

PROPERTY SALE AND CONSTRUCTION AGREEMENT



FLEURHOF TOWNSHIP DEVELOPMENT

Property/Stand Number: _____

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4. **DEPOSIT:** R _____ (_____
_____ Rand)

5. **PURCHASE PRICE**

5.1 Property R _____ (_____ Rand)
VAT inclusive.

5.2 Dwelling R _____ (_____ Rand)
VAT inclusive.

TOTAL PURCHASE PRICE R _____ (_____ Rand)
VAT inclusive.

6. **LOAN FINANCE:**

6.1 Loan Finance required: YES NO

6.2 Amount of Bond: R _____ (_____
_____ Rand)

6.3 Time period required for obtaining Bond: ____ days

7. **SELLING AGENT:** _____

8. **BOND ORIGINATOR:** _____

(if applicable)

(I/We, the PURCHASER(S), hereby agree to comply with and be bound by the terms and conditions of the Property Sale and Construction Agreement, attached hereto, all of which I/we acknowledge that I/we have read, understood and applied my/our signature(s) to for ease of reference).

DECLARATION BY PURCHASER

The Purchaser herewith acknowledges and confirms that he/she/they have read the contents of the Building Conditions (Annexure "B") and fully understand the contents thereof. I/We herewith furthermore confirm that:

(a) The position of the Property has been pointed out to me/us by the Contractor and I/we am/are fully aware of the dimensions and shape of the Property;

(b) I/We understand that the Dwelling will be positioned in such a manner on the Property that extensions thereto will be possible at a later stage. Any alteration to the positioning of the Dwelling on the Property that I/we may require may affect or prevent such later extensions.

(c) **My/our required alterations have been brought about on the Building Plan;**

(d) **I/We am/are aware of the dimensions and design of the Dwelling as reflected on the Building Plan and am satisfied therewith.**

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ **20**__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____

(if applicable)

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ **20**__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____

(if applicable)

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ **20**__

WITNESS _____

SELLER: _____

(warranting that he/she is duly authorized)

TERMS AND CONDITIONS OF PROPERTY SALE AND CONSTRUCTION AGREEMENT

on the following terms and conditions :

1. INTERPRETATION

- 1.1. In this Agreement, unless the context indicates a contrary intention –
- 1.1.1. the word "Agreement" refers to this Agreement and the words "clause" or "clauses" refer to clauses of this Agreement;
- 1.1.2. clause headings are for convenience and are not to be used in its interpretation;
- 1.1.3. an expression which denotes –
- 1.1.3.1. any gender includes the other genders;
- 1.1.3.2. a natural person includes a juristic person and *vice versa*;
- 1.1.3.3. the singular includes the plural and *vice versa*.
- 1.2. In this Agreement, unless the context indicates a contrary intention, the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings -
- 1.2.1. **"this Agreement"** means this Property Sale and Construction Agreement entered into between the Seller and Purchaser(s) and is comprised of the Schedule, the Terms and Conditions to the Property Sale and Construction Agreement and Annexures thereto;
- 1.2.2. **"Attorneys"** means Coertzen Williams Attorneys of 2nd Floor, His Majesty's Place Building-West, cnr of Commissioner and Joubert Street, Johannesburg, Telephone Number 011-834 3075;
- 1.2.3. **"Bond"** means the mortgage Bond to be registered over the Property in favour of the Financial Institution as security for repayment of the Purchase Price;
- 1.2.4. **"Building Conditions"** means the terms and conditions upon which the Seller will construct the Dwelling on behalf of the Purchaser(s) and attached hereto, marked Annexure "B";
- 1.2.5. **"Building Plan"** means the Building Plan of the Dwelling attached hereto as Annexure "C".
- 1.2.6. **"Certificate of Practical Completion"** means a document signed by the designated officer of the Seller confirming that the Dwelling has reached a stage of substantial completion so that it can effectively be used for the purpose intended;
- 1.2.7. **"Completion Date"** means the date on which the Letter of Acquittance is signed by the Purchaser(s);
- 1.2.8. **"Date of Registration"** means the Date of Registration of transfer of the Property into the name of the Purchaser(s);
- 1.2.9. **"DME"** means the Department of Minerals and Energy of the Republic of South Africa;
- 1.2.10. **"Dwelling"** means the physical structure to be constructed and erected on the Property by the Seller in terms of this Agreement;
- 1.2.11. **"Financial Institution"** means the Financial Institution, which granted a Bond to the Purchaser(s) to pay the Purchase Price;
- 1.2.12. **"Letter of Acquittance"** means a written document signed by the Purchaser(s) confirming the Purchaser(s) satisfaction with the construction of the Dwelling;
- 1.2.13. **"List of Standard Extras"** means a list reflecting the extras chosen by the Purchaser(s), attached hereto as Annexure "F".
- 1.2.14. **"the Mineral Rights Holders"** means Industrial Zone Limited, Rand Leases (Vogelstruisfontein) Gold Mining Company Limited and Central Rand Gold SA (PTY) LTD;
- 1.2.15. **"Mining Belt"** means the area/portion on portion 17 and 18 of the Farm Vogelstruisfontein 231 IQ, District of Roodepoort on which the Mineral Rights Holders hold mineral rights, the location of which is depicted on the

site plan attached hereto, marked Annexure "A";

- 1.2.16. **"NHBC"** means the National Home Builders Registration Council.
- 1.2.17. **"Property"** means the fixed property referred to in clause 3 of the Schedule on which the Dwelling will be constructed;
- 1.2.18. **"Purchase Price"** means the Purchase Price as referred to in clause 5 of the Schedule;
- 1.2.19. **"Purchaser(s)"** means the party(ies) referred to in clause 2 of the Schedule;
- 1.2.20. **"Property Sale and Construction Agreement"** means this Property Sale and Construction Agreement entered into between the Seller and Purchaser(s) and is comprised of the Schedule, the Terms and Conditions to the Property Sale and Construction Agreement and annexures thereto;
- 1.2.21. **"Schedule"** means the Covering Schedule to which these terms and conditions are attached and which form part of this Agreement;
- 1.2.22. **"Schedule of Colour Choices"** means the schedule of colours chosen by the Purchaser(s), attached hereto as Annexure "E";
- 1.2.23. **"Schedule of Finishes"** means the schedule reflecting the finishes to be applied to the Dwelling, attached hereto as Annexure "D";
- 1.2.24. **"Seller"** means the party referred to in clause 1 of the Schedule;
- 1.2.25. **"Signature Date"** means the date of the signature of the last party signing this Agreement;
- 1.2.26. **"Special Power of Attorney"** means the Special Power of Attorney provided by the Purchaser(s) to an employee of the Seller to enable the Seller to comply with certain of its obligations in terms of this Agreement and attached hereto as Annexure "G";
- 1.2.27. **"VAT"** means value added tax in terms of the Value Added Tax Act 89 of 1991;
- 1.3. Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 1 or elsewhere in this Agreement, shall be given effect to as if it were a substantive provision in the body of the agreement.
- 1.4. Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this Agreement.
- 1.5. Where figures in this Agreement are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.6. Reference in this Agreement to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" shall be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time. Reference to "business hours" shall be construed as being the hours between 08h30 (eight hours and thirty minutes) and 17h00 (seventeen hours) on any business day, and time shall be based upon South African Standard Time.
- 1.7. Unless specifically otherwise provided in this Agreement, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.8. The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it. The application of the *eiusdem generis* rule is therefore excluded.
- 1.9. Where this Agreement requires a Party to use its "best endeavours" or "reasonable endeavours" in relation to an act or omission, that Party shall do all such things as are or may be reasonably 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.
- 1.10. No provision herein shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.

- 1.11. The expiration of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2. SALE OF PROPERTY AND CONSTRUCTION OF DWELLING

- 2.1 The Purchaser(s) herewith purchase(s) the Property.
- 2.2 The Seller undertakes to construct and erect the Dwelling on the Property in favour of the Purchaser(s) in accordance with the Building Conditions.
- 2.3 The Seller undertakes to endeavour to complete the construction and erection of the Dwelling within approximately 24 (twenty four) weeks from the date on which the Seller is legally entitled to commence with the construction of the Dwelling on the Property. The Seller shall however be entitled to such further extensions of time as are necessary to complete the Dwelling.

3. PURCHASE PRICE

The Purchase Price shall be secured as follows:

- 3.1 The Purchaser(s) shall, pending registration of transfer of the Property into his/her/ their name, pay the deposit as referred to in clause 4 of the Schedule, into the trust bank account of the Attorneys and whom shall invest the said amount in an interest bearing account with a Financial Institution. The whole deposit amount shall be paid out to the Seller and the interest thereon to the Purchaser(s) after the Property is registered in the Purchaser(s)' name.
- 3.2 In the event that this transaction is cancelled by the Purchaser/s after all suspensive conditions have been fulfilled but before registration occurs, for any reason whatsoever, the Purchaser(s), by his/her/their signature to this offer, agrees to pay an administrative fee of R 5 000.00 (FIVE THOUSAND RAND) to the Seller and Attorneys in lieu of the wasted cost/s for the Seller and services rendered by the Attorneys with regard to and following this Agreement of sale and the administration of the deposit amount. The Attorneys are herewith authorized to deduct this amount from the deposit referred to in clause 3.1 above. This fee shall be distributed equally between the Seller and the Attorney.
- 3.3 Within 21 days after the Signature Date the Purchaser(s) shall either, furnish the Attorneys with an acceptable bank guarantee, payable to the Attorneys for the credit of the Seller, for an amount equal to the full Purchase Price(or the balance outstanding if a deposit was paid) or deposit the full Purchase Price(or the balance outstanding if a deposit was paid) with the said Attorneys on trust and in which event the said amount will be invested in an interest bearing account, the interest being to the benefit of the Purchaser(s). The contents of the said guarantee shall be to the satisfaction of the Seller, in its sole discretion.
- 3.4 With his/her/their signature(s) hereto the Purchaser(s) authorize(s) the Attorneys, to invest the funds held by the Attorneys in trust on an interest bearing account with a Financial Institution in terms of Section 78(2A) of the Attorneys Act 1979 (Act no 53 of 1979).
- 3.5 In the event of an increase in VAT (Value Added Tax) being imposed by a Competent Authority at any time after the Signature Date and prior to registration of transfer of the Property into the name of the Purchaser(s), the Purchase Price payable by the Purchaser(s), as specified above, shall increase with an amount equal to the percentage increase in VAT.

4. SUSPENSIVE CONDITIONS

- 4.1 This Agreement is subject thereto that the Purchaser(s) obtain a mortgage loan from a Financial Institution for an amount equal to the amount referred to in clause 6 of the Schedule or such lesser amount as the Purchaser(s) may agree to accept. The aforementioned loan shall be obtained within the period specified in clause 6 of the Schedule. Such period shall commence on the Signature Date.

- 4.1.1 The Purchaser(s) hereby irrevocably authorises and appoints the Seller or his nominee/s to make application, on his behalf, for the loan/finance/bond set out in clause 6.1 of the Schedule and undertakes immediately to sign all or any documents relating thereto. In order to attain this objective the Purchaser(s) undertakes to furnish the Seller or Attorneys with all the required information and documents (and to sign all required documents and/or forms) so that application may be made for and on behalf of the Purchaser(s) for such loan/finance or bond.
- 4.1.2 In the event that the Purchaser(s) do/does not obtain a bond as aforesaid this Agreement will be null and void and be of no force and effect and all deposits paid, if applicable, will be refunded to the Purchaser(s).
- 4.2 The party in whose favour a suspensive condition has been included may waive one or more of such conditions within the time period stipulated in the suspensive condition being waived.

5. COSTS OF AND REGISTRATION OF TRANSFER

- 5.1 The Seller shall pay all transfer costs incurred in respect of the registration of transfer of the Property, including Transfer Duty and Stamp Duty, if any, Transfer Fees and the costs of this Agreement, which amounts shall be paid immediately upon request thereto.
- 5.2 It is recorded that the Purchase Price includes all costs of and incidental to the passing of transfer of the Property to the Purchaser(s) including all conveyancing fees (as regards both the transfer and the registration of the Bond) and disbursements but excluding the administration fees and valuation fees of the bank providing the bond finance.
- 5.3 Should the Attorneys not be appointed to attend to the registration of the Bond, the Purchaser(s) will become liable for all Bond costs and conveyancing fees regarding the registration of such Bond.
- 5.4 Transfer of the Property shall be passed by the Attorneys, and shall be given and taken upon the Seller having complied with it's obligations in terms of clauses 2.2 and 5.1 to 5.3 above.
- 5.5 The Purchaser(s) shall, within 5 (five) days of being called upon to do so by the Attorneys:
 - 5.5.1 Should 5.3 apply, pay to the relevant attorney all Bond costs and conveyancing fees regarding registration of any Bond;
 - 5.5.2 Furnish all such documentation and documents, sign all documents and pay all such amounts that may be necessary or required to enable the Attorneys to pass transfer of the Property.
- 5.6 No liability of any nature whatsoever shall attach to the Seller arising out of any delays in effecting transfer of the Property to the Purchaser(s).

6. POSSESSION

Possession and vacant occupation of the Property and Dwelling shall be given to the Purchaser(s) on the Date of Registration and receipt by the Seller of the full Purchase Price, and from which date the Property shall be at the sole risk, profit or loss of the Purchaser(s).

7. RATES AND TAXES

The Seller shall be liable for the payment of all Rates, Taxes, Insurance Premiums and other charges in respect of the Property prior to the Date of Registration. The Purchaser(s) accept responsibility for payment of all Rates, Taxes, Insurance Premiums and other charges after Date of Registration.

8. WARRANTIES

- 8.1 The Property is sold as described in the existing title Deed or Deeds thereof, and subject to all conditions and servitudes (if any) attaching thereto or mentioned or referred to in the said title Deeds or Prior Deed. The Seller shall not be liable for any deficiency in extent which may be revealed on any re-survey, nor shall the Seller benefit by any surplus in extent.

8.2 The Property is sold "voetstoots" and as it stands, the Seller giving no warranty in regard to the Dwelling and any improvements upon the Property or the rights attaching thereto and shall not be liable for any defects in the Property, either latent or patent, other than those provided by the Seller in the Building Conditions.

9. THE BUILDING CONDITIONS

9.1 The Seller shall construct and erect the Dwelling on the Property in accordance with the Building Conditions.

9.2 The Purchaser(s) is/are aware that there are standard building criteria and acknowledge having been made aware of these and agree irrevocably that his/her/their Building Plans must accord with such criteria. Accordingly the Purchaser(s) agree(s) to make use of one of the proposed Building Plans made available by the Seller for the erection of the improvements on the Property.

10. BREACH

10.1 In the event of the Purchaser(s) failing to fulfill on due date any of the terms and conditions of this Agreement, the Seller shall have the right either : -

10.1.1 to claim immediate payment of the whole of the Purchase Price/balance of the Purchase Price and due fulfillment of the terms and conditions of the Agreement; OR

10.1.2 either as an alternative to a claim in terms of 10.1.1 above or upon the abandonment of such claim, to cancel the sale by registered letter addressed to the Purchaser(s), without prejudice to the Seller's other legal rights and remedies and the right to claim damages.

10.2 In the event of the cancellation of this Agreement for whatever reason, the Purchaser(s) shall forfeit to the Seller all monies paid in terms of this Agreement, including any amount paid to the Attorneys or other instance in trust, or invested as security for the Purchase Price, as "roukoop" or pre-estimated liquidated damages, without prejudice to the Seller's rights, to claim further damages from the Purchaser(s).

10.3 The Seller shall furthermore, if it is the innocent party, be entitled to recover all costs incurred up to cancellation of this Agreement which costs shall include but not be limited to the following:

- (a) Bank charges (if any)
- (b) Costs of drawing the Building Plans
- (c) NHBRC enrolment fees
- (d) Commission payable to the Selling Agent
- (e) Company Administration fees
- (f) Land holding costs
- (g) Attorneys fees and expenses

11. SELLING AGENTS COMMISSION

The Seller shall pay the selling agents commission in the event that commission is payable in respect of this transaction.

12. DOMICILIA CITANDI ET EXECUTANDI

12.1 It is agreed by the parties that they each select their respective addresses as set out in clauses 1 and 2 of the Schedule as their respective domicilia citandi et executandi which shall be the address to which all notices or other documents in relation to these presents may be sent and at which all processes may be served.

12.2 Each of the Parties will be entitled at any time by way of written notice to the other, to change his/her domicilium citandi et executandi to any other physical address in the Republic of South Africa. Such change will become effective on the seventh day after receipt by the other party of the notice.

12.3 Any notice in terms of the conditions of this Agreement must be sent as follows:

- 12.3.1 be delivered by hand
- 12.3.2 be sent by pre paid registered post
- 12.4 A notice delivered as per clause 12.3 will be deemed duly received as follows:
 - 12.4.1 on date of delivery
 - 12.4.2 seven days after date of posting

13. JURISDICTION AND LEGAL COSTS

- 13.1 In the event of any action or application arising out of this Agreement, the parties hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction under Section 28 of the Magistrate's Court Act of 1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said Court's jurisdiction, this clause shall be deemed to constitute the required written consent confirming jurisdiction upon the said Court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.
- 13.2 Notwithstanding anything to the contrary herein contained, the Seller shall have the right, at the Seller's sole option and discretion, to institute proceedings in any other Court which might otherwise have jurisdiction.
- 13.3 In the event of it becoming necessary for the Seller to take action against the Purchaser(s) as contemplated herein the Purchaser(s) agrees to pay to the Seller all the attendant costs and expenses incurred by the Seller on a scale as between attorney and client.

14. ELECTRICAL COMPLIANCE CERTIFICATE

The Seller shall, prior to Date of Registration, be required to provide a Certificate of Compliance with regards to the electrical installation on the Property as set out in the Electrical Installations Regulation promulgated on the 23rd October 1992 in terms of the Machinery and Occupational Safety Act No 6/1983. The Seller agrees to bear all costs necessary in order to obtain such a certificate.

15. JOINT AND SEVERAL LIABILITY

If there is more than one purchaser in this Agreement all such purchasers will be jointly and severally, *in solidum*, liable for the due and punctual fulfillment of the purchasers' liabilities and duties in terms hereof.

16. REPRESENTATIVE CAPACITY/SURETYSHIP

In the event of the party signing as Purchaser(s) acting for a Company, Close Corporation or Trust, then that signatory binds himself/herself/themselves in his/her/their personal capacity(ies) as surety and co-principal debtor(s) for all the obligations herein created and will be responsible to the Seller as if he/she/they was/were the Purchaser(s) in terms of this Agreement. In the event of the party signing as Purchaser(s) and so doing acts as Trustee for a Company or Close Corporation to be formed and such Company or Close Corporation not being incorporated within a reasonable time then the signatory(ies) hereto as Purchaser(s) shall be treated in his/her/their personal capacity as Purchaser(s) and shall be liable for all the obligations herein contained as if he/she/they was/were the actual Purchaser(s).

Notwithstanding the foregoing, the signatory(ies) hereto shall be responsible to comply with the terms and conditions of this Agreement in his/her/their personal capacity(ies) if:-

- 16.1 The Company/Close Corporation or Trust on whose behalf the signatory(ies) acted when entering into this Agreement does not comply strictly with the terms of this Agreement.
- 16.2 The Company/Close Corporation to be formed is not incorporated/registered prior to the date on which the guarantees were to have been delivered.
- 16.3 The Company/Close Corporation to be incorporated does not ratify this Agreement.
- 16.4 The Company/Close Corporation, despite ratification, fails to comply strictly with the terms of this Agreement.

- 16.5 In the event of the signatory(ies) purchasing on behalf of a Trust and the Trust is not registered, all the above obligations shall apply to the signatory(ies) in his/her/their personal capacity(ies).
- 16.6 Should it transpire that the Power of Attorney in terms of which any Purchaser(s) signs this Agreement is for any reason invalid, then the signatory(ies) shall be liable in his/her/their personal capacity for all the terms and conditions created in this Agreement.

17. MINING ACTIVITIES

- 17.1 It is herewith recorded that the Mineral Rights Holders are the holders of the right, title and interest in and unto certain mineral rights in respect of precious metals and slime dams, afforded to them by the DME on the Mining Belt.
- 17.2 Accordingly Mineral Rights Holders are entitled to exercise their rights by conducting mining and recycling activities on the Mining Belt and which may bring with it amongst other inconveniences, noise, dust, heavy vehicle traffic and excavations.
- 17.3 As the Property is nearby or in range of portions 17 and 18 of the Farm Vogelstruisfontein 231 IQ, District Roodepoort, the Purchaser(s) herewith acknowledge and accept that the mining and recycling activities of the Mineral Rights Holders may inconvenience the Purchaser(s).
- 17.4 The Purchaser(s) herewith confirm that he/she/they:
- 17.4.1 have been made fully aware of the mining or future mining activities on the mineral belt;
- 17.4.2 is/are fully cognisant of and understand the effect which such mining activities may have on her/him/them.
- 17.5.1 The Purchaser(s) herewith indemnifies and holds the Seller harmless against any loss, damage, expense and/or liability which he/she/they may suffer and/or incur due to the mining activities on the Mining Belt.
- 17.5.2 Without derogating from the generality of the contents of clause 17.5.1, the Purchaser(s) herewith indemnify the Seller and holds it harmless against any loss, liability, cost or damage suffered by the Purchaser(s) and/or any third party which may attend the Property, as the case may be, in relation to the mining activities on the Mining Belt, including but not limited to any direct, indirect, contingent or consequential loss, including loss of revenue, loss of business and loss of profit, howsoever arising.
- 17.6 In view of the contents of this clause 17 the Purchaser(s) agree to the incorporation of the undermentioned wording in the title deed of the Property, namely:
- 17.6.1 ***“As this Property (erf, stand, land, etc) forms part of land which is undermined and which may be liable to subsidence, settlement, shock and cracking due to mining operations past, present or future, the owner thereof accepts all liability for any damage thereto or any structure thereon which may result from such subsidence, settlement, shock or cracking”;*** and
- 17.6.2 ***“As this Property (erf, stand, land, etc) forms part of an area which may be subject to dust pollution and/or noise as a result of recycling activities past, present or future in the vicinity thereof, the owner thereof accepts that inconvenience with regard to dust pollution and/or noise as a result thereof, may be experienced.”***

18. FICA

The Purchaser(s) acknowledge(s) that he/she/they is/are aware of the provisions of the Financial Intelligence Centre Act and by acquiring Property and mortgage finance that the Attorneys would have to comply with the appropriate provisions of the Act. The Purchaser(s) accordingly agrees to grant the Attorneys full co-operation and disclosure in order that they may meet their obligation in this regard.

19. DISPUTE RESOLUTION: NEGOTIATION, MEDIATION THEN ARBITRATION

- 19.1 Should any dispute arise between the Parties in regard to:
- 19.1.1 the interpretation of;
- 19.1.2 the effect of;

- 19.1.3 the Parties' respective rights or obligations under;
 - 19.1.4 a breach of;
 - 19.1.5 the termination of;
 - 19.1.6 any matter arising out of the termination of;
 - 19.1.7 the rectification of;
 - 19.1.8 the Seller's right to enforce payment of the Purchase Price;
 - 19.1.9 the issuing of the Letter of Acquittance by the Purchaser(s);
- the dispute shall be dealt with in terms of this clause.
- 19.2 The Parties shall endeavour to resolve any dispute concerning this Agreement by negotiation.
- 19.3 This entails one of the Parties inviting the other or others in writing to meet and to attempt to resolve the dispute within 5 (five) Business Days from date of written invitation.
- 19.4 If the dispute has not been resolved by such negotiation within 10 (ten) Business Days of the commencement thereof by agreement between the Parties, the dispute shall be submitted to arbitration in terms of this clause.
- 19.5 Subject to the provisions of this clause, the arbitration shall be held under the provisions of the arbitration laws for the time being in force in the Republic of South Africa (as it is constituted from time to time) provided that:
- 19.5.1 The arbitrator shall be, if the question in issue is:
 - 19.5.1.1 primarily an accounting matter, an independent person, who shall be a qualified chartered accountant who has been qualified for not less than 15 (fifteen) years;
 - 19.5.1.2 primarily a legal matter, a practising senior counsel or attorney of not less than 15 (fifteen) years standing;
 - 19.5.1.3 whether the Seller is entitled to receive a progress payment or the Letter of Acquittance the Seller's duly appointed quantity surveyor;
 - 19.5.1.4 any other matter, an independent person agreed upon by the Parties;
 - 19.5.1.5 the Arbitrator referred to in this 19.5.1 shall be agreed upon between the parties within 3 (THREE) days after the date on which the arbitration is demanded and failing such agreement shall be appointed by The President of The Law Society of Gauteng, who may be requested by any party to the dispute to make that nomination at any time after the expiry of the three day period.
 - 19.5.2 The arbitration shall be held in Johannesburg in accordance with the formalities and/or procedures to be settled by the Arbitrator, and may be held in an informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities of procedure, pleadings and/or discovery or the strictest rules of evidence.
- 19.6 The Arbitrator shall be entitled -
- 19.6.1 To investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with the dispute.
 - 19.6.2 To interview and question under oath, any of the Parties and any of their employees.
 - 19.6.3 To decide the dispute according to what he considers just and equitable in the circumstances.
 - 19.6.4 To make such award, including an award for specific performance, an Interdict, damages or a penalty or otherwise as he in his discretion may deem fit and appropriate.
- 19.7 The arbitration shall be held as quickly as possible after it is demanded, with a view to its being completed within 30 (THIRTY) days after it has been so demanded.

- 19.8 Immediately after the Arbitrator has been agreed upon or nominated in terms of 19.5 any of the Parties to the dispute shall be entitled to call upon the Arbitrator to fix a date and place when and where the Arbitration proceedings shall be held and to settle the procedure in the manner in which the Arbitration proceedings will be held.
- 19.9 Any award that may be made by the Arbitrator:
- 19.9.1 shall be final and binding and not subject to appeal;
- 19.9.2 will be carried into effect and
- 19.9.3 may be made an order of any court to whose jurisdiction the Parties to the dispute are subject.
- 19.10 Notwithstanding the provisions of the foregoing, any party hereto may, in its sole discretion, apply for urgent interim relief to protect their rights in terms of this Agreement.

20. GENERAL

20.1 Severability

If any clause or term of this Agreement should be invalid, unenforceable or illegal, then such clause or term shall be deemed to be severable and shall not affect the validity of the remaining terms and provisions of this Agreement which shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this Agreement.

20.2 Whole Agreement

This Agreement constitutes the sole record of the agreement between the Parties as to the subject matter hereof. No Party shall be bound by any express or implied term, representation, warranties, promise or the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written between the Parties in respect of the subject matter hereof.

20.3 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.

20.4 Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by any one 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 one 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 or prejudice such Party's rights against the other in terms of or arising from this Agreement.

20.5 Warranty of Authority

Every natural person signing on behalf of any juristic person or trust or local, provincial or government body/organ, personally warrants (and this Agreement is accordingly based thereon) that –

- 20.5.1 the execution of this Agreement by juristic person or trust or body/organ concerned is within the scope of its powers, objects and authority and does not contravene (as the case may be) any law of general application including the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law; and

20.5.2 all necessary steps have been taken by the juristic person or trust or body/organ to give the signatory the power to execute this Agreement on behalf of the juristic person or trust or body/organ.

20.6 Implementation

The Parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or conducive to the giving of effect to the terms, conditions and import of this Agreement.

20.7 Co-operation

The Parties undertake to each other -

20.7.1 to exhibit the utmost good faith to the other to co-operate and compromise where necessary to give effect to the import or intent of this Agreement; and

20.7.2 that, where circumstances arise which were not within the contemplation of or visualised by the Parties at the time of signature, or which render impracticable or inexpedient the implementation of this Agreement in accordance with strict interpretation thereof, they will meet, and negotiate in good faith to achieve a *modus operandi* for the attainment and fulfilment of the fundamental purpose of this Agreement and will aim to reconcile any divergent interests amongst themselves.

20.8 Independent Advice

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

20.9 Succession

To the extent permissible in law, the provisions of this Agreement shall be binding on any, heir, executor, judicial manager, receiver, administrator, trustee or any other person authorised to deal with a Party's estate or affairs.

20.10 Costs

The costs of the negotiation, drafting, settlement and implementation of this Agreement shall be borne by the Seller.

21. OFFER ACCEPTANCE

Inasmuch as this Agreement, signed by the Purchaser(s) and delivered to the Seller, shall constitute an offer to purchase the Property, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller signing same within 60 (sixty) days after the date of signature thereof by the Purchaser(s).

SIGNED AT _____ ON THIS _____ DAY OF _____ 20__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____
(if applicable)

SIGNED AT _____ ON THIS _____ DAY OF _____ 20__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____
(if applicable)

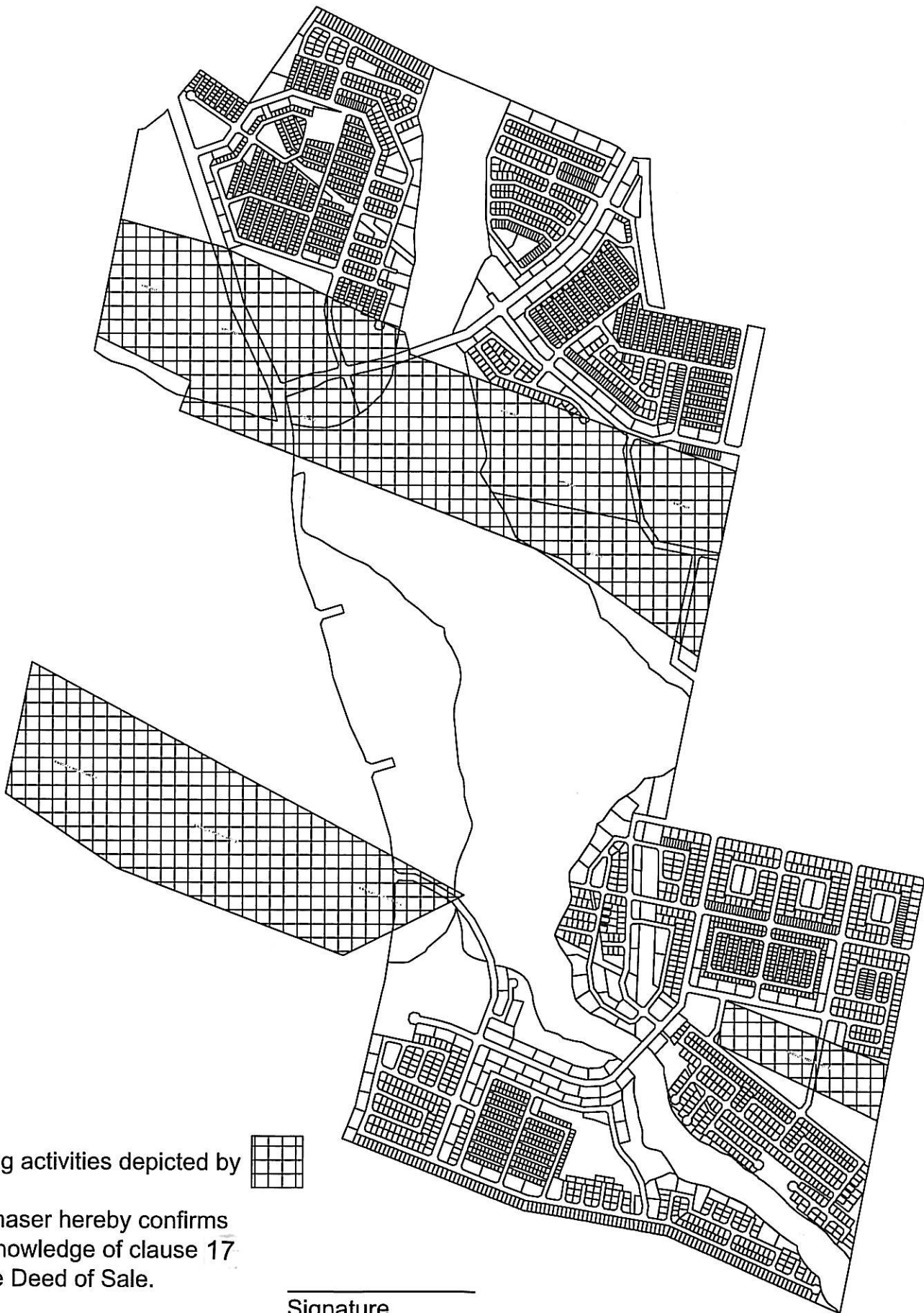
SIGNED AT _____ ON THIS _____ DAY OF _____ 20__

WITNESS _____

SELLER: _____

(warranting that he/she is duly authorized)

ANNEXURE A FLEURHOF EXT.2 - 9



Mining activities depicted by



Purchaser hereby confirms
full knowledge of clause 17
of the Deed of Sale.

Signature

BUILDING CONDITIONS

1. BUILDING PLAN, INCIDENTAL FEES AND CHARGES

- 1.1 The Purchaser(s) hereby appoints the Seller to submit all plans to the relevant Authorities for approval and pay all fees and/or charges incidental thereto to such authorities on his/her/their behalf, such fees and charges being recoverable from the Purchaser(s) by the Seller.
- 1.2 The Purchaser(s) shall furthermore be liable for the payment of any fees and/or charges incidental to the construction and erection of the Dwelling, including but not necessarily limited to inspection fees. The Seller shall give the Purchaser(s) notice as to the amount and date of payment of such fees and/or charges. Should the Purchaser(s) not be able to make payment of such fees and/or charges the Purchaser(s) undertakes to refund such fees and/or charges to the Seller upon demand thereto.
- 1.3 The Purchaser(s) shall furthermore be liable for the payment of R1 000-00 if any changes or alterations are made to the Seller's standard Building Plans. Such amount will be paid upon demand thereto.
- 1.4 Consumer deposits, other than the deposit in respect of water, is to be paid by the Purchaser(s) to the relevant authorities at least six weeks prior to occupation of the Dwelling.
- 1.5 The Purchaser(s) shall be liable for payment of all additional building costs brought about due to the amendment of the standard Building Plan and Schedule of Finishes by the Purchaser(s). All such additional costs shall be paid by the Purchaser(s) to the Seller before the amendment(s)/alteration(s), as requested by the Purchaser(s) commence(s). The amendments requested by the Purchaser(s) are reflected in the List of Standard Extras.
- 1.6 The Seller shall attend to the connection and make payment of the deposit in respect of the water connection to the Property. The deposit paid by the Seller shall be utilized to make payment of the water consumption on the Property during the construction of the Dwelling. Any additional costs in respect of water shall be paid by the Purchaser(s).
- 1.7 The Seller shall attend to the connection of the electrical supply to the Property. The Purchaser(s) however herewith accepts responsibility for payment of the deposit in respect of the electrical supply to the Property together with all electrical usage on the Property.
- 1.8 The Purchaser(s) shall apply his/her/their signature to the Special Power of Attorney to enable the Seller to comply with its obligations in terms of clauses 1.1, 1.6 and 1.7 above.

2. NHBRC REGISTRATION

- 2.1 The Seller shall attend to the registration of the Dwelling with the NHBRC.

- 2.2 The Purchaser(s) shall be liable for all costs incidental to the registration of the Dwelling with the NHBRC – the cost at present is 1,3% and included in the Purchase Price.

3. INSPECTION AND LETTER OF ACQUITTANCE

- 3.1 The Purchaser(s) shall, after the structural completion of the Dwelling as determined by a designated officer of the Financial Institution, inspect the Dwelling (pre-inspection) and in the event of being satisfied with the Dwelling, sign a Letter of Acquittance as required by the Seller and/or Financial Institution.

- 3.2 Should the Purchaser(s) not be satisfied with the Dwelling during the pre-inspection and the Seller not agreeing with the Purchaser(s) decision a dispute shall be declared by either party and which dispute shall be dealt with in terms of clause 19 of the terms and conditions of the Property Sale and Construction Agreement. If the Seller is in agreement with the Purchaser(s) decision the Seller shall endeavour to rectify/clarify the Purchaser(s) objection(s) to the Dwelling as soon as possible.

- 3.3 Upon the issuing of a Certificate of Practical Completion the Purchaser(s) will attend to an inspection with a designated officer of the Seller to compile a list of all defects and/or unfinished work in respect of the Dwelling.

- 3.4 The Seller shall rectify all defects within a reasonable period after the receipt of the defects list. In the event that no list of defects is received it will be deemed that no such defects exist and the Seller shall accept no further responsibility in respect of defects.

- 3.5 Upon all defects being rectified, the Seller will issue a Certificate of Final Completion and whereupon the Purchaser(s) shall sign the final Letter of Acquittance. In the event that a dispute arises as to the satisfactory repair of the defects such dispute will be dealt with in terms of clause 19 of the terms and conditions of the Property Sale and Construction Agreement.

- 3.6 The Purchaser(s) furthermore undertakes to not unreasonably withhold his/her consent and signature to any Letters of Acquittance and shall at all times air his/her consideration of satisfaction as referred to in 3.1 and 3.5 above on a reasonable basis.

- 3.7 The Purchaser(s) furthermore agrees that signature of the final Letter of Acquittance shall be prima facie proof that the Seller has fulfilled its obligations in terms of this Agreement and that it is entitled to payment of the Purchase Price and any other fees and/or charges imposed upon the Purchaser(s) in terms of this Agreement.

4. LATENT DEFECTS

- 4.1 The Seller undertakes to rectify all latent defects which becomes apparent to the Purchaser(s) within three months from the Completion Date and which is the result of defective materials and/or workmanship.

- 4.2 The Seller furthermore undertakes to rectify all defects relating to or arising from a roof leakage, gutter leak and improper discharge of rainwater for a period of twelve months from the Completion Date. After the expiry of this period the Seller shall be relieved of all its obligations in this regard and the Purchaser(s) shall have no further claim against the Seller in respect of such defects.

4.3 The Seller shall only be obliged to perform in terms of clauses 4.1 and/or 4.2 if the Purchaser(s) has given the Seller written notice of such defects within the three month and twelve month period respectively.

4.4 A certificate issued by a person nominated by the NHBRC stating that any defects brought to the attention of the Seller in terms of clause 4.3 have been satisfactorily repaired, shall be final and binding on both Parties and shall relieve the Seller of any further obligations in this regard.

5. RIGHT TO SUB-CONTRACT

The Seller is entitled to enter into contracts with any third party as sub-Seller to attend to the construction of the Dwelling or any portion thereof.

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ 20__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____
(if applicable)

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ 20__

WITNESS _____

PURCHASER: _____

(If signing on behalf of a company, close corporation or trust, I warrant that I am duly authorized to sign this Agreement).

SPOUSE: _____
(if applicable)

SIGNED AT _____ **ON THIS** _____ **DAY OF** _____ 20__

WITNESS _____

SELLER: _____

(warranting that he/she is duly authorized)

ANNEXURE D

SCHEDULE OF FINISHES – BONDED FULL TITLE

FOUNDATIONS

- All external load-bearing walls will be founded on concrete strip footings as indicated on the working drawings or on raft foundations as per engineers design.
- All internal walls will be founded on thickening to surface bed as indicated on the working drawings.
- Conventional building methods, as for normal founding conditions, will be used unless otherwise instructed by the engineer.

SUPERSTRUCTURE

- Houses to be built with 150mm external walls and 90mm internal walls constructed of cement and/or clay bricks.

ROOF

- Constructed with engineer designed prefabricated roof trusses.
- House roofs to be pitched 26 degrees and covered with cement tiles – no PVC underlay to be provided.
- Barge boards to be provided.
- 75 x 100 Galvanised mild steel gutters with 75mm downpipes to be fitted.

DOORS & DOORFRAMES

- All external doors to be FLB closed-back solid doors.
- All internal doors to be hollow core hardboard type.
- All doorframes to be 1,2mm pressed steel.
- Weatherboards to be fitted to all external doors.

WINDOWS

- Standard residential steel windows with handles and catches as indicated on the working drawings without burglar bars.

GLAZING

- Clear sheet glass generally in thickness as recommended by the glazier.
- Obscure glass to glazier's choice will be installed to bathroom/s and WC's.

WINDOW SILLS

- External windowsills are to be precast concrete painted with one coat of primer and two coats acrylic paint.
- Internal windowsills to be plastered.

WALL FINISHES

- External walls of the house to be plastered.
- Internal walls of the house to be plastered.
- Glazed wall tiling will be proved as follows:
 - Kitchen & bathrooms – 2 course above sink, bath and washbasin.

FLOOR FINISHES

- All surface beds to be screeded or power floated.
- Weatherboard to be provided at external doors.

CEILINGS

- Ceilings to be 6,4mm Herculite fixed to 38 x 38 brandering with "H" section cover strips.
- Cornices to be 70mm gypsum coved type.
- Ceilings and cornices to be painted with two coats good quality PVA.

PAINTING

- All plastered surfaces to be painted with two coats good quality PVA.
- All exposed metalwork to be finished with one coat universal enamel paint.
- All external doors to be finished with two coats of wood sealer.
- All exposed structural timber to receive two coats carbolineum.
- All internal doors and doorframes to be painted with enamel paint.

IRONMONGERY

- External doors to be fitted with standard three lever mortise locksets with chromium plated furniture.
- Internal doors to be fitted with standard two lever mortise locksets with chromium plated furniture.
- Single rail curtain tracks to be provided to all windows.

ELECTRICAL

- One plug and one light point per room, two plug points in the kitchen, two external lights, stove point with isolator and distribution board as shown on the floor plan layout.
- External light fittings to be watertight.
- Internal light fittings to be of the white bowl bulkhead type.

PLUMBING

- All sanitary fittings are to be standard type white vitreous china, and acrylic cisterns.
- Baths to be 1700mm long white acrylic type.
- Wash hand basins will be fixed on concealed brackets.
- A single bowl continental fit-on sink will be installed.
- Taps are to be cobra star taps or equal.
- Complete cold and hot water reticulation, including taps and a 150 litre cylinder (SABS approved) complete with pressure release valve and thermostat and electrical connection.
- 1 Outside tap included.

CARPENTER

- A 900mm sink unit will be provided in the kitchen.

FENCING

- Corner posts only.

SITE WORKS

- The property will be levelled to dispose the storm water to the extent as determined by the Developer.
- No landscaping, other than general removal of building rubble.

AVAILABILITY OF MATERIALS

- All materials herein specified are subject to availability, where any materials are not readily available, the DEVELOPER shall have the right to use the nearest similar material available.

OPTIONAL EXTRAS

- Items specifically EXCLUDED from the selling price unless otherwise purchased as optional extras are as follows:
 - Four Plate Stove
 - Carpets to all habitable rooms and vinyl tiles to kitchen and bathroom
 - Semi-face brick
 - Built-in cupboards in kitchen and bedrooms

SINGLE GARAGE (Where applicable)

- Garage walls to be constructed with cement and/or clay bricks as per the house.
- Garages to be plastered externally and internally.
- No ceiling will be supplied.
- Concrete ramp to entrance.
- Galvanised finished roll-up garage door will be installed.

NOTES:

- Availability of materials - All materials herein specified are subject to availability, where any materials are not readily available, the contractor shall have the right to use the nearest similar material available.
- Consumer deposit payable to local authority to be paid by purchaser.
- All impressions used for marketing purposes are artist impressions and not necessarily representative of the exact colours or amount of paving used. For specific detail in this regard please refer to the specifications above.
- In the event of a contradiction this specification supersedes the plan.

Signed at _____ on the _____ day of _____ 20_____.

Project: _____ Stand no: _____

Name of purchaser: _____ Signature: _____

Name of purchaser: _____ Signature: _____

ANNEXURE E
COLOUR CHOICES
Fleurhof Full Title Bonded Units

Please indicate clearly the colour choice per finish below.

Roof tiles		BLACK	RED	BROWN	TERRACOTTA
Plinth		BLACK	TRUE RED	BRAZIL BROWN	TERRACOTTA
Paint - External walls		FEATHER GOLD	LIGHT LIMESTONE	MOROCCAN DAWN	BAKERS DOUGH
		WEATHERED OAK	ROCKY NOOK	BLUSHED COTTON	
Frames & Gutters		BLACK / WHITE	TRUE RED	BRAZIL BROWN	TERRACOTTA
Carpets		MACE	LANCE	MOAT	SHIELD
		TURRET	SWORD	ARMOUR	DRAWBRIDGE
		PENNANT	SPEAR	BOW	
Ceramic tiles	Wall	VL310	VL300	VL810	
	Floor	OVI 3000	ORM 3000	ORM 7300	

I, _____, the Purchaser of Stand _____ in Fleurhof Ext _____ hereby select the above colour choices applicable to this unit. I am aware that once made, these choices may not be altered.

I am aware that the developer will elect the roof colour choice on all semi-detached units.

Signed this _____ day of _____ 20__ at _____.

_____ (Purchaser)

_____ (Witness)

ANNEXURE F
FLEURHOF - LIST OF STANDARD EXTRAS

FINISH NAME	DESCRIPTION	MEASUREMENT UNIT	COST PER UNIT	No. of Measurements/Items	COST
Stove	4 Plate oven and stove unit (make determined by developer) and including wiring	Item	2000		
Hob	4 Plate hob (make determined by developer) and including wiring	Item	800		
Floor covering	To install floor covering, carpets or tiles, and skirting	m ²	190		
Floor covering	To install floor covering, ceramic tiles with ceramic skirting as per developer	m ²	210		
Kitchen	To install standard height (as per developer) BIC unit in the kitchen, placed on floor	Item	2700		
Kitchen	To install standard height (as per developer) BIC unit in the kitchen, placed against wall and hanging	Item	2175		
Wall tiling	To install ceramic wall tiles	m ²	200		
Roof	To replace standard gable roof with a Hip roof	m ²	200		
Bedroom	Price to install standard 2 door BIC (as per developer) in bedroom	Item	4800		
Bedroom	Price to install standard 3 door BIC (as per developer) in bedroom	Item	7200		
External	To finish off house in Semi-Facebrick on the outside	m ²	600		
External	Diamond mesh fence, 1m high. Cost per running meter and inclusive of gate.	m	450		
External	Steel gate - vehicle entrance	Item	15000		
External	Double garage- Cost to add a double garage with sectional wooden tip up door, non motorised	Item	75000		
External	Single garage- Cost to add a single garage with sectional wooden tip up door, non motorised	Item	45000		
External	Single Steel roll up garage door in lieu of wooden door and including a credit of R1500	Item	2000		
External	Double Steel roll up garage door in lieu of wooden door and including a rebate of R3000	Item	4000		
External	Automation of garage, including electrical point (1 motor)	Item	3500		
External	Burglar bars - internally fitted (entire house - windows only)	Item	15000		
				TOTAL	

I, _____, the Purchaser of Stand _____ in Fleurhof Ext _____ hereby purchases the above optional extras to be added to my basic building package. Signed this _____ day of _____ 20__ at _____.

_____ (Purchaser)

_____ (Witness)

ANNEXURE G

SPECIAL POWER OF ATTORNEY

I _____
Identity Number _____
Marital Status _____

And

I _____
Identity Number _____
Marital Status _____

The undersigned do hereby appoint Reard Buntting with power of substitution to be my/our Attorney and Agent and on my/our behalf to:

- 1 Sign all plans necessary for the submission of working drawings for the following stand:

- 2 Sign all documentation which might be needed to obtain approval of the abovementioned plans as if I/we are personally present and acting; hereby ratifying whatever such attorney and agent shall do on terms hereof.
- 3 Sign all documentation which might be needed to apply for the supply of water and electricity.

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE _____ DAY OF

AS WITNESSES:

1 _____

PURCHASER

2 _____

PURCHASER