



ST. JOHN'S VILLAGE

— LIFESTYLE & RETIREMENT —

HOWICK | MIDLANDS

VACANT LAND – ARBORETUM VILLAGE DEVELOPER TO THIRD PARTY

MEMORANDUM OF AGREEMENT

between:

Name

PIERRE DE VILLIERS BERRANGE, he being duly authorized thereto by a resolution of the Directors of
CEDAR FALLS PROPERTIES 25 PROPRIETARY LIMITED

Registration Number: 2005/013860/07

(the "SELLER")

Postal Address

P O BOX 2838
PIETERMARITZBURG
3200

Physical Address

Suite 1, The Mews
Redlands Estate, 1 George Macfarlane Lane
PIETERMARITZBURG
3201

Telephone No.	033 – 3455331
Facsimile No.	033 – 3455824
E-Mail Address	taryn@b-inc.co.za
VAT No.	4600221487

AND

Name

Identity/Registration No. _____

Marital Status (if the PURCHASER is an individual)

Unmarried/Widowed/Divorced MOCP (WITH ANC) MICP OTHER _____

(the "PURCHASER")

Postal Address

Current Physical Address

Future Physical Address (after registration)

Telephone No. _____ (Landline)

_____ (Cel)

Facsimile No. _____

Income tax/VAT No. _____

E-Mail Address _____

1. Definitions

1.1 "Architect" means an architect from the panel of architects, as appointed by the Homeowners' Association, from time to time.

1.2 "Architectural requirements and guidelines" means the Seller's requirements and guidelines referred to in Annexure "LA".

1.3 "Agreement" means this agreement and all annexures hereto.

1.4 "Builder" means a builder nominated by the Purchaser, as selected from the panel of builders, as appointed by the Homeowners' Association, from time to time.

1.5 "Conditions of Sale" means the conditions of sale embodied in the agreement.

1.6 "Conveyancers" means:

Berrange Incorporated
Suite 1, The Mews
Redlands Estate
1 George Macfarlane Lane
Pietermaritzburg

Contact person Ginette Chubb
Telephone No. 033 – 3455331
Facsimile No. 086 511 6319
E-Mail Address ginette@b-inc.co.za

1.7 "Developer" means the Seller.

- 1.8 "Development Period" means the period from date of establishment of the Homeowners' Association, until the date upon which the last Unit owned by the Developer is sold and transferred, or until such time that the Developer notifies the Homeowners' Association, by providing it with 3 months written notice, that the Development Period has deemed to have ended, which notice cannot be given until 75% (Seventy Five Percent) of the Units have been sold and transferred.
- 1.9 "Estate" means St Johns Village, to be developed on Proposed Erf 3298 (being a re-designation of Portion 161 (of 159) of the Farm Stocklands and Outlands No. 878) in extent approximately 161,5 hectares.
- 1.10 "Estate Agents" means _____
- 1.11 "Homeowners' Association" means the St Johns Village Homeowners' Association NPC (Association incorporated under the Companies Act No. 71 of 2008).
- 1.12 "Landscaping Guidelines" means the Seller's requirements and guidelines referred to in Annexure "LB".
- 1.13 "Memorandum of Association" means the registered Memorandum of Association of the Homeowners' Association.
- 1.14 "Property" means the immovable property purchased and sold in terms of this agreement.
- 1.15 "St Johns Village" means the name of the development of the Estate.
- 1.16 "Registration Date" means the date upon which registration of transfer of the property is registered in the name of the Purchaser.
- 1.17 Words importing the masculine gender include the feminine, neuter gender and vice versa.
- 1.18 Unless the context clearly indicates the contrary intention, the singular shall include the plural and vice versa.

2. THE PROPERTY

The Purchaser hereby offers to purchase from the Seller who hereby agrees to sell to the Purchaser the freehold property being

**Proposed Erf _____ Howick
in extent approximately _____ square metres
situated in The Arboretum Village**

as will more fully appear on reference to the diagram/layout plan annexed hereto marked Annexure "LC"

(hereinafter referred to as "the Property")

3. PURCHASE PRICE AND METHOD OF PAYMENT

- 3.1 The purchase price for the Property shall be R_____ which shall be inclusive of VAT and which shall be payable in the following manner:

3.1.1 Cash deposit R_____ in terms of Clause 3.2 below

3.1.2 Loan R_____ in terms of Clause 3.3 below

3.1.3 Cash balance R_____ in terms of Clause 3.4 below

- 3.2 The deposit referred to in Clause 3.1.1 is to be paid to the Conveyancers within 7 (Seven) days of acceptance of this agreement by the seller, into the following trust account:

Berrange Incorporated Trust Account
 Bank: Nedbank Limited
 Branch code: 134 025
 Account number: 134 036 9362
 Reference : Erf ___ Howick/surname

Should same not be paid, in full, within the said 7 (Seven) day period, this agreement shall lapse, without further notice, with immediate effect. In this event, any part payment made towards the deposit shall be forfeited to the seller as envisaged in clause 9.1.2 below.

- 3.3 The amount referred to in Clause 3.1.2 shall be paid to the Seller upon registration of transfer and shall be provided by the raising of a bank loan on the security of the property hereby sold. This entire agreement is subject to the condition that the Purchaser is able to arrange a loan in the amount referred to in clause 3.1.2, in principle, on usual bank terms and conditions, within 30 (Thirty) days of signature hereof by the Seller. The Purchaser agrees and undertakes to take all steps and sign all documents reasonably necessary to give effect to this clause.

3.3.1 Should such loan not be granted in principle by due date, this agreement shall automatically fail and be of no further force or effect whatsoever.

3.3.2 The condition contained in Clause 3.3 has been inserted for the benefit of the Purchaser, and can be waived by him provided that such waiver is contained in writing and lodged with the Agents before the date referred to above.

3.3.3 The Purchaser undertakes to lodge with the Conveyancers, bank guarantees for payment of the sum referred to in Clause 3.1.2 within 14 (Fourteen) days of written request therefore by the Conveyancers and, within a further 7 (Seven) days, to take all such steps as may be necessary to enable the attorneys attending to the registration of the bond, to lodge their documents in the Pietermaritzburg Deeds Registry.

3.3.4 The Purchaser warrants that he is aware of the financial requirements of the bank relating to the mortgage bond that is to be applied for, and undertakes, to the best of his ability, to immediately provide, upon request by the relevant bank concerned, all information and other documentation which may be required by it in order to approve his loan application.

3.3.5 The Purchaser warrants that there is no existing judgment noted against his name which would preclude any financial institution from approving his loan application.

- 3.4 The balance of the purchase price, as referred to in Clause 3.1.3, shall be paid, in cash, into the Conveyancers Trust Account, or shall be secured by such guarantee or guarantees as the Seller may require, which cash or guarantee/s shall be paid to / lodged with the Conveyancers within 14 (Fourteen) days of written request therefor by the Conveyancers.

- 3.5 The Purchaser hereby instructs and authorizes the Conveyancers to invest (subject to clause 7.3.4), in terms of Section 78 (2A) of the Attorneys Act, Act 53 of 1979 (as amended), any monies paid by him or on his behalf in terms of this Agreement, in an interest bearing account, account pending registration of transfer, or cancellation in terms of Clause 9, as the case may be, interest so accrued for the benefit of the Purchaser.

- 3.6 It is recorded that the Seller is a VAT vendor (with VAT registration number 4600221487) for the purposes of the sale of the Property in terms of this agreement, and therefore the Total Consideration, referred to in clause 3.1 includes Value Added Tax, at the current rate of 14% (Fourteen Percent). The parties agree that, should there be any change in the Value Added Tax rate applicable at the time of supply, as determined in accordance with the

Value Added Tax 89 of 1991, the purchase price shall be amended to take into account the adjustment in the Value Added Tax rate.

- 3.7 Unless otherwise provided, all payments hereunder shall be made without deduction or demand to the Seller at the offices of the Conveyancers. All bank charges incurred by the Conveyancers in connection with this transaction shall be for the account of the Purchaser.

4. **TRANSFER AND TRANSFER COSTS**

- 4.1 Registration of transfer shall be effected by the Conveyancers.

- 4.2 All conveyancing fees and disbursements incidental to the preparation and registration of transfer to and bonds by the Purchaser, shall be paid by the Purchaser to the Conveyancers within 7 (Seven) days of written request therefore by the Conveyancers.

- 4.3 The Purchaser acknowledges that

- 4.3.1 He shall be obliged to sign the transfer documents within 7 (seven) days of being called upon to receipt thereof.

- 4.3.2 The Conveyancers are designated as an "accountable institution" in terms of the Financial Intelligence Centre Act No. 38 of 2001 ("FICA"). Certain obligations are placed on the Conveyancers in terms of FICA and the Prevention of Organized Crime Act No. 21 of 1998 ("POCA") and the Regulations promulgated in terms thereof. The Conveyancers shall not invest and administer any deposits or any other monies paid by the Purchaser in terms of this agreement, unless the Purchaser has provided the Conveyancers with the documents that they require in terms of FICA. Accordingly the Purchaser undertakes to comply with all requirements of and supply all information and documentation required by the Conveyancers, within 7 (Seven) days of written request therefore, to enable the Conveyancers to fulfil their obligations in terms of FICA and POCA and the Regulations promulgated in terms thereof.

- 4.3.3 Failure to comply with the request by the Conveyancers to furnish information or documentation required by them or to sign conveyancing documents, or to pay conveyancing costs upon request, shall constitute a breach by the Purchaser of his obligations and shall entitle the Seller to give notice in terms of Clause 9 hereof.

- 4.4 The Purchaser shall not be entitled to transfer of the property until the whole of the purchase price, costs, interest and other charges have been paid or secured to the Conveyancers' satisfaction.

- 4.5 Upon registration of transfer, an adjustment in respect of the parties' liability in respect of rates and other charges relating to the property, shall be made by the Conveyancers.

- 4.6 The Seller shall in no way be liable to the Purchaser for any delay in effecting registration of transfer of the property into the Purchaser's name, irrespective of the reason for the cause of such delay. The Purchaser shall be entitled to resile from this Agreement should transfer not have been registered within 12 (Twelve) months of signature hereof, provided that the Purchaser is not responsible for such delay.

5. **MORA INTEREST**

- 5.1 In the event of there being any delay in connection with the registration of transfer for which the Purchaser is responsible, the Purchaser undertakes to pay interest on the full purchase price at the rate of 2% (Two Percent) per annum above the prime lending rate charged from time to time by Investec Bank Limited, calculated from the date that the Purchaser has been notified in writing by the Seller, the Seller's Agent or Conveyancers, as being in mora, to the date upon which the Purchaser has ceased to be in mora. The Purchaser shall be obliged to secure payment of such sums to the satisfaction of the Conveyancers before registration of transfer. The Certificate

signed by the Conveyancers confirming the amount of such interest shall be conclusive proof of the amount owing by the Purchaser to the Seller.

- 5.2 For the purposes of Clause 5.1 the Purchaser shall be deemed to be responsible for any delay in the registration of transfer which is caused by failure on the part of the institution from which he obtains mortgage finance, or any conveyancer appointed by such institution, to procure the issue of guarantees as contemplated in Clause 3.3.3 or to lodge documents with the Registrar of Deeds when called upon to do so.

6. POSSESSION AND OCCUPATION

- 6.1 Vacant occupation and possession of the property shall be given by the Seller to the Purchaser on registration of transfer, or sooner by mutual written agreement.

- 6.2 All risks in and to the property shall pass to the Purchaser on the date of transfer or date of occupation, whichever occurs sooner, from which date the Purchaser shall be liable for all rates and other outgoings in respect of the property, including the payment of a monthly levy to the Homeowners' Association as provided for in Clause 11.2.

7. AGENT'S COMMISSION

- 7.1 The Purchaser warrants that he was introduced to the Property by the Estate Agent's referred to in clause 1.10 of this agreement, who was the effective cause of the sale of the Property in terms of this agreement. The Seller shall pay to the Estate Agents a commission of _____% (_____ Percent) (plus VAT, if applicable) of the Purchase Price, which commission shall be deemed to have been earned upon the signature of this agreement by both parties, and the subsequent fulfilment of any suspensive conditions contained herein, and shall be payable on the Registration of Transfer. The Seller hereby irrevocably authorises and instructs the Conveyancers to make payment of the aforesaid commission from the proceeds of the sale of the Property due to the Seller.

- 7.2 Should the Purchaser fail to carry out its obligations in terms hereof, and as a consequence this agreement is cancelled the aforesaid estate agent shall have the right to, but shall not be obliged, to recover payment of its aforesaid commission from the Purchaser.

- 7.3 In the event of the aforesaid estate agent instituting action against either the Seller or the Purchaser to give effect to the benefits created herein in its favour, the agent shall be entitled to claim legal costs to the maximum amount permitted by Law.

- 7.4 In the event of the Purchaser not having completed clause 1.10 of the agreement by inserting the name of an Estate Agent/Agency, the Purchaser warrants that no Estate Agent was responsible for introducing him to the Property and further warrants that no agent will have any claim against the Seller for estate agent's commission arising out of this transaction.

- 7.5 The Purchaser indemnifies and holds harmless the Seller against any loss, damage or expense sustained, suffered or incurred by the Seller arising out of any breach of the foregoing warranties.

- 7.6 The provisions of this clause as well as certain other provisions in the agreement, are intended by the Seller and the Purchaser to be a contract for the benefit of the Agents, which may be enforced by the Estate Agents, it being recorded and agreed that the Estate Agents have accepted the benefits hereof by their signature at the foot of this agreement.

8. VOETSTOOTS

The Purchaser agrees and acknowledges that:

- 8.1 The property is purchased voetstoots, absolutely as it stands and without any warranties, express or implied. The Purchaser is deemed to have made himself acquainted with the property, its nature, condition, extent, beacons, locality and subject to all defects, whether latent or patent, and all servitudes and condition to which the property

may be subject whether contained in the Title Deeds or otherwise, the Seller and/or the Agents being entirely free from all liability in respect thereof.

- 8.2 Notwithstanding the above, the Seller shall be obliged to point out to the Purchaser all such beacons relating to the boundaries of the property but shall have no further obligation to the Purchaser, either to establish or point out the beacons, having done so in terms of this clause.
- 8.3 The Seller shall have the right to make minor alterations and modifications to the township layout as may be deemed necessary either by the local authority or by the relevant government department.
- 8.4 Transfer of the property shall be passed to the Purchaser subject to the existing title conditions and further subject to the following conditions which have been imposed by the Seller, and will be registered against the Title Deeds of the property:
- 8.4.1 that the property may not be consolidated with any other lot in the Estate or be further subdivided without the prior written consent of the Homeowners' Association ;
- 8.4.2 that the property or any portion thereof or any interest therein, shall not be disposed of, leased or transferred without the written consent of the Homeowners' Association first being had and obtained;
- 8.4.3 that the property or any part thereof shall not be used for any purpose of a Sectional Title Scheme under the provisions of The Sectional Titles Act, No. 95 of 1986; a Share Block Scheme under the provisions of The Share Blocks Control Act, No. 59 of 1980; a Time Share Scheme under the provisions of The Property Time-Sharing Control Act, No. 75 of 1983 or any similar such Schemes, without the prior written consent of the Homeowners' Association;
- 8.4.4 that the Purchaser may not sell or transfer the Property, within a period of 24 (Twenty Four) months from date of transfer from the Developer to the Purchaser, without the prior written consent of the Developer, unless and until the Purchaser has constructed a dwelling on the Property, no smaller than 100 (One Hundred) square metres (excluding outbuildings) in extent, in accordance with the required Architectural Guidelines and the specifications referred to therein. This condition shall lapse on transfer of the Property by the Purchaser, to a third party, provided that the condition has been fulfilled or alternatively the consent of the Developer has been obtained.
- 8.5 In the event that at the date of signature hereof, the property hereby purchased forms part of an unproclaimed private township, the Purchaser acknowledges that transfer of the property can only be registered in the Purchaser's name once the township has been formally declared and a Certificate issued in terms of Section 38(1) of the Development Facilitation Act No. 67 of 1995 as amended.

9. **BREACH**

- 9.1 In the event of the Purchaser being in breach of any of the terms or conditions contained herein, and remain in default for 7 (Seven) days after dispatch of a written notice by registered post or by facsimile requiring him to remedy such breach, the Seller shall be entitled to, and without prejudice to any other rights available at law:
- 9.1.1 sue the Purchaser for specific performance; OR
- 9.1.2 cancel the agreement, and retain all amounts paid by the Purchaser as "Rouwkoop" and the Purchaser hereby authorises the Conveyancers or any other third party holding such monies to pay the same to the Seller, and/or
- 9.1.3 cancel the agreement and claim damages from the Purchaser, which damages shall include, but not be limited to, the costs and expenses of advertising and selling the Property to a third party,

9.2 In the event of the Seller instructing its Attorneys to institute any proceedings against the Purchaser for payment of the purchase price, interest and other monies due by the Purchaser hereunder or for the specific performance by the Purchaser of any of the terms and conditions herein, then the Purchaser agrees that he shall be liable for and shall pay any such legal costs on the scale as between the Attorney and own client.

9.3 Any latitude or extension of time which may be allowed by either party shall not be allowed to be a waiver of that party's rights hereunder.

10. IMPROVEMENT TO THE PROPERTY

10.1 The Purchaser acknowledges that it is necessary for the Seller to impose specific conditions relating to the improvement of the property in respect of, *inter alia*, the time period for the commencement of improvements, the design, construction and materials to be used.

10.2 The Purchaser shall not be entitled to effect any improvements of whatever nature to the property until registration of transfer thereof into the Purchaser's name, without the prior written consent of the Seller and the Homeowners' Association. In the event of the Purchaser being granted consent by the Seller to make improvements to the property prior to registration of transfer, the Purchaser shall do so entirely at his own risk. In the event of this agreement being terminated for any reason whatsoever, the Purchaser shall:

10.1 have no claim against the Seller for any compensation whatsoever in respect of such improvement which shall be forfeited to the Seller;

10.2 in the event of any damage to the property, at the instance of the Seller, return the Property to its original condition, within 14 (Fourteen) days of written demand.

10.3 The Purchaser shall be obliged to complete the construction of a dwelling on the property within 30 (Thirty) months from date of registration of transfer from the Developer to the Purchaser.

10.4 Regardless of when the Purchaser commences construction of any sort on the Property, he shall be obliged to complete construction of the dwelling within a period of 15 (Fifteen) consecutive months from the date of commencement of building such dwelling, provided that the date of completion does not exceed the overall period provided for in clause 10.3.

10.5 Where the Purchaser fails to comply with the time periods referred to in 10.3 and 10.4, the following penalties will apply:

10.5.1 where construction of a dwelling is not completed within 30 (Thirty) months from date of registration of transfer from the Developer to the Purchaser, a monthly "building penalty levy", equivalent to 50% (Fifty Percent) of the monthly Homeowners' Association Levy at that time, will be added to the said monthly Homeowners' Association Levy until the dwelling is complete or until the expiry of 6 (Six) months;

10.5.2 where construction of a dwelling is still not completed within the further 6 (Six) months referred to in clause 10.5.1 (i.e. a total of 36 (Thirty Six) months from date of registration of transfer from the Developer to the Purchaser), a "building penalty levy", equivalent to 100% (One Hundred Percent) of the monthly Homeowners' Association Levy at that time, will be added to the said monthly Homeowners' Association Levy, until such date as the dwelling is complete.

10.6 The purchaser acknowledges that, notwithstanding the provisions of clause 10.5, where the Purchaser fails to comply with the time periods referred to in 10.3 and 10.4 the Seller shall, at any time after the date referred to therein, be entitled but specifically not obliged, to give the registered owner of the property, being either the Purchaser or his successors in title, 30 (Thirty) days written notice of its intention to re-purchase the property against payment to the registered owner of an amount equivalent to the original selling price of the property less the costs of transferring the property into the name of the Seller, upon registration of transfer back into the name of the Seller.

- 10.7 The Purchaser undertakes to ensure that the Architectural Requirements and Guidelines set out in Annexure "LA" hereto, and the Landscaping Guidelines set out in Annexure "LB", or such other guidelines and controls as may be approved by the Homeowners' Association from time to time, are strictly adhered to.
- 10.8 No dwelling or structure of any sort whatsoever may be erected on the property unless the Purchaser:
- 10.8.1 first obtains the prior written consent of the Homeowners' Association;
 - 10.8.2 obtains the requisite approval from the relevant local authority or where necessary, any other competent authority;
 - 10.8.3 uses designs from the selection of designs relating to the dwellings or structures to be erected within the Estate as may from time to time be prepared or drawn by the architect, or may at the Purchaser's cost engage the services of one of the panel architects referred to in clause 1.1 above, to design a new plan.
- 10.9 Any Purchaser wishing to improve his property shall submit to the Homeowners' Association the following documentation in order for it to grant approval:
- 10.9.1 a site diagram of the property on which it is clearly indicated the position of any structures to be erected and such structures' external boundaries/walls;
 - 10.9.2 a detailed building plan of all structures to be erected on the property;
 - 10.9.3 building plans on which is detailed all elevations of the structures concerned;
 - 10.9.4 a schedule of all external finishes to the structures;
 - 10.9.5 a schedule detailing the materials or items to be used in the construction;
 - 10.9.6 the Homeowners' Association 's prescribed fee as may be determined by it from time to time.
- 10.10 Any building plans referred to in Clause 10.9 shall be drawn by the architect to scale as directed by the Homeowners' Association and shall comply with the National Building Regulations.
- 10.11 No construction work of any kind may commence on the property until such time as all the approvals required in terms of Clause 10.7 have been obtained.
- 10.12 The Purchaser shall be obliged to furnish the Homeowners' Association with a stamped copy of the final building plan prior to commencement of building operations, provided that the Homeowners' Association shall, within 7 (Seven) days of receipt thereof, either furnish its consent for the commencement of work on the property or refuse such consent if the aforesaid building plans materially differ from those submitted in terms of Clause 10.9.
- 10.13 The Purchaser undertakes to ensure that any improvements to the property are erected strictly in accordance with the approved building plans.
- 10.14 The Purchaser shall be obliged to use a building contractor from the panel of builders referred to in clause 1.4 above.
- 10.15 The Homeowners' Association shall at all times during the period of construction, be entitled to enter upon the property for the purpose of inspecting the work.
- 10.16 The Purchaser acknowledges that when he takes occupation of the dwelling to be constructed on the Property, the development of the remainder of the Estate will be incomplete, and that owners and occupants must necessarily suffer inconvenience from building operations and from noise and dust resulting therefrom; and that

the Purchaser shall have no claim whatsoever against the Seller by reason of any such inconveniences.

11. HOME OWNERS ASSOCIATION

- 11.1 The Purchaser acknowledges that the Estate is managed and controlled by the Homeowners' Association, which will also be the registered owner of certain communal land and facilities within the Estate.
- 11.2 The Purchaser acknowledges, by his signature on this agreement, that he shall be obliged to become, and to remain, for the duration of his ownership of the Property, a member of the Homeowners' Association (the Homeowners' Association within the meaning of and subject to the conditions set out in the Homeowners' Association's Memorandum of Incorporation), and undertakes that he and all persons deriving use of the Estate or any part thereof through him will, from the date of occupation/transfer (whichever occurs sooner), duly comply with all the obligations imposed upon members under the Homeowners' Association's Memorandum of Incorporation including the obligation to pay a monthly levy to the Homeowners' Association, the amount of which is to be determined, from time to time, by the directors of the Homeowners' Association. The estimated monthly levy is/will be R_____.
- 11.3 The levy referred to in clause 11.2 shall not cover any rates and taxes, the consumption of water and electricity, sewerage, or the maintenance of the improvements on the properties. The said expenses shall be for the account of the purchaser.
- 11.4 The parties record that no Homeowners' Association levies, as referred to in 11.2 above, will be raised on the Property prior to 31 December 2015. The Purchaser, however, acknowledges that he will still be liable for the homeowners' insurance premium on the Property, once a dwelling has been constructed on the Property, and acknowledges further that he will endeavour to insure the property with an insurance company nominated by the Seller.
- 11.5 The Purchaser shall pay a once-off, non-refundable levy stabilisation fee, in an amount equivalent to 1% (One Percent) of the purchase price of the Property, to a levy stabilisation fund, which amount shall be payable by the Purchaser, to the Conveyancers, within 7 (Seven) days of written request therefore, who in turn will pay same over to the Homeowners' Association on registration of transfer into the Purchaser's name. All subsequent purchasers of any property shall be obliged to pay this amount to the fund or such amount as the Directors of the Homeowners' Association may determine from time to time. In the event that the property being developed to accommodate multiple units, either in terms of a sectional title development or in any other matter, the levy stabilisation fee shall be payable in respect of each individual unit allocated to the Property on date of transfer thereof by the Purchaser to any third party.
- 11.6 The Purchaser acknowledges that the Homeowners' Association will be entitled, at all times, to impose rules regarding the management of the Estate and the Conduct of its members. In this regard, the Purchaser acknowledges that copies of the Memorandum of Incorporation of the Homeowners' Association, the Conduct Rules, the Architectural Guidelines and Landscaping Guidelines were made available to him prior to his signing this agreement.
- 11.7 The Purchaser acknowledges in particular, the provision in the Conduct Rules which deals with occupation of the Property, and which dictates that no dwelling in this village (The Arboretum) may be occupied, on a permanent basis (as defined in the Conduct Rules), by any persons under the age of 55 (Fifty Five) years.
- 11.8 The Seller in developing the Estate will install certain security systems, facilities and procedures, and will assign to the Homeowners' Association the responsibility for maintaining and operating such systems.

12. DOMICILIA

- 12.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court processes, notices or other documents or communications of whatsoever nature their respective physical addresses referred to in the heading of this Agreement.
- 12.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.
- 12.3 Any party may by notice to any other party change the physical address chosen as its *domicilium citandi et executandi* vis-à-vis that party to another physical address in the Republic of South Africa, provided that the change shall become effective vis-à-vis that address on the 7th business day from the deemed receipt of the notice by the addressee.
- 12.4 Any notice to a party:-
- 12.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at its *domicilium citandi et executandi* shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved); or
- 12.4.2 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery;
- 12.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered to its chosen *domicilium citandi et executandi*.

13. GENERAL

- 13.1 The parties hereto acknowledge that the Agreement of Sale concluded between the Seller and Purchaser in the event of the acceptance hereof by the Seller, constitutes the entire agreement between them and that no other conditions, stipulations, warranties or representations whatsoever have been made, by either party or that party's agent, other than as specifically included herein. No alteration or amendment to this agreement or any purported consensual cancellation hereof shall be binding unless reduced to writing and signed by the parties.
- 13.2 No party shall be bound by any representation, express or implied terms or warranty (whether contained in any sales brochure, advertisements or other written document) not referred to herein or reduced to writing and signed by the parties.
- 13.3 Any extension or extensions of time granted for the making of any payments or other indulgences or concessions granted by the Seller, shall not prejudice any rights of the Seller under this agreement.
- 13.4 In the event of there being any conflict between the contents of this agreement and the Memorandum and Articles of the Homeowners' Association the latter shall prevail and the Purchaser shall have no claim against the Seller arising out of such conflict.

14. PURCHASER AS A TRUSTEE FOR A COMPANY TO BE FORMED

- 14.1 In the event of the signatory to this agreement on behalf of the Purchaser having concluded this agreement in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in this paragraph referred to as the "Signatory"), then the Signatory by his signature hereto warrants that the said company:
- 14.1.1 will be formed;
- 14.1.2 will ratify and adopt the terms and conditions of the agreement; and

14.1.3 will provide the Seller with written proof thereof;

all within a period of 30 (Thirty) days from the date of signature of this agreement by the Signatory.

14.2 The Signatory, in his personal capacity hereby under renunciation of the benefits of excussion and division with the full meaning and effect of which he declares himself to be fully acquainted, binds himself and agrees to bind himself as surety and co-principal debtor in solidum with the company to be formed by him in favour of the Seller for the due and punctual performance of such company's obligations to the Seller in terms of this agreement.

14.3 If the terms and conditions of Clause 14.1 above are not fulfilled then the Signatory will by his signature to this agreement be deemed ipso facto to have concluded the agreement in his personal capacity as Purchaser.

15. **CONSUMER PROTECTION ACT (CPA)**

15.1 It is recorded that the Seller is disposing of the Property in the "ordinary course of business", as contemplated in the CPA.

15.2 If the Purchaser is an individual or does not fall within the exemption category referred to in 22.3 hereof, then the provisions of the CPA shall apply to the sale of the Property in terms of this agreement.

15.3 If the Purchaser is a Juristic Person, and warrants to the Seller that its asset value or annual turnover, at the date of signature of this agreement by the Seller, and the date of transfer, shall equal or exceed the threshold determined by the Minister in terms of section 6 of the CPA (namely, R2,000,000.00 (Two Million Rand) then, as a consequence, the sale of the Property to the Purchaser in terms of this agreement, is exempt from the provisions of the CPA (save for the provisions of section 60 and 61 of the CPA). It is recorded that the aforesaid warranty is material to the Seller in entering into this agreement. The Purchaser undertakes, within 7 (Seven) days of being requested to do so by the Seller, to furnish the Seller with its last audited financial accounts, and such other financial information in respect of the Purchaser as the Seller may reasonably require, in order to confirm that the Purchaser's asset value and/or turnover is as warranted in this paragraph above.

16. **RE-SALE OF PROPERTY**

16.1 The Purchaser acknowledges that:

16.1.1 the Property will be transferred to the Purchaser, subject to a condition of title that the Purchaser may not sell or transfer the Property until such time as he has complied with the provisions of clause 8.4.4 of this agreement.

16.1.2 should he wish to re-sell the Property during the development period, then the purchaser shall be obliged to grant a sole mandate to the Developer, or its nominated agent, for a period of 60 (Sixty) days, as provided for on the Memorandum of Incorporation of the Homeowners' Association.

16.1.3 only agents approved by the Developer or the Homeowners' Association shall be entitled to sell Properties in the Estate, during the development period.

16.1.4 when selling or letting the Property, the Purchaser shall utilise such documentation (including the standard Sale Agreement and all annexures relevant thereto), prescribed by the Homeowners' Association.

16.1.5 the conveyancers who attend to the transfer resulting from such sale shall be the conveyancers nominated by the Developer.

16.2 Failure by the Purchaser to abide by the provisions of this clause will entitle the Developer to withhold the granting of its consent to the transfer of the Property.

17. **ACCEPTANCE ON BEHALF OF THE HOMEOWNERS' ASSOCIATION**

It is recorded that the Seller/Developer is duly authorized to accept the rights and benefits conveyed upon the Homeowners' Association in terms of this agreement, which by its signature hereto, it hereby does.

18. **IRREVOCABLE OFFER**

This agreement shall, when signed by the Purchaser and submitted to the Seller, constitute an offer to purchase the Property from the Seller, which offer shall be irrevocable until ___H___ on _____ day ___ of _____ and whereafter, if it has not been accepted by the Seller, the Purchaser may withdraw it on written notice to the Seller.

19. **ANNEXURES**

19.1 The Purchaser acknowledges that the following annexures form an integral part of this Agreement, and must be downloaded by the Purchaser from the St Johns Village website (www.stjohnsvillage.co.za):

- Annexure LA: Architectural regulations and guidelines
- Annexure LB: Landscaping guidelines
- St Johns Homeowners Association Memorandum of Incorporation
- St Johns Village Code of Conduct

Any queries regarding, or objections to, the content contained in the said annexures should be addressed in writing, to the agent or the Conveyancer, within five (5) days of signature hereof by the Purchaser. Should no objection be received within the stipulated period, the Purchaser shall be regarded as having downloaded and read the annexures, and accepted the contents thereof. The Purchaser acknowledges that the submission of an objection/query/complaint in this regard, does not nullify this contract or detract from its validity in any way whatsoever.

19.2 The following Annexures are attached to this agreement:

- Annexure LC : Diagram / Layout plan of the property

20. **SPECIAL CONDITIONS**

DATED at _____ this _____ day of _____

AS WITNESS:

PURCHASER: I acknowledge that I am acquainted with and understand the contents of this agreement and that all the annexures referred to in this agreement were attached hereto when I signed same.

CONSENTING SPOUSE

This portion to be signed by legal guardian / member / director/ trustee in the event of the Purchaser being a minor / close corporation / company / trust.

(Full names)

of

(Full address)

hereby consents to the conclusion of this agreement and guarantees and binds himself as surety for and co-principal debtor in solidum with the Purchaser to the Seller for the due and punctual fulfilment and discharge of all the conditions and obligations undertaken by the Purchaser to the Seller pursuant to this agreement, under renunciation of the benefits of excussion and division with the meaning and effect of which benefits and the renunciation thereof he acknowledges himself to be acquainted. No variation or amendment or novation of this agreement shall prejudice the surety obligation hereby undertaken by the undersigned Guarantor, the object being that he shall at all times remain liable as surety and co-principal debtor even if this agreement is varied or amended or novated and even if the aforesaid Purchaser is granted an indulgence by the Seller.

Signed by the guarantor at _____ on this _____ day of _____

AS WITNESSES:

1. _____

2. _____

GUARANTOR

DATED at _____ this _____ day of _____

AS WITNESS:

**SELLER/DEVELOPER:
PIERRE DE VILLIERS BERRANGE,
DULY AUTHORISED HERETO**

DATED at _____ this _____ day of _____

AS WITNESS:

ESTATE AGENT
AGENT [Insert name] _____

on behalf of the Estate Agency referred to above,
hereby agreeing to the provisions of paragraph
7 of the agreement and accepting the benefits
conferred upon it in terms thereof.