized for private open spaces, roads for the purpose of erecting a gate/guard house and controlling entrances for ingress and egress and other purposes as stipulated from time to time and that the Home Owners Association shall be and remain responsible for the costs relating to these erven and areas including the upkeep, payment of municipal charges levied against these erven and areas, the maintenance thereof and the care of the fauna and flora, including the appointment of staff and/or security services to be provided, without exception.**

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.5, acknowledges having read and understood the provisions of 8.5]

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Purchaser

8.6 The Purchaser shall not sell the Land to a third party unless a provision is incorporated in the agreement of sale that the new purchaser of the Land acknowledges that the new purchaser is aware of the Home Owners Association and that the new purchaser is obliged, on receiving transfer of the Land, to become and remain a compulsory member of the Home Owners Association and be subject to the obligations, rules, the Memorandum of Incorporation and the Architectural Guidelines.

8.7 As from the Date of Transfer the Purchaser is liable for payment to the Home Owners Association of a Monthly Levy as determined by the Home Owners Association through its Board which Levy shall be utilised for the purposes described or contemplated in the Memorandum of Incorporation.

8.8 The Levy is intended to cover the expenses of the Home Owners Association and to create a sustainable provision fund. The Levy charged for each erf shall be the same notwithstanding the size and/or value of the erf.

8.9 The Estate Rules and the Architectural Guidelines contain directives and restrictions pertaining to the architecture which may be applied in the design and appearance of buildings to be erected in the Estate and for landscaping. The Purchaser accepts the restrictions and is obliged to ensure that buildings erected by the Purchaser and gardens laid by the Purchaser on the Land comply with these directives.

8.10 **The Estate Rules, the Architectural Guidelines, and the Memorandum of Incorporation form an integral part of this Agreement and the Purchaser confirms that the Purchaser has read and understood the Estate Rules, the Architectural Guidelines, and the Memorandum of Incorporation, and understands that the Purchaser is bound by the conditions contained therein.**

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.10, acknowledges having read and understood the provisions of 8.10]

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Purchaser

8.11 **Connection Fees**

The Purchaser is obliged to pay the amounts (plus VAT thereon) payable in order to connect the house to the essential services including water, electricity, sewerage, telephone and the like supplied by the Local Authority or another supplier at the nearest supply point to the Land.

8.12 **Inconvenience**

The Purchaser acknowledges that, on taking possession and occupation of the Land, the buildings and facilities on the adjacent or nearby erven in the Estate,

may be incomplete and that the Purchaser and occupants of the Land may consequently suffer inconvenience from building operations and from noise and dust resulting therefrom. The Purchaser has no claim whatsoever against Eye of Africa or the Seller by reason of this inconvenience.

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.12, acknowledges having read and understood the provisions of 8.12]

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Purchaser

8.13 Development of the Estate

8.13.1 It is Eye of Africa's intention from time to time to erect and complete buildings and facilities, including a golf course, social club house and other buildings and facilities on the Estate.

8.13.2 The Eye of Africa may acquire other properties adjacent to the Estate which may be incorporated in the Estate as future phases or conservation areas which will be included in the Estate.

8.13.3 **The Purchaser agrees that Eye of Africa is entitled to erect and demolish walls and electric fences and take all other actions which Eye of Africa may deem necessary in order to extend the Estate in phases from time to time.**

8.13.4 **Eye of Africa may from time to time amend the layout, and/or add to or subtract from the number of erven in the Estate in Eye of Africa's absolute and sole discretion. Eye of Africa may similarly amend the golf corridors, social and sports areas, park areas, facilities and amenities in Eye of Africa's absolute and sole discretion.**

8.13.5 **The Purchaser acknowledges that on the Date of Transfer, the golf course, club house and social club house facilities will be incomplete. The Purchaser has not relied on promises or statements, warranties or**

representations, express or implied that the golf course, club house and social club house facilities will have been completed at the Date of Transfer or shortly thereafter. The Purchaser has no claim whatsoever against Eye of Africa and the Seller as a result of the club house and social club house facilities not being completed at the time of completion of the golf course.

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.13.5, acknowledges having read and understood the provisions of 8.13.3, 8.13.4, and 8.13.5.]

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Purchaser

8.14 **Municipal Levies**

As from the Date of Transfer the Purchaser will become liable for payment of municipal rates and taxes and other amounts which may be levied directly on owners by the Local Authority or other competent authority in respect of the Land. Provided that, if Transfer is delayed due to the Purchaser's fault, then the Purchaser's liability to pay these amounts shall arise on the date on which Transfer would have been registered but for the delay caused by the Purchaser. The Purchaser shall pay the municipal rates and taxes and levies directly to the Local Authority or other authority imposing the levy. If a new levy or form of taxation is imposed in respect of the Land by the Local Authority or other competent authority after the Date of Signature, then the Purchaser is likewise liable for the payment thereof from the Date of Transfer, which payment will be made directly to the relevant local or other authority. The Purchaser is liable for payment of VAT which may be levied in respect of these amounts.

8.15 **Condition of Land**

As from the Date of Transfer, the Purchaser is obliged at the Purchaser's own expense to keep the Land neat and free of rubbish and excessive weeds and similar vegetation. The Purchaser is liable at the Purchaser's own expense to remove

building rubble or similar material which may at any time be dumped on the Land. From the Date of Transfer, the Purchaser is obliged at the Purchaser's own expense to comply with the provisions of the Local Authority which relate to the condition and neatness of the Land, whether such provision exists now or is imposed hereafter. The Land shall at all times be kept clean and tidy.

8.16 Damage from golf course

8.16.1 The Purchaser acknowledges that a golf course forms part of the Estate. The Purchaser accordingly agrees that it is possible that golf balls from the golf course may cause damage to improvements situated in the Estate, or on the common property, or to buildings erected on the Land and/or may cause injury to any persons.

8.16.2 The Purchaser indemnifies Eye of Africa and the Seller against claims for damages to persons or property which may arise as a result of a person using the golf course or related activities and hereby waives any claim which the Purchaser may now or in the future have against the Seller in respect of these claims.

8.16.3 The Purchaser acknowledges that inconvenience may be caused due to tournaments, associated marketing events and/or related activities in the Estate which may render the golf course unavailable. The Purchaser indemnifies Eye of Africa and the Seller against claims which may arise as a result of tournaments, associated marketing related events and/or related activities and inconvenience suffered by the Purchaser as a result of tournaments, associated marketing events and/or related activities and hereby waives any claim which the Purchaser may now or in the future have against Eye of Africa and the Seller in respect of such claims.

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.16.3, acknowledges having read and understood the provisions of 8.16.1, 8.16.2, and 8.16.3]

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Purchaser

8.17 Resale of Land

The Purchaser shall not sell the Land unless the sale is in terms of a written contract containing the terms and conditions stipulated by the Seller and which will be in the same format and contain the same terms as this Agreement.

8.18 Social Membership

From the Date of Transfer the Purchaser shall automatically receive social membership and the right to use the social club house facilities.

8.19 Indemnity for installation of infrastructural services

The Purchaser indemnifies Eye of Africa and the Seller against damages caused to the Land due to the installation of the infrastructural services, including construction of roads, curb stones, sewerage works, electricity, water provision and storm water drainage. The Purchaser accepts that the activities during the installation of services may give rise to a certain degree of damage to the Land and/or vegetation, even if infrastructural services are not placed or conducted directly over or under the Land being sold.

[Note: The Purchaser by the Purchaser's initials at the foot of this 8.19, acknowledges having read and understood the provisions of 8.19]

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Purchaser

PART C: THE BUILDING WORKS

9 CONSTRUCTION

The Seller undertakes to erect the Building on the Land in accordance with the Building Plans and Specifications and on the terms and conditions in this Part C of the Agreement.

10 SCHEDULE OF THEME SELECTION AND OPTIONAL EXTRAS

The Purchaser has selected the Optional Extras listed in the Schedule of Schedule of Theme Selection and Optional Extras attached to this Agreement marked as **Appendix 2**, by ticking the box next to the item concerned and initialling next to the ticked box concerned. The Seller undertakes to construct and install the Optional Extras.

11 CONSTRUCTION WARRANTIES

11.1 The Seller warrants that –

11.1.1 in terms of section 55 of the Consumer Protection Act, the Building will be useable and durable for a reasonable period of time, having regard to the use to which the Building would normally be put and to all the surrounding circumstances of its construction except to the extent that the Building or Buildings have been altered after having left the control of the Seller;

11.1.2 in accordance with the provisions of section 55(6) of the Consumer Protection Act, the -

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

11.1.2.2 Seller will allow the Purchaser a reasonable opportunity to examine the Building, that the Purchaser will be allowed to carefully inspect

the Building and expressly agrees to accept the Building in the condition that it stands provided the Building is erected in a workmanlike fashion and substantially in terms of the Specifications and Optional Extras,

and accordingly the warranties contained in section 55 of the Consumer Protection Act that the Building will be reasonably suitable for the purposes for which it is generally intended and is of good quality, in good working order and free of any defects, are not applicable to the transaction contemplated in this Agreement;

- 11.2 The Seller is only responsible to rectify the defects in terms of 11.1 if such defects were sustained by the Purchaser under conditions of normal use and service. The Seller shall under no circumstances be responsible for damage or loss caused by wear and tear, misuse, neglect, negligence, abuse of accident or in respect of or arising from any risk insured against in terms of the insurance policies normally issued by the leading South Africa insurance companies in respect of residential properties (which policy includes SASRIA cover).**
- 11.3 The Seller shall under no circumstance be liable for any consequential loss or damage and its liability is specifically limited to matters set out in 11.5.**
- 11.4 A certificate issued by the Principal Agent stating that any defect for which the Seller is liable in terms of this 11 has been made good is final and binding on the Parties and relieves the Seller from any further obligations whatsoever in respect of such defect.**

Note: The Purchaser by the Purchaser's initials at the place provided therefore at the foot of this 11.3 hereby agrees to having read and understood the provisions of 11.1.2, 11.2, 11.3 and 11.4.

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Purchaser

- 11.5 In terms of section 13(2) of the Housing Consumers Protection Act, the Seller undertakes that the Building shall be or has been -
- 11.5.1 constructed in a workmanlike manner;
- 11.5.2 fit for habitation; and
- 11.5.3 constructed in accordance with the NHBRC technical requirements to the extent applicable to the Buildings at the date of enrolment of the Buildings with the NHBRC, the Specifications and the Optional Extras;.
- 11.6 **Save as specifically set out in this Agreement and its appendices, the Seller has made and makes no representations and has not given or gives no warranties in respect of the Land or Building or in respect of anything relating thereto.**

Note: The Purchaser by the Purchaser's initials at the place provided therefore at the foot of this 12 hereby agrees to having read and understood the provisions of 12.

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Purchaser

12 DEFECTS ON COMPLETION

- 12.1 Prior to taking occupation of the Land, the Purchaser is entitled to furnish the Seller with a written list of items which, in the reasonable opinion of the Purchaser, require the attention of the Seller or that must be rectified by the Seller (the “**Snag List**”).
- 12.2 Upon receipt of a written notice from the Seller calling upon the Purchaser to do so, the Purchaser shall be afforded 7 (seven) days, or such longer period as may be reasonable, to –
- 12.2.1 inspect the Land and Buildings together with a representative of the Seller;

12.2.2 complete the Snag List; and

12.2.3 deliver the Snag List to the Seller.

12.3 The Seller shall rectify the defects listed in the Snag List as soon as reasonably possible after receipt of the Snag List from the Purchaser. If the Snag List is not furnished to the Seller within the aforementioned 7 (seven) day notice period referred to in 12.2, or such longer period as may be reasonable, **then the Purchaser -**

12.3.1 **is deemed to have accepted that the Land and Buildings are in a fit and proper condition; and**

12.3.2 **shall have no claim of any nature whatsoever against the Seller in this regard.**

[Note: The Purchaser by the Purchaser's initials at the place provided therefore at the foot of this 12.3 hereby agrees to the acknowledgements herein.]

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Purchaser

12.4 If after the Seller has attended to the rectification of the defects listed in the Snag List, and the Purchaser is dissatisfied with the manner in which such defects have been rectified and a dispute arises between the Seller and the Purchaser with regard to the Snag List or any item enumerated therein, then, such dispute shall be referred to the Principal Agent who shall act as expert *mututis mutandis* in accordance with the provisions of 14 in resolving the dispute, and the decision of the Principal Agent shall be final and binding upon the Parties.

12.5 Notwithstanding the provisions of 12.2, the Seller is liable to make good or cause to be made good at the cost of the Seller –

- 12.5.1 any defects, shrinkage or other faults due to faulty materials, design or workmanship, which may appear in the Building within 3 (three) Months from the Date of Transfer; and
- 12.5.2 any leakage in the roof of the Building arising from faulty materials, design or workmanship occurring within a period of 12 (twelve) Months after the Date of Transfer, provided that if no heavy rain falls during the aforementioned period of 12 (twelve) Months, such period shall be deemed to be extended for such period as is necessary to permit a test of the roof by sufficiently heavy rain.

13 DELAYS

- 13.1 If any unforeseen circumstances arise which delay or which could have the effect of delaying the completion of the Building Works and which involve the incurring of additional expenses not herein provided, then save as otherwise contained herein, the Seller has the right, without prejudice to all other rights herein contained and provided that the written consent of the Purchaser has first been obtained, to disburse monies and to incur expenses on behalf of the Purchaser in order to facilitate the completion of the Building Works. **All such monies disbursed, or expenses incurred, shall be repayable or paid by the Purchaser to the Seller upon demand and shall bear interest in accordance with 18.2.3. The Seller shall, within a reasonable time of disbursing such monies or incurring such expenses, notify the Purchaser of the nature and extent thereof.**

Note: The Purchaser by the Purchaser's initials at the place provided therefore at the foot of this 13.1 hereby agrees to having read and understood the provisions of 13.1.

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Purchaser

- 13.2 For the purposes of 13.1, "**unforeseen circumstances**" shall mean civil commotion, political riot, strike or lock-out or *vis major*.

PART D: MISCELLANEOUS

14 EXPERT DETERMINATION

When in terms of this Agreement any matters are referred for expert determination –

- 14.1 the reference shall be deemed to be a reference to any person suitably qualified to determine the dispute in question appointed for this purpose by agreement between the Parties and failing agreement by the President, chairman or titular head of the professional body to which such person belongs (the “**Expert**”);
- 14.2 the reference shall be to the Expert acting as an expert and not as an arbitrator or *quasi arbitrator*; with the view that the matter for determination be dealt with as expeditiously as possible;
- 14.3 each Party is entitled to submit written representations in respect of all relevant factors to the Expert for consideration within 10 (ten) Business Days of the matter having been referred for determination by the Expert;
- 14.4 the Parties shall use their respective Reasonable Endeavours to procure that the Expert's determination of the matter concerned is made within a period of 20 (twenty) Business Days from the expiry of the date within which the Parties are to submit written submissions to the Expert in terms of 14.3;
- 14.5 the Expert's determination shall be final and binding on the Parties to the dispute and carried into effect by the Parties. The Expert is obliged to give reasons, whether written or verbal, in respect of any determination; and
- 14.6 the cost of the Expert in making the Expert's determination shall be determined by the Expert when making the Expert’s award.

15 AGENT'S COMMISSION

- 15.1 The Estate Agent is the effective cause of the sale of the Land. The Seller is liable for the payment of the Estate Agent's commission.
- 15.2 The Estate Agent's commission is deemed to have been earned by the Estate Agent upon the fulfilment of the Suspensive Condition, but is payable together with VAT to the Estate Agent as soon as possible after the Date of Transfer.
- 15.3 If this Agreement is cancelled as a result of the Purchaser's breach or as a result of the Seller releasing the Purchaser of the Purchaser's obligations under this Agreement, then the Seller or the Estate Agent is entitled to claim payment of the commission from the Purchaser.

16 BREACH

- 16.1 If the Purchaser commits a breach of the terms of this Agreement, all of which are deemed to be material, and persists in such breach for more than 10 (ten) days after the Seller has given a written notice to the Purchaser requiring the Purchaser to remedy the breach, then the Seller is entitled, without prejudice to any other rights available to the Seller at law, to —
- 16.1.1 claim specific performance by way of immediate payment of the Deposit, the full Balance of the Purchase Price then unpaid, together with interest and/or the other monies then outstanding under this Agreement; or
- 16.1.2 cancel this Agreement and retain the amounts paid by the Purchaser to the Seller and/or the Conveyancer, including the Deposit, plus the interest which has accrued on the Deposit in terms of the provisions of 4.4.
- 16.2 If this Agreement is cancelled before Transfer, then the Purchaser —
- 16.2.1 **shall immediately vacate the Land and restore possession and occupation of the Land to the Seller, and the Purchaser has no claim against the Seller**

for improvements that the Purchaser may have effected to the Land, notwithstanding the fact that the Seller may have consented to the possession and/or occupation of the Land or to the erection of improvements; and

16.2.2 authorises and instructs the Conveyancers to pay the Deposit together with the interest which has accrued on the Deposit whilst invested in the Account, referred to in 4.4 to the Seller.

16.3 The Purchaser is liable for and shall pay on demand the legal costs, on the attorney and client scale, incurred by the Seller in legal proceedings instituted by the Seller against the Purchaser as a result of or arising from a breach of this Agreement.

16.4 If the Purchaser disputes the Seller's right to terminate or cancel this Agreement, then, pending the finalisation of this dispute, the Purchaser is obliged to continue to effect payment of the monies payable by the Purchaser in terms of this Agreement on the due dates thereof and the Seller is entitled to recover and accept these payments without prejudice to the Seller's rights.

[Note: The Purchaser by the Purchaser's initials at the foot of this 16.4, acknowledges having read and understood the provisions of 16.2, 16.3 and 16.4.]

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Purchaser

17 DOMICILIUM AND NOTICES

17.1 The Parties choose as their *domicilium citandi et executandi* their respective addresses set out in this 17 for all purposes arising out of or in connection with this Agreement at which addresses all the 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.

- 17.2 For the purpose of this Agreement the Parties' respective addresses shall be -
- 17.2.1 as regards the Seller at the address set out in Item 1.1 of the Transaction Schedule; and
- 17.2.2 as regards the Purchaser at the address set out in Item 1.2, as the case may be, of the Transaction Schedule,
- or at such other address in the Republic of South Africa, not being a post office box or *poste restante*, of which the party concerned may notify the others in writing.
- 17.3 Any notice given in terms of this Agreement shall be in writing and shall if delivered by -
- 17.3.1 hand be deemed to have been duly received by the addressee on the date of delivery;
- 17.3.2 recognised international courier service be deemed to have been received by the addressee on the 1st (first) Business Day following the date of such delivery by the courier service concerned; and
- 17.3.3 telefax or email be deemed to have been received by the addressee on the 1st (first) Business Day following the date of transmission of such telefax or email.
- 17.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

18 MISCELLANEOUS

18.1 Company To Be Formed

18.1.1 If the person who signs this Agreement for the Purchaser does so acting as a trustee or agent for a company (for the purposes of this 18.1, the "**Trustee**") to be formed, then the provisions of this 18.1 shall apply.

18.1.2 By not later than 30 (thirty) days after the Date of Signature the company on behalf of which the Trustee is acting shall be incorporated.

18.1.3 If within 3 (three) Months after the Date of Signature, the company has neither ratified nor rejected this Agreement, then the company will be regarded as having ratified this Agreement.

18.1.4 To the extent that the company ratifies the Agreement, the Agreement is enforceable against the company as if the company had been a party to the Agreement when it was made, and liability of the Trustee who entered into this Agreement on behalf of the company is discharged.

18.1.5 If the company is not incorporated or after being incorporated rejects any part of the Agreement, then the Trustee shall be bound by and be liable for the obligations of the Purchaser, in terms of this Agreement.

18.2 Payment and Interest

18.2.1 Payments in terms of or arising out of this Agreement shall be made free of bank exchange, commission and other deductions to the Party entitled thereto.

18.2.2 The Purchaser is not entitled to defer, adjust or withhold payments due to the Seller in terms of or arising out of this Agreement, or to obtain deferment of judgment for such amount, or any execution of such judgment by reason of any set-off or counterclaim of whatsoever nature or howsoever arising.

18.2.3 Save to the extent otherwise provided, the amounts due by the Purchaser to the Seller (including damages) in terms of or arising out of this Agreement shall, unless paid on due date, bear interest from the due date to date of payment. The interest shall be calculated at the Prime Rate, and capitalised Monthly in arrears on the balance due.

18.2.4 If there is a dispute as to the amount of the Prime Rate, a certificate furnished in writing by any manager of the Standard Bank of South Africa Limited, whose appointment, designation and authority as such, it shall not be necessary to prove, shall be *prima facie*, proof of the amount of the Prime Rate.

18.3 **Independent Advice**

Each of the Parties acknowledge that they have been free to secure independent legal advice as to the nature and effect of the provisions of this Agreement and that they have either taken such independent legal advice or dispensed with the necessity of doing so, and all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in the circumstances and are part of the overall intention of the Parties in connection with this Agreement.

18.4 **Further Assurances**

The Parties agree to perform the further acts and to execute and deliver the further documents which may be necessary or appropriate to carry out the purposes and the implementation of this Agreement.

18.5 **Whole Agreement**

This Agreement constitutes the whole agreement between the Parties as to the subject-matter hereof and no agreement, representations or warranties between the Parties other than those set out herein are binding on the Parties.

18.6 Variation

No addition to or variation, consensual cancellation 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.

18.7 Time is of the essence

Time is of the essence for the performance by the Purchaser of the Purchaser's obligations owed to the Seller in terms of this Agreement.

18.8 Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from this Agreement or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

18.9 Joint Purchasers

If this Agreement is signed by more than one person as Purchaser, the obligations of all the signatories shall be joint and several.

18.10 Matrimonial Property

The Purchaser warrants to the Seller that the consents required in terms of the Matrimonial Property Act, No 88 of 1994 have been given, if applicable.

[Note: The Purchaser by the Purchaser's initials at the foot of this 18.10 acknowledges having read and understood the provisions of 18.10

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Purchaser

18.11 Purchaser's right in terms of section 16 of the Consumer Protection Act

18.11.1 This 18.11 is applicable only if the Purchaser is a natural person or a legal entity with an annual turnover or asset value of less than R2 000 000 (two million rand).

18.11.2 If this Agreement is entered into between the Parties as a result of the direct marketing to the Purchaser by the Seller or Estate Agent, then the Purchaser is entitled to cancel this Agreement within 5 (five) Business Days after the Date of Signature or within 5 (five) Business Days after the Date of Transfer.

18.11.3 If the Purchaser elects to exercise the Purchasers' right in terms of this 18.11, then the Purchaser must -

18.11.3.1 inform the Seller in writing within 5 (five) days of the date in 18.11.2 that the Purchaser is cancelling this Agreement; and

18.11.3.2 return the Land within 10 (ten) Business Days after the Date of Transfer and in the same condition as the Land was given to the Purchaser. The return of the Land will be done at the Purchaser's own risk and cost, and will include transfer fees including, but not limited to transfer duty, VAT, and conveyancing fees.

18.11.4 If the Land is returned to the Seller in terms of this 18.11, then the Purchaser is liable to the Seller for the costs that must be incurred to rectify any damage caused to the Land.

18.11.5 If and when 18.11.3 has been complied with, the Seller shall return all payments made by the Purchaser to the Seller within 15 (fifteen) Business Days, provided that the Seller is entitled to set-off the amounts that may be necessary for costs for remedial work as provided for in 18.11.4.

18.12 **Costs**

Each Party shall pay its own cost of negotiating, drafting, preparing and implementing this Agreement and the appendices to it.

18.13 **Provisions inserted for the benefit of Eye of Africa**

The provisions of 8.5, 8.12, 8.13, 8.16 and 8.19 confer a benefit upon Eye of Africa and although not a party to this Agreement by its signature at the foot of this Agreement at the place provided therefore, it is entitled to accept the benefits and enforce the rights conferred on it in terms of these provisions.

.....
Purchaser

Signed at.....on this theday of20__

For: **VALOBEX 173 CLOSE**
CORPORATION

Duly Authorised

Name:

Designation:

Signed at.....on this theday of20__

For: **THE PURCHASER**

Duly Authorised

Name:

Designation:

Signed at.....on this theday of20__

For: **THE PURCHASER**

Duly Authorised

Name:

Designation:

Eye of Africa hereby accepts the benefits conferred upon it in terms of 18.13 and is entitled to enforce the rights granted to it in accordance with those provisions

Signed at.....on this theday of20__

For: **EYE OF AFRICA DEVELOPMENTS
PROPRIETARY LIMITED**

Duly Authorised

Name:

Designation:

Signed at.....on this theday of20__

For: **THE ESTATE AGENT**

Duly Authorised

Name:

Designation:

APPENDIX [INSERT NUMBER]

DRAFT BUILDING PLANS

APPENDIX 2

SCHEDULE OF THEME SELECTION AND OPTIONAL EXTRAS

APPENDIX 3

SPECIFICATIONS

APPENDIX 4

DRAFT SUB-DIVISIONAL DIAGRAM

ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENTS

I/We confirm that I/we -

1 received copies of the -

1.1 Architectural Guidelines;

1.2 Memorandum of Incorporation; and

1.3 Estate Rules

in respect of Portion _____ of Erf 2538 in the development known as the Eye of Africa Estate;
and

1.4 read, understood and agree to be bound by the provisions of the abovementioned documents.

PURCHASER SIGNATURE

Date

PURCHASER NAME

and/or

PURCHASER SIGNATURE

Date

PURCHASER NAME

and/or

PURCHASER SIGNATURE

Date

PURCHASER NAME