

AGREEMENT OF SALE

The hereinafter mentioned Seller and Purchaser enter into an agreement on the terms and conditions set out herein and also set out in the Schedule of Conditions annexed hereto.

1. Name of Seller : BIRD VALLEY ESTATES (PROPRIETARY)
LIMITED NO. 2003/026053/07

Address of Seller : 12 on Palm Boulevard, Gateway, 4319

2. Name of Purchaser : _____
Identity Number of Purchaser : _____
Marital status : _____

Spouse of Purchaser if micp : _____
Identity Number of Spouse : _____
Address of Purchaser : _____

3. Description of property sold : Portion _____ (of 5) of the farm Jepson's Vley
No. 956 in extent _____ square metres,
Registration Division FT, Province of
KwaZulu-Natal, which property is situate
within the development known as BIRD
VALLEY ESTATE, as more fully referred to
and defined in the Schedule of Conditions
annexed hereto.

4. Purchase price including VAT : _____

5. Payable as follows :

Cash Deposit Portion: R25,000.00 (TWENTY FIVE THOUSAND
RANDS)

Balance of Cash Portion: _____

Loan Portion: _____

All of which shall be payable as set out in the
Schedule of Conditions annexed hereto.

6. Occupation date:

The date of registration of transfer of the
Property into the name of the Purchaser.

7. Amount of Mortgage Bond :

To be granted on the terms of the Schedule
of Conditions annexed hereto.

8. Personal guarantee:

The name of the signatory to this
agreement is:

9. Purchaser's property to be sold:

The address of the Purchaser's
property still to be sold is:

10. Selling Agent :

11. SPECIAL CONDITIONS

SIGNED by the SELLER at

this day of 2010

AS WITNESSES:

1.

2.

who warrants his authority hereto.

SIGNED by the PURCHASER at

this day of 2010

AS WITNESSES:

1.

2.

SCHEDULE OF CONDITIONS

The following are the Schedule of Conditions which, together with the Agreement of Sale to which this Schedule is attached, and together with the annexures hereto shall constitute the Agreement of Sale entered into between the Seller and the Purchaser.

WHEREAS

The Seller is in the course of erecting a Development Scheme known as Bird Valley Estate at Satellite Dam near Crammond in the uMshwathi Municipality, KwaZulu-Natal, authority for which has been granted in terms of the Development Facilitation Act on the 19th October 2007. The Purchaser is desirous of acquiring under separate title one such sub-division.

NOW THEREFORE THESE PRESENTS WITNESSETH:

1. In this Agreement unless the context otherwise indicates:
 - 1.1 "Act" shall mean the Deeds Registries Act No. 47 of 1937 as amended together with its regulations as amended.
 - 1.2 "Agreement" shall mean this Agreement, the annexures hereto and the documents incorporated by reference.
 - 1.3 "Architect" shall mean John Smith.
 - 1.4 "Articles of Association" shall mean the Articles of Association of the Bird Valley Estate Homeowners' Association annexed hereto, marked "E".
 - 1.5 "Bird Valley Estate" shall mean the Development Scheme which is being developed and constructed by the Seller on the Property and which consists of some 25 residential units of similar architectural idiom, and common property, an indication of the Development Scheme being set out on the Layout Plan annexed hereto, marked "A".
 - 1.6 "Building Works" shall mean the construction and erection of a completed residence and appropriate outbuilding/s on the Property by the Purchaser.
 - 1.7 "Conveyancer" shall mean Stowell & Co of 295 Pietermaritz Street, Pietermaritzburg.
 - 1.8 "Development Property" shall mean Portion 5 of the farm Jepson's Vley No. 956, Registration FT, Province of KwaZulu-Natal and upon which the development known as Bird Valley Estate will be developed.
 - 1.9 "DFA" shall mean the Development Facilitation Act No. 67 of 1995.
 - 1.10 "Homeowners' Association" shall mean the Bird Valley Estate Homeowners' Association details of which are hereinafter more fully referred to.
 - 1.11 "House Rules" shall mean the Rules governing the occupation and use of the Development as set out in Annexure "C" hereto.
 - 1.12 "Land Surveyor" shall mean Haines and Jeffreys.
 - 1.13 "Layout Plan" shall mean the Layout Plan of the development property that is annexed hereto, marked "A".
 - 1.14 "Memorandum of Association" shall mean the Memorandum of Association of the Bird Valley Estate Homeowners' Association annexed hereto, marked "D".
 - 1.15 "Occupation Date" shall mean the date of registration of transfer of the Property into the name of the Purchaser.
 - 1.16 "Property" shall mean the Portion of the Development Property as referred to in Clause 3 of the Agreement of Sale and which property is indicated by the cross hatching on the Layout Plan.

- 1.17 "Purchaser" shall mean the party described as such on the first page of this Agreement, together with his Heirs, Executors, Administrators or Assigns.
- 1.18 "Seller" shall mean Bird Valley Estate (Pty) Ltd. 2003/026053/07.
- 1.19 "Selling Agent" shall mean the Agent described as such in paragraph 10 of the Agreement.
- 1.20 "Site Development Controls" shall mean the controls set out in Annexure "B" hereto.

2. SALE

The Seller hereby sells to the Purchaser who hereby purchases :

The Property

Subject to the terms and conditions contained herein.

3. PURCHASE PRICE

The Purchase price payable by the Purchaser to the Seller shall be that purchase price reflected as such on the Agreement of Sale payable as follows:

- 3.1 The cash deposit portion of the Purchase Price in the sum of R25,000.00 (TWENTY FIVE THOUSAND RANDES) shall be paid without deduction or demand to the Conveyancers within 7 (SEVEN) days of the last signature hereto and shall be held in Trust by them in an interest bearing account for the benefit of the Purchaser pending registration of transfer whereupon payment shall be made to the Seller.
- 3.2 The balance of cash portion reflected in Paragraph 5 of the Sale Agreement shall be :
 - 3.2.1 secured by a guarantee to be lodged with the Conveyancer within 21 (TWENTY ONE) days of the last signature hereto in a form acceptable to the Seller or the Seller's Conveyancer and payable without deduction or demand at Pietermaritzburg on the date of registration of transfer of the Property into the name of the Purchaser, or
 - 3.2.2 deposited in cash with the Conveyancer without deduction or demand within 21 (TWENTY ONE) days of the last signature hereto and to be held by them in trust in an interest bearing account for the benefit of the Purchaser pending registration of transfer, whereupon payment shall be made to the Seller.
- 3.3 The loan portion of the purchase price reflected in Paragraph 5 of the Agreement of Sale shall be paid by the Purchaser to the Seller upon date of registration of the Property into the name of the Purchaser, and which funds shall be provided by the loan referred to below which shall be secured by a guarantee in a form acceptable to the Seller or the Seller's Conveyancer, to be lodged with the Conveyancer within 30 (THIRTY) days of the granting of such bond, or such extended period as the Seller in the Seller's sole discretion may agree to grant.

4. SPECIAL CONDITION : FIRST MORTGAGE BOND LOAN

- 4.1 In the event that the Purchaser has indicated on the Agreement that the Purchaser requires a mortgage bond in order to fund the purchase price or part of the purchase price or to fund the cost of the Building Works or a portion of the cost of the Building Works, then this sale shall be subject to the condition that the Purchaser (or the Seller or the Agent, on the Purchaser's behalf) is able to raise a loan from a financial institution, upon the security of a first mortgage bond to be passed over the Property for the sum of not less than the amount referred to in the Agreement at prevailing bank rates or conditions, which loan shall be procured in principle within 14 (FOURTEEN) days of signature hereof.
 - 4.1.1 This condition shall only be deemed to have been fulfilled if the grant thereof provides that the mortgage bond shall be registered by the Conveyancer. The Purchaser acknowledges that in the event that the Conveyancer is not instructed to register the Mortgage Bond, the Seller shall be entitled, in its discretion, to cancel the Agreement as if the mortgage bond had not been timeously granted.

4.1.2 The terms of the grant of the mortgage bond shall provide that whilst payment of the proceeds of the mortgage bond may be effected by the bank in draws, sufficient shall be paid on registration of transfer as is necessary to secure the purchase price of the Property.

4.2 If the requisite loan is not procured and made available timeously, (or such extended period as the parties may agree to in writing), then either party shall be entitled to cancel this Agreement on written notice addressed to the other party. The Purchaser undertakes to make immediate application for such loan.

5. PERSONAL GUARANTEE

In the event of the Purchaser being a corporate entity or Trust and the signatory hereto not entering into this Agreement as Purchaser in his personal capacity, then the signatory hereto does, renouncing the benefits of excussion and division, hereby interpose and bind himself in favour of the Seller as surety and as co-principal debtor with the Purchaser for the obligations of this Agreement, the said signatory acknowledging by these presents that in the event of the Purchaser failing to honour and perform any of its obligations under this Agreement that the said signatory shall be personally responsible for the obligations of the Purchaser under this Agreement.

6. OCCUPATION AND POSSESSION

Occupation and possession shall be given to the Purchaser on the Occupation Date being the date of registration of transfer of the Property into the name of the Purchaser.

7. RISK AND RATES

7.1 With effect from the Occupation Date aforesaid all the benefits and risks of ownership of the Property shall pass to the Purchaser and the Purchaser shall be liable for its *pro rata* share of rates and taxes and other outgoings including Homeowners' Association Levies levied thereon and shall, on request from the Conveyancers, furnish them with a cash deposit for the Purchaser's estimated share of such outgoings. Up to the Occupation Date all the benefits and risks of ownership of the Property shall remain with the Seller who shall be liable for and shall pay for all rates, taxes, outgoings and levies up to the Occupation Date. The Seller shall pay to the Purchaser the proportionate share of any such outgoings remaining unpaid which are attributable to periods prior to such date. The Purchaser shall refund to the Seller the proportionate share of any such outgoings paid by the Seller attributable to any period in advance of the said date.

7.2 It is recorded that that it is the Seller's experience that where properties within this Development have been sold and transferred by it to various Purchasers, the Municipality has continued to bill the Seller for the rates in respect of the property sold for an extended period of time before updating its records and billing the Purchaser separately. The Purchaser agrees that notwithstanding the foregoing, it shall be liable for its share of rates and taxes so billed to the Seller and shall pay such amount to the Seller upon demand.

8. VOETSTOOTS

8.1 The Property together with any improvements thereon is sold voetstoots (as it stands) the Seller being absolutely free from all liability for any defect in the Property whether patent or latent, it being recorded that:

8.1.1 The Purchaser is presumed to be acquainted with the Property, its nature, zoning, extent, boundaries, 100 year flood line and locality.

8.1.2 The Seller shall not be liable for any deficiency in extent which may be revealed on any resurvey nor shall the Seller benefit or be paid for any excess.

8.1.3 The Purchaser is acquainted with all servitudes and conditions contained in the Title Deeds of the Property and any conditions of which the Purchaser has otherwise had notice.

8.1.4 The purchaser is acquainted with the condition of any buildings and improvements on the Property including brickwork, roofing, all timbers, electrical and plumbing installations.

9. REGISTRATION OF TRANSFER AND COSTS

9.1 All documents in connection with the preparation of transfer shall be prepared and registered by the Sellers' Conveyancers STOWELL & Co and the costs of and incidental to such transfer, shall be paid by the Purchaser. The Purchaser shall on request sign all documents required to be signed in connection with such transfer and shall on request from the said Conveyancers, furnish them with a cash deposit for the aforesaid estimated costs.

9.2 Registration of transfer of the Property into the name of the Purchaser shall be proceeded with as soon as possible after signature of this agreement, fulfillment of all suspensive conditions and compliance with the requirements of the DFA.

10. WITHHOLDING OF TRANSFER

The Seller shall be entitled to withhold transfer to the Purchaser, or lodgement of the transfer documents, until the purchase price and all other charges due by him are paid or secured to the satisfaction of the Seller, in accordance with this Agreement.

11. BREACH

In the event of the Purchaser failing to carry out any whatsoever of its obligations hereunder and in the event of the Purchaser continuing in such breach for more than seven (7) days after written notice has either been handed to such Purchaser or has been posted to such Purchaser by prepaid registered post by or on behalf of the Seller requiring the Purchaser to any other remedies that it may have in Law have the right either to enforce this Agreement, or at the Seller's option, to declare the same cancelled in which case the Seller shall be entitled to resume possession of the assets sold and to resell the same either by private sale or by public auction at the expense of the Purchaser immediately or at such later date as the Seller may in its own entire discretion think fit, in which case the Purchaser shall make good all losses sustained by the Seller by reason of such cancellation and resale including costs on an attorney and own client scale, but without being entitled to the benefits, if any, accruing therefrom and the Purchaser shall have no claim for compensation for any improvements, which improvements shall become the property of the Seller.

Without prejudice to the foregoing, if such cancellation takes place, all monies paid or deposits made in terms of this Agreement whether in trust or otherwise, shall be deemed to have been forfeited to the Seller on account of the damages suffered by the Seller.

12. MORA INTEREST

In the event of the Purchaser causing a delay in the registration of transfer or the registration of the mortgage bond, through any act of omission or commission whatsoever, or in the event of the delay in registration of transfer and the mortgage bond being in any way the responsibility of the Purchaser, the Purchaser shall be obliged to pay and hereby undertakes to pay interest on the full Purchase Price at the Prime Rate of interest charged by the Sellers bankers from time to time plus 1% (ONE PERCENT) per annum calculated from the date that the Purchaser has been notified in writing by the Seller or the Conveyancers as being *in mora* to the date upon which registration of transfer is effected or until the date of compliance with the Purchaser's obligations under the agreement as certified by the Conveyancers, whichever is the sooner. The Purchaser shall be obliged to make payment of such sum to the satisfaction of the Conveyancers before registration of transfer and a certificate signed by the Conveyancers confirming the amount of such interest due in terms hereof shall be satisfactory proof of the amount owing by the Purchaser to the Seller in terms hereof.

13. DOMICILIA

13.1 The parties respectively choose domicilia citandi et executandi for all purposes of and in connection with this Agreement as follows:

The Seller : The address indicated as the address of the seller on the first page of the Agreement.

The Purchaser: The address indicated as the address of the Purchaser on the first page of this Agreement

The Agent The address as indicated as the address of the Agent on page 2 of this Agreement.

13.2 The parties hereto shall be entitled to change their domicilia from time to time provided that any new domicilia selected by them shall be another physical address situated in the Republic of South Africa and any such change shall only be effective upon receipt of notice in writing by the other party of such change.

13.3 Any notice to a party contained in a correctly addressed envelope and -

sent by prepaid registered post to it at its domicilium citandi et executandi;

or

delivered by hand to a responsible person during ordinary business hours at its domicilium citandi et executandi;

shall be deemed to have been received, in the case of it being sent by prepaid registered post, 72 (SEVENTY TWO) hours after posting (unless the contrary is proved) and, in the case of delivery by hand on the day of delivery.

- 13.4 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 such party notwithstanding that it was not sent to or delivered at such party's chosen domicilium citandi et executandi.

14. HOMEOWNERS' ASSOCIATION

- 14.1 The Purchaser acknowledges that all owners of properties within the development known as Bird Valley Estate are obliged to be members of the Bird Valley Estate Homeowners' Association No. 2008/015810/08 (incorporated under Section 21 of the Companies Act) ("the Homeowners' Association"), and all members thereof shall be obliged to pay levies as referred to herein to the Homeowners' Association. All of the reasonable costs incurred in becoming a member of the Homeowners' Association shall be borne by the Purchaser and which shall be paid to the Conveyancers on request.
- 14.2 The Homeowners' Association will be the registered owner of all of the common property in the development and as indicated on the Layout Plan, and which includes internal roads, paths, security fences and sewerage works and the like and is obliged to maintain these services at the cost of the Homeowners' Association. The Homeowners' Association exists furthermore for the purposes of promoting, advancing and protecting the communal and group interests of its members and for which purpose levies are payable by members. The Purchaser acknowledges that there shall be created against the Title Deed under which the Purchaser obtains registration of transfer the Property, a condition that the property may not be transferred without the consent of the said Homeowners' Association. The said consent shall not be granted unless the seller of the property discharges all arrear levies up to date of transfer and furthermore which consent shall not be granted until the Purchaser binds itself to become and to remain a member of the Homeowners' Association and to pay communal levies as may be assessed by the Homeowners' Association, the amount of which levies shall be determined solely by the Homeowners' Association and which will be calculated in accordance with a formula that may be set out in the Rules from time to time.
- 14.3 The Purchaser undertakes and agrees to become a member of the Homeowners' Association and to sign on request all such documents as may be required to enable the Purchaser to be registered as a member of the Homeowners' Association in substitution of the Seller with effect from the date of registration of transfer.
- 14.4 The Purchaser undertakes that from date of registration of transfer of the Property into the name of the Purchaser, the Purchaser shall be liable for and shall pay a monthly general levy in the sum of R375.00 (THREE HUNDRED AND SEVENTY FIVE RANDS) and, in the case of a Skiing Site, shall pay an additional monthly skiing levy of R400.00 (FOUR HUNDRED RANDS) to the Homeowners' Association. The levy to be paid in terms hereof and in terms of this clause 14 shall, however, be payable in the amount assessed by the Homeowners' Association from time to time.
- 14.5 The Purchaser acknowledges that the Articles of Association provides *inter alia* for the following and that the Homeowners' Association shall be entitled at all times to impose rules and levies with regard to those items aforementioned and in regard to:
- 14.5.1 The admission of all persons to the Development;
 - 14.5.2 The preservation of the natural environment;
 - 14.5.3 Vegetation and flora and fauna in Bird Valley Estate and particularly but without being restricted to the common area;
 - 14.5.4 The use of and maintenance and preservation of the common area;
 - 14.5.5 The use and allocation of private parking areas for owners of properties;
 - 14.5.6 The conduct of any persons within the Development and the prevention of nuisance of any nature to any owner of a property within the Development;
 - 14.5.7 The use of the dam, with particular reference to water skiing;
 - 14.5.8 Maintenance and improvements of any nature in the Development;

- 14.5.9 The conformity with standards and styles of aesthetics and/or appearances determined by the Seller and any aesthetic committee that may be established by the Seller or the Homeowners' Association;
- 14.5.10 Limitation on number of persons occupying or residing upon any property in the Development;
- 14.5.11 The disposal of waste and sewerage and the cost of maintaining and restructuring the Development Property.
- 14.5.12 A provision that no additions or improvements to the Property shall be made without the prior written consent of the Homeowners' Association being first had and obtained.

The Purchaser shall be bound by all Rules imposed by the Homeowners' Association and in terms of the memorandum and Articles of Association from time to time.

15. SKIING RIGHTS

- 15.1 The Purchaser acknowledges that Bird Valley Estate is developed primarily as a water skiing destination, and that it is accordingly critically necessary that strict Rules be put in place to ensure the safety of all water users.
- 15.2 The Purchaser acknowledges that the registered owners of certain properties within the Development, namely Portions 12, 13, 14, 16, 24, 25, 26 and 27, will be vested with certain rights relating to water skiing and the making and enforcement of rules relating thereto, in terms of the Memorandum of Association and Articles of Association of the Homeowners' Association.
- 15.3 The Purchaser warrants by his signature hereto that he has familiarized himself with and accepts the provisions of the Memorandum and Articles of Association, with particular reference to the Skiing Rights, the manner in which such rights and Rules may be altered, and the entrenchment thereof.

16. SITE DEVELOPMENT CONTROLS

- 16.1 The Purchaser acknowledges and hereby undertakes that it shall be bound by the Site Development Controls, and that all planning, construction and landscaping will be executed in accordance therewith.
- 16.2 The Purchaser acknowledges further the following:
 - 16.2.1 A 100 (ONE HUNDRED) year flood line has been established by MBB Consulting Engineers at 1.78 (ONE POINT SEVEN EIGHT) metres above the normal full level of the dam. The Purchaser is obliged and undertakes to build above the said flood line, and a failure to do so shall be at the sole risk of the Purchaser. The MBB Consulting Engineers report is available from the Seller upon request.
 - 16.2.2 The Seller will provide a sewerage connection point on the back boundary of the property. The Purchaser is obliged and undertakes to install a septic tank system in compliance with the design provided by WSP Consulting Engineers, being a 1700 (ONE THOUSAND SEVEN HUNDRED) litre, two-chamber sealed buried tank which overflows into a 1500 (ONE THOUSAND FIVE HUNDRED) litre sealed buried collection tank; a submersible pump with a float switch will be fitted to the collection tank and will pump via a one-way valve through a 50 (FIFTY) millimeter pipe to the connection point. The WSP Consulting Engineers report is available from the Seller upon request.
 - 16.2.3 Water supply will be limited to a non-cumulative 1200 (ONE THOUSAND TWO HUNDRED) litres per site per day. The Seller shall provide a water connection near the back boundary of the property. The Purchaser shall be responsible for the cost of installation of a water meter. No large-scale watering of gardens or filling of swimming pools will be allowed. However, the Purchaser shall be entitled to install a small pump at the water's edge for garden irrigation purposes.
 - 16.2.4 A 60 amp single phase electricity supply will be provided by Eskom. All connection fees will be for the account of the Purchaser. It is recommended that the Purchaser take this into account when designing his building.

17. COMMISSION

- 17.1 The Seller shall pay selling agent's commission on this sale to the Agent in an amount of R50,000.00 (FIFTY THOUSAND RANDS) including VAT, not later than upon date of registration of transfer.
- 17.2 If the sale is cancelled as a result of the Purchaser failing to carry out any of the Purchaser's obligations hereunder the Purchaser shall be liable to the said Agents for such commission and in such event authorises the said Agents or whomsoever shall have control of the purchase price to deduct and pay such commission from any monies held in trust by them on the Purchaser's account.
- 17.3 The Purchaser warrants that the Purchaser has not been introduced to the property by any other Agents and indemnifies the Seller against any loss the Seller may suffer as a result of a breach of this warranty.

18. GENERAL

- 18.1 This Agreement constitutes the entire contract between the parties and no warranties, representations or conditions not recorded herein shall be binding upon either party unless recorded in writing and signed by the parties hereto. Likewise any variation of the terms of the conditions hereof shall be of no force or effect unless reduced to writing and signed by both parties hereto.
- 18.2 Any latitude or extension of time which may be allowed by the Seller including the grant of any concession or condonation of any breach of the conditions hereof shall not in any way constitute, operate as, or be deemed to be a waiver by the Seller of any of the Seller's rights hereunder nor shall it constitute a novation hereof.
- 18.3 In the event of the Seller instructing an Attorney to take action against the Purchaser in respect of any breach of the Purchaser's obligations in terms of this Agreement, the Purchaser, having been found to be at fault, shall be liable for and shall pay all disbursements and legal costs on an attorney and own client scale including collection charges.
- 18.4 All amounts payable to the Seller shall be paid without deduction or demand and free from bank exchange at Pietermaritzburg, KwaZulu Natal in the currency of the Republic of South Africa.

ANNEXURES :

- A Layout Plan
- B Site Development Controls
- C House Rules
- D Memorandum of Association
- E Articles of Association

**INFORMATION FOR CONVEYANCER
TO BE COMPLETED BY PURCHASER**

FULL NAME _____

Identity Number _____

Particulars of Marriage : Antenuptial Contract No. _____

Country of Marriage _____

If a married woman:

Maiden Name _____

Full Name of Husband _____

POSTAL ADDRESS _____

Telephone Numbers: Business _____ Residence _____

Financial Arrangements:

Cash R _____ Bond R _____

Loan Application:

Name of Financial Institution _____

Branch _____ Telephone Number _____
