

DEED OF SALE FOR A PLOT IN THE DEVELOPMENT  
KNOWN AS



TWEESPRUIT  
STELLENBOSCH

ENTERED INTO BY AND BETWEEN

SIGN & SEAL TRADING 308 (PTY) LTD  
(REGISTRATION NO: 2011/009831/07)

(Seller)

and

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(Purchaser)

ERF NO. \_\_\_\_\_, TWEESPRUIT

THIS AGREEMENT MAY BE SUBJECT TO THE PROVISIONS OF THE CONSUMER PROTECTION ACT NO. 68 OF 2008, DEPENDING ON THE STATUS OF THE PURCHASER

**CONSUMER PROTECTION ACT NOTICE**

In complying with the Consumer Protection Act, certain portions of the agreement have been printed in **bold italics**. The reason for this is to specifically draw the Purchaser's attention to these clauses as they either:

- limit in some way the risk or liability of the Seller or any other person;
- constitute an assumption of risk or liability by the Purchaser;
- impose an obligation on the Purchaser to indemnify the Seller or any other person for some cause; or
- is an acknowledgement of a fact by the Purchaser.

**Kindly ensure that before signing this agreement that you have had an adequate opportunity to understand these terms. If you do not understand these terms or if you do not appreciate their effect, please ask for an explanation and do not sign the agreement until the terms have been explained to your satisfaction.**

1. **SALE**

The Seller sells to the Purchaser who purchases the following property:

Erf: \_\_\_\_\_ Tweespruit Development, Stellenbosch.  
(‘the Property’)

2. **PURCHASE PRICE**

The purchase price is inclusive of VAT as listed in Schedule “A”. In the event of the rate of VAT [which is currently 14%] increasing or decreasing after date of signature of this agreement, and in the event that such increase or decrease is applicable to this agreement, the purchase price will be increased or decreased accordingly.

3. **PAYMENT OF PURCHASE PRICE**

3.1 The purchase price shall be payable by the Purchaser to the Seller in the following manner:

3.1.1 A deposit of R\_\_\_\_\_ shall be paid to the attorneys in cash or by bank guaranteed cheque or by electronic funds transfer on signature of this agreement by the Purchaser. This deposit shall be held in trust by the attorneys, who shall invest same in an interest bearing savings account, which interest shall accrue to the Purchaser.

3.1.2 The Purchaser hereby instructs the attorney to invest the deposit into an interest bearing savings account with a registered bank of their choice, in terms of section 78(2)(A) of the Attorneys Act, with interest accruing to the Purchaser. It is in the purchaser's interest to invest the monies in this fashion as interest on the attorneys regular trust account does not accrue to the Purchaser. Although the attorneys will select one of the reputable South African banks for the investment of the deposit, ***the Purchaser acknowledges that the deposit will not be protected in the unlikely event that the bank goes insolvent (bankrupt).***

3.1.3 The balance of the purchase price shall be paid against tender of transfer of the Property in the name of the Purchaser.

3.2 All or any payments made by the Purchaser in accordance with this agreement, shall be paid to the attorneys free of exchange, set-off or deduction of any nature.

#### 4. **GUARANTEE FOR BALANCE OF PURCHASE PRICE**

The Purchaser shall provide the Seller or the attorneys with a bank or other guarantee acceptable to the Seller for the payment of the balance of the purchase price. This guarantee must be provided within 10 (TEN) ordinary days of signature of this agreement or, if there are any suspensive conditions that have been included in this agreement for the benefit of the Purchaser only, within 10 ordinary days of fulfilment of all these suspensive conditions. A bank guarantee is a letter of undertaking which South African banks are able to issue, against payment of their standard fee, if the Purchaser has enough money or a big enough loan facility at the relevant bank.

#### 5. **OCCUPATION**

Vacant occupation of the Property shall be given to the Purchaser on date of registration of transfer. ***On this day the Property will be deemed to have been delivered to the Purchaser.***

#### 6. **RISK**

***On occupation of the Property, the risk of ownership thereof shall pass to the Purchaser, from which date he shall receive all benefits from and be responsible for all rates, taxes and other charges levied upon the Property (including levies due to the applicable home owners' association) plus Value Added Tax ("VAT") thereon, if applicable. What this means is that as from this date the Purchaser will be responsible for anything that might happen to the Property and be responsible for all costs relating to the Property as if the Purchaser was already the registered owner.***

#### 7. **TRANSFER AND COSTS**

Transfer shall be effected by the Seller's attorneys, Miltons Matsemela Inc, Bellville, Phone: 021-914 4100 ("the conveyancers"), as soon as possible. ***The Purchaser shall on demand pay all transfer costs and all charges incidental hereto and shall on demand sign all transfer, loan applications and mortgage bond registration documents.*** The estimated amount of these costs is set out in a table which appears on the last page of this agreement after the signature lines.

***Should the Purchaser be registering a bond over the Property to finance any part of the purchase price, the Purchaser shall, on demand, pay the costs of any such bond including the fees charged by the bank and the attorneys' bond registration fees.*** These amounts are not included as part of the costs of the transaction in Schedule "A", as the Purchaser cannot be obliged to enter into a mortgage agreement and the Seller will have no control over the fees that might be charged for the bond by the bank or the attorneys who register the bond.

#### 8. **MORTGAGE BOND**

This agreement is subject to the suspensive condition that a bank grants in writing on its normal terms and conditions a loan or loans secured by a mortgage bond or bonds over the Property for an amount as indicated on Schedule "A" or such lesser amount as the Purchaser may accept by no later than 30 (thirty) days after the Seller has signed this Agreement or such later date as the Seller in his sole discretion may allow. The Purchaser shall ensure that all reasonable steps are taken to enable the loan to be timeously granted. ***This condition shall be deemed to have been fulfilled on the date upon which the financial institution issues a written loan quotation to the Purchaser on the terms stated therein.***

## 9. HOME OWNERS ASSOCIATION

The Purchaser acknowledges that a Home Owners Association (“HOA”) will be established to regulate, control and manage the common interests of the owners of properties in the development. On registration of transfer the Purchaser will become a member of the HOA and be bound by its constitution. The Purchaser specifically acknowledges that he will be liable for levies plus VAT thereon, an estimate of which is detailed in Schedule “A”.

***The Purchaser herewith acknowledges that he has received and read a copy of the draft proposal of the Home Owners Association and understands the contents thereof.***

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**Purchaser**

The Seller will appoint and delegate any or all of its powers and duties in the management of the development to a Managing Agent namely, LKPM (Pty) Ltd. This condition will be recorded in the title deed of the Property (**See also Clause 20**).

The Purchaser will be obliged to get the written consent of the HOA and Combined Developers (Pty) Ltd when it sells the Property and the next owner must also get consent if it in turn sells the Property. The deeds office will not transfer the Property without these consents (**See also Clause 20**).

## 10. BUILDING AGREEMENT

The Purchaser acknowledges that the Property is sold on a plot and plan basis and that simultaneously with the signing hereof he will enter into a building agreement with a building contractor. The Seller has appointed a preferred building contractor, TGP Construction (Pty) Ltd, for the construction of houses in the development which resulted in a lower than market related building price. Because this builder also builds other houses in the development he will be permanently on site and readily available for any queries and questions that the Purchaser may have during the construction phase. ***Although the Purchaser has a freedom of choice to appoint his own contractor he herewith acknowledges the convenience and economic benefit in appointing TGP Construction (Pty) Ltd as the building contractor.***

## 11. LEGAL PERSON(S)/SURETYSHIP

***In the event of the Purchaser or Seller being a Company, Close Corporation or Trust the signatory hereto by virtue of his signature hereunto warrants that he is duly authorised by such Company, Close Corporation or Trust to enter into the agreement of sale and that this agreement is binding upon and enforceable against such Company, Close Corporation or Trust. The signatory for and on behalf of the Purchaser or Seller as the case may be hereby binds himself/herself in his/her personal capacity as surety to and in favour of the party to whom any obligation is owed in terms hereof for the obligation/s of the party so owing the obligation, and waiving the benefit of excussion. What this means is that if the Purchaser cannot pay that the person who signs for the Purchaser will have to personally pay and vice versa.***

## 12. BREACH

- 12.1 If any party (“the defaulting party”) commits a breach of this agreement and persists with such breach for more than 7 (SEVEN) days after being called upon in writing to rectify same, then the innocent party shall be entitled (but not obliged) without prejudice to any other rights or remedies which it may have in law, including the right to claim damages:

- 12.1.1 to cancel this agreement and claim damages; or
- 12.1.2 to claim immediate performance and/or payment of all the defaulting party's outstanding obligations in terms hereof and claim damages.
- 12.2 **Upon cancellation, should the defaulting party have been the Purchaser, the Seller shall be entitled to retain the deposit as reasonable pre-estimated damages in addition to the further rights set out in the breach paragraph above.**
- 12.3 **Upon cancellation, should the defaulting party have been the Seller, the Seller shall pay to the Purchaser an amount equal to the deposit paid by the Purchaser and the Purchaser shall be entitled to retain this amount as reasonable pre-estimated damages in addition to the further rights set out in the breach paragraph above.**
- 12.4 If the Seller becomes entitled and elects to cancel this Agreement after the Purchaser has taken occupation of the Property, then the Purchaser shall notwithstanding that this Agreement may well be validly cancelled continue to pay the occupational rental, the municipal charges and the levy and any other amounts as if the agreement had not been cancelled. The Seller shall be entitled to claim and accept payment of such amounts without prejudice to the Seller's claim for cancellation of this Agreement.
- 12.5 If any party ("the innocent party") becomes entitled to enforce a remedy in terms of this Agreement, it will, notwithstanding having chosen a particular remedy, continue to enjoy the right to enforce any other remedy open to it as a result of the same instance of breach.
- 12.6 Notwithstanding the above provisions neither party shall be entitled to cancel the agreement after 7 days' notice if the breach complained of is not reasonably capable of being remedied in the 7 day period. In such an event the notice placing the defaulting party on terms to perform shall only entitle the cancellation of the agreement if the period given to perform is reasonable in the circumstances.
- 13. **CHOSEN ADDRESSES FOR SERVICE OF NOTICES**
- 13.1 The parties hereby choose the following addresses as the addresses at which they will accept all notices including legal notices and summonses:
  - 13.1.1 the Seller care of the conveyancers.
  - 13.1.2 the Purchaser at the address recorded in Schedule "A" hereto.
- 13.2 Any notice to any party shall be addressed to it at its chosen address and sent by prepaid registered post or delivered by hand or sent by fax to the fax number recorded on Information Schedule attached hereto or sent by e-mail to the e-mail address also recorded in the schedule.
- 13.3 In case of any notice sent by prepaid registered post, it shall be deemed to have been received on the 4th (fourth) business day after posting.
- 13.4 If the document is sent in any other way it must be received by the addressee to be effective notice.
- 13.5 This paragraph shall not affect the provisions of any other law which deals with the service of documents issued by any court.
- 14. **DIRECT MARKETING COOLING OFF RIGHT**
- 14.1 In terms of section 16 of the Consumer Protection Act, if 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 business days after the agreement was concluded, or within 5 business days after delivery of the Property.

14.2 The Seller is unable to accept the risk of cancellation without reason within 5 business days of delivery as the Seller could in the interim have sold the Property to someone who was not so affected. In addition, if the transaction is cancelled after delivery to the Purchaser the Seller will be left to carry the holding costs of the Property for an uncertain period whilst looking for a replacement purchaser. This has the potential to create substantial losses for the Seller.

14.3 The Seller is therefore not prepared to enter into this agreement with any Purchaser if the transaction has resulted from direct marketing.

14.4 **The Purchaser therefore warrants that this transaction has not resulted from direct marketing and the Seller enters into this transaction relying entirely upon such a warranty.**

14.5 If after delivery, the Purchaser is successful in cancelling this agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the Consumer Protection Act, the Purchaser shall be liable for the damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of warranty.

15. **GENERAL AND SPECIFIC RELEVANT WARRANTIES**

15.1 **No variation of this agreement and no cancellation by agreement shall be binding on the parties unless such variation or cancellation is written down and signed by the parties hereto.**

15.2 No extension of time or indulgence which either party might grant to the other shall have any effect on the rights which either party might have in terms of the agreement. Should either party not strictly enforce their right under the contract this will not amount to waiver of such a right, and it shall also not be regarded as creating a new or varied agreement.

15.3 **If there is more than one Purchaser in terms of this agreement, they shall each be fully liable for all of the obligations of the Purchaser and these obligations shall not be able to be divided between these Purchasers, i.e. the liability of each of the Purchasers shall be joint and several.**

15.4 The Purchaser records, in the space provided below, any representations and promises which have been made to him by the Seller and/or the agent and/or a person acting on behalf of the Seller which has caused the Purchaser to enter into this agreement and which are **not** already recorded elsewhere in this agreement. If the Seller's agent has offered a written explanation of any portion of this agreement then this must also be mentioned and a copy of the explanation attached.

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15.5 **The Purchaser warrants that no other representations have been made to him which have caused the Purchaser to enter into this agreement and that this document contains the entire agreement between the parties.**

15.6 **Both parties agree that the personal information reflected in the information schedule annexed hereto is deemed to be, and constitutes, an integral part of this agreement. By signing this Deed of Sale each party warrants and certifies that all such information relating to him is true and correct.**

15.7 **The Purchaser furthermore warrants that the Purchaser has not been introduced to the Seller or the Property by any other agency/agent other than \_\_\_\_\_ . If this is not true the Purchaser will be required to pay the commission claimed by the other agent.**

- 15.8 ***The Purchaser furthermore warrants that the Purchaser has not informed the Seller of the use to which the Purchaser intends to put the Property and that the Seller will accordingly assumed that it is to be used for ordinary residential purposes.***
- 15.9 ***The Purchaser warrants that the Purchaser is not currently and until transfer of the Property to the Purchaser, will not be in default of any income or other tax law obligations to the South African Revenue Service which will serve to delay the obtaining of a transfer duty receipt / exemption certificate from the South African Revenue Service or serve to cause the financial institution granting mortgage finance to the Purchaser (if applicable) to withdraw the mortgage finance offered.***
- 15.10 ***Should the Purchaser be a company, close corporation, trust or partnership, then the Purchaser warrants that it does not, by virtue of its asset value or annual turnover as at the time of the transaction, equal or exceed the threshold value determined by the Minister in terms of Section 6 of the Consumer Protection Act, which is currently R2,000,000.00 (Two Million Rand). This is an important warranty by the Purchaser as the Seller might not have entered into this agreement with the Purchaser on these same terms and conditions had the Purchaser made proper disclosure of this issue to the Seller.***
- 15.11 ***By signing this agreement to purchase, each party hereby warrants and confirms that the meaning and consequences of all the provisions of this agreement were explained to them prior to signature hereof.***

16. **COMMISSION**

Commission shall be payable to the estate agent by the Seller on registration of transfer of the Property to the Purchaser in the amount agreed.

17. **BOND ORIGINATOR**

In the interest of obtaining bond approval as soon as possible, the Purchaser will, where this agreement is subject to the Purchaser obtaining mortgage finance, use the services of Elect Property Trust No 7 t/a Combined Finance ("Combined Finance") as a mortgage originator, and will forward all documents required by Combined Finance for the submission of a mortgage bond application with the major banks. ***This is to the benefit of the Purchaser because the system of mortgage origination used by the Seller avoids delays and therefore reduces the price of the Seller's products.***

The Seller will release the Purchaser's contact details and the signed offer to purchase to Combined Finance as part of the bond approval process. The Purchaser will then be contacted by Combined Finance to obtain further required information.

***Should the Purchaser obtain a bond other than through the services of Combined Finance, then the Purchaser shall pay a penalty which is 1% (one per cent) of the purchase price before transfer and on demand by the Seller. In the case of the purchaser entering into a building agreement as part of the purchase, the 1% penalty will be calculated on the erf price and the building price taken together.***

No penalty will be payable by the Purchaser where Combined Finance has failed to obtain a mortgage bond for the Purchaser on terms acceptable to it. The Seller may upon request from the Purchaser waive the Purchaser's obligation to use Combined Finance in instances where it is in the Seller's opinion reasonable to do so, such as in the case of private bank clients who cannot obtain bonds by use of mortgage originators.

**18. STATUTORY APPROVALS**

*The Purchaser is aware that the Property forms part of a new township development and as such the Seller is relying on obtaining certain town planning, environmental and other statutory and regulatory approvals before it will be in a position to transfer the Property to the Purchaser. Specifically, approval of the site development plan and architectural guidelines of the intended development, of which the Property forms part, are pending, and may be amended before being finally approved. Should the required approvals not be obtained within a reasonable time, or should the regulatory authorities require material amendments to the intended development, then the Seller will be entitled to cancel this Agreement on notice to the Purchaser, in which event all monies paid by the Purchaser in terms of this Agreement will be repaid to it.*

**19. OFFER**

*Once signed by the Purchaser, this agreement shall be regarded as an offer by the Purchaser to the Seller which offer shall remain open for acceptance within a period of 10 calendar days. The Purchaser shall not be able to withdraw the offer until midnight on the 10th (TENTH) calendar day after signature hereof.*

\_\_\_\_\_  
Purchaser

**20. TITLE CONDITIONS**

The following special conditions imposed by Combined Developers (Pty) Ltd in its favour and the favour of the HOA, will be registered against the title deed of the Property, namely:

**Restriction on Alienation:** This erf shall not be sold or alienated in any way nor shall any transfer thereof be registered without the written consent of the HOA and Combined Developers (Pty) Ltd.

**Appointment of Managing Agent:** The Purchaser of this erf hereby consents to the appointment of LKPM (Pty) Ltd as the Managing Agent of the development in accordance with the Constitution of the HOA.

*The Purchaser is once again alerted to the fact that by signing this agreement the Purchaser will, on signature by the Seller, be contractually bound to an agreement with the Seller. The Purchaser should therefore not sign this agreement until the Purchaser has carefully considered the merits of the agreement and allowed enough time for this consideration. As already mentioned on the first page of this agreement the Purchaser must ask for an explanation for any portion of this agreement which the Purchaser does not understand and preferably get the explanation in writing. The portions of the agreement that are in bold print are especially important.*

Accepted on this \_\_\_\_\_ day of \_\_\_\_\_

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

\_\_\_\_\_  
Seller

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

We accept the benefits hereof:

\_\_\_\_\_  
ESTATE AGENCY