

OFFER TO PURCHASE
(which constitutes a deed of sale when accepted)

in respect of a property in

NEWLANDS ESTATE

to

ANNANDALE ROAD PROPERTIES PROPRIETARY LIMITED

Registration number 2009/014097/07

(hereinafter referred to as the Seller)

represented herein by

NICHOLAS JOHN EBDEN HORWOOD / RIAAN FREDERICK MUNNIK

by

the purchaser (as detailed in the schedule hereto)

(hereinafter referred to as the Purchaser)

IMPORTANT NOTICE

In terms of Section 49 of Act 68 of 2008 the Purchaser's attention is drawn to the following clauses in this Deed of sale that contain a limitation of the risk or liability of the Seller, or constitutes an assumption of risk or liability by the Purchaser, or an indemnification of the Seller, or is an acknowledgment of any fact:

- **Clause 13 containing the cancellation rights of the parties and relating to eviction and damages;**
- **Clause 14 relating to the condition of the Property as well as certain acknowledgements by the Purchaser regarding the condition of the Property as well as the indemnification of the Seller;**
- **Clause 14.3 relating to the Purchaser's acknowledgment of the extent, beacons and boundaries of the Property, and**
- **Clauses 17.4 & 17.5 relating to the non-variation and scope of the Agreement.**

The Seller hereby sells to the Purchaser who hereby purchases the erf described in the schedule hereto (hereinafter referred to as "the Property") on the terms and conditions set out in this deed of sale.

WHEREAS:

- A The Seller is the registered owner of Erven 252 & 298 Raithby, in the Stellenbosch Municipality, Stellenbosch Division, Western Cape Province (hereinafter referred to as "the Development Site");
- B The Seller is in the process of developing the Development Site by installing and constructing the services required in terms of the approval of the development to be known as "Newlands Estate" ("the Development"), and
- C The Purchaser wishes to purchase the Property described in the schedule hereto in the said development from the Seller on the terms and conditions set out in this deed of sale:

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1 In this deed of sale and its annexures the following words shall have the meanings as set out unless such meanings are inconsistent within the context:
 - 1.1.1 "the Architect" shall mean Boogertman Partners appointed for the Development by the Seller;
 - 1.1.2 "the Conveyancers" shall mean Heunis Law of 1 Haarhof Street, Bene, Somerset West (Reference: Jakkie Heunis), or its successors in office;
 - 1.1.3 "the Development" shall mean the entire scheme of Development undertaken by the Developer and comprising the land and improvements thereon on the Development Site;
 - 1.1.4 "the Estate Agents" shall mean the estate agent/s appointed by the Seller from time to time to market the erven in the Development;
 - 1.1.5 "the Property" shall mean a vacant, immovable residential erf in the Development as described in the schedule hereto;
 - 1.1.6 "the Land Surveyor" shall mean the land surveyor appointed by the Seller for the development.

2. THE PROPERTY

- 2.1 The Seller sells and the Purchaser purchases the Property as described in the preamble hereof, the schedule and as indicated on Annexure A.

- 2.2 The Seller shall be entitled to amend the layout plan of the Development from time to time provided the Purchaser's rights in terms of this deed of sale are not materially prejudiced by such amendment.

3. **PURCHASE PRICE**

The Purchase Price shall be as set out in the schedule hereto, which amount shall include Value Added Tax calculated at the rate of 15%. Should the rate of Value Added Tax applicable to this deed of sale increase, the Purchaser shall be liable to pay such increase as and when payments to which such increased Value Added Tax relate, fall due.

4. **PAYMENT OF PURCHASE PRICE**

- 4.1 The Purchase Price shall be paid to the Seller as follows:-
- 4.1.1 10% thereof on signature hereof by both parties, to be held in trust by the Conveyancers pending registration of transfer, and
- 4.1.2 The balance thereof on registration of transfer.
- 4.2 The Purchaser shall furnish a bank guarantee or guarantees, acceptable to the Seller, for the payment of the amount due in terms of clause 4.1.2 within the later of 30 (Thirty) days from the date of sale or 30 (Thirty) days from bond approval, if this deed of sale is subject to bond approval. Such guarantee/s shall be payable against registration of transfer.
- 4.3 All amounts paid on account of the Purchase Price shall, pending registration of transfer, be held by the Conveyancers, who shall be entitled and obliged to invest same in an interest-bearing trust account, interest accruing to the Purchaser.

5. **POSSESSION, RATES AND OTHER CHARGES**

- 5.1 The Seller shall have the right of possession and occupation of the Property until the date of transfer of ownership.
- 5.2 The risk in the Property shall pass to the Purchaser on the date of transfer.
- 5.3 The Purchaser shall be liable for all rates, taxes, levies and any other charges whatsoever levied upon the Property by any competent authority, including the Newlands Estate Owners' Association, from the date of registration of transfer. The Purchaser shall refund to the Seller - prior to registration of transfer - any rates and taxes and other charges paid in advance for any period after such date.

6. INTEREST

Should the registration of transfer of the Property be delayed due to a delay caused by the Purchaser, the Purchaser shall pay interest on the Purchase Price at the prime bank overdraft rate charged by First National Bank from time to time - as certified by the Somerset West branch manager of the said bank - plus 3 (Three) percentage points, for the period reckoned from the date on which registration of transfer would have been possible had it not been for such delay until the actual date of registration of transfer. Such interest shall be paid by the Purchaser to the Conveyancers prior to registration of transfer.

7. TRANSFER

7.1 Transfer shall be effected by the Conveyancers at the expense of the Purchaser as soon as possible after:

7.1.1 The signing of the transfer documents by the Purchaser within 3 (Three) weekdays of being called upon to do so;

7.1.2 The suspensive conditions have been fulfilled;

7.1.3 The Seller has complied with the requirements of the Stellenbosch Municipality to obtain a clearance certificate for transfer, and

7.1.4 The Purchaser has paid all amounts due in terms of this deed of sale, including but not limited to pro rata rates and taxes and any penalty interest which may be due in terms hereof, which amounts shall be payable within 7 (Seven) days of receipt of an account from the Conveyancers.

8. WARRANTIES

Save as specifically set out in this deed of sale, the Seller has made no representation and given no warranties in respect of the subject matter of this deed of sale or in respect of anything relating thereto and this sale is accordingly *voetstoots*.

9. DELAY IN REGISTRATION

The Purchaser acknowledges that any delay in registration of transfer of the Property into his name shall not give rise to a claim for cancellation of this deed of sale and this deed of sale will remain binding and operative notwithstanding such delay.

10. ACKNOWLEDGEMENTS BY THE PURCHASER

10.1 The Purchaser acknowledges that:

10.1.1 the Property will receive an erf number from the Surveyor General which will be different than the number used in this deed of sale (unless the Surveyor General's number is already used), and

- 10.1.2 ownership of all properties that are not residential erven, including the civil services infrastructure and other improvements thereon, will be transferred to the Newlands Owners' Association.

11. **RESALE**

Until such time as the Purchaser has complied with all his obligations in terms of this deed of sale, the Purchaser shall not be entitled to resell the Property without the Seller's consent. The Seller's consent shall be in writing and shall not be withheld unreasonably. Such consent shall not release the Purchaser from the obligation to take transfer of the Property, nor shall it impose an obligation on the Seller to allow the simultaneous transfer of the Property from the Seller to the Purchaser and from the Purchaser to his purchaser.

12. **LEGAL PERSONS, UNDISCLOSED PRINCIPALS & NOMINEE PURCHASERS**

- 12.1 If the Purchaser buys as trustee for a company, close corporation or other legal person to be formed, and such entity is not formed within 30 (Thirty) days of the conclusion of this deed of sale, or the entity does not ratify this deed of sale within 30 (Thirty) days of the conclusion thereof, the person signing this deed of sale shall be personally liable for all the obligations of the Purchaser in terms of this deed of sale, and the deed of sale will be regarded as entered into in the personal capacity of the person who signed this deed of sale as Purchaser or on behalf of the Purchaser.
- 12.2 If the Purchaser buys as representative of a third party and fails to disclose the name of his principal and furnish written proof of his mandate within 24 (Twenty Four) hours of the conclusion of this deed of sale, and/or his principal does not ratify this deed of sale within the aforementioned period, the representative will be personally liable for all the obligations of the Purchaser in terms of this deed of sale, and the deed of sale will be regarded as entered into in the personal capacity of the person who signed this deed of sale as Purchaser or on behalf of the Purchaser.
- 12.3 If the Purchaser reserves the right to nominate another person as Purchaser, such nomination shall take place within 24 (Twenty Four) hours of the conclusion of this deed of sale, which nomination must also be accepted by the nominated person in writing within the aforementioned period, failing which the original Purchaser will be personally liable in terms hereof, and the deed of sale will be regarded as entered into in the personal capacity of the person who signed this deed of sale as Purchaser or on behalf of the Purchaser.
- 12.4 If the original Purchaser buys in any of the capacities mentioned in the foregoing sub clauses or the original Purchaser for whatever reason is not the transferee of the Property, the original Purchaser will remain liable as surety and co-principal debtor in terms of this deed of sale, with renunciation of the legal exceptions of excussion and division until transfer of the Property and full payment of the Purchase Price and all other amounts payable in terms hereof.

13. BREACH OF AGREEMENT

- 13.1 In the event of either of the parties hereto (the defaulting party) committing a breach of any of the provisions of this deed of sale, then the party not in default (the aggrieved party) shall be entitled to give the defaulting party 10 (Ten) days' written notice to remedy such breach. Should the defaulting party fail to comply with such notice, the aggrieved party shall be entitled, at its option, either to cancel this deed of sale and claim damages or to claim immediate payment and / or performance by the defaulting party of all the defaulting party's obligations. The Seller shall be entitled to retain any cash payment made by the Purchaser prior to cancellation until the actual amount of damages has been determined and thereupon set off such damages against the amounts so held.
- 13.2 The defaulting party shall be liable for all costs, including, but not limited to attorney and client costs, collection commission and tracing agent's fees, actually incurred by the other party arising out of or in connection with any breach by the defaulting party of any of the provisions of this deed of sale or any other matter relating to this deed of sale.

14. TITLE CONDITIONS

- 14.1 The Property is sold subject to all conditions and servitudes contained in the current title deed - or title deeds referred to therein – of the Development Site, such conditions as have been imposed by Stellenbosch Municipality when approving the rezoning and subdivision of the Development Site and the conditions indicated in this deed of sale as conditions to be imposed in the Purchaser's title deed. The Property may further be made subject to such stormwater, access and services servitudes to facilitate the development of Newlands Estate as envisaged in this deed of sale.
- 14.2 In addition to any other title conditions applicable to the Property, the following conditions, which shall be incorporated in the Purchaser's title deed as far as possible, shall apply:
- 14.2.1 The Purchaser and/or his successors-in-title shall construct and complete a dwelling in accordance with building plans approved by the Newlands Estate Owners' Association and the Stellenbosch Municipality within 5 (Five) years from the date of first registration of the Property.
- 14.2.2 Should the Purchaser and/or his successors-in-title fail to comply with clause 14.2.1, the Newlands Estate Owners' Association may impose penalty levies in respect of the Property from the expiry of the 5-year period until the completion of a dwelling in accordance with clause 14.2.1 above.
- 14.2.3 The Newlands Estate Owners' Association may refuse to consent to the transfer of the Property until such time as:
- 14.2.3.1 The owner has paid all levies, including the penalty levies referred to in clause 14.2.2 above, and
- 14.2.3.2 The purchaser has confirmed that he is aware that the Property is subject to penalty levies until the dwelling has been constructed.

- 14.3 The Seller shall not profit by any excess nor shall the Seller be answerable for any deficiency in the area of the Property that may be revealed on any resurvey or finalisation of the General Plan for the Development.
- 14.4 The Seller shall be responsible for pointing out or indicating the position of any surveyor's beacons or pegs in respect of the Property within 30 (Thirty) days after registration of transfer and on receipt of written request from the Purchaser within that period, whereafter the Seller's obligation in this regard shall lapse.
- 14.5 If the Property has been erroneously described herein, such mistake or error shall not be binding upon the parties, but the correct description as intended by the parties shall apply and they shall effect rectification of this deed of sale accordingly.
- 14.6 It is recorded that the Property will be transferred to the Purchaser without any water rights to which the Development Site may be entitled, which water rights shall vest in the Newlands Estate Owners' Association in terms of clause 19.3 of this deed of sale.

15. DOMICILES AND NOTICES

- 15.1 For the purposes of this deed of sale, including the giving of notices and the serving of legal process, the parties choose their domiciles as follows:
- 15.1.1 The Seller: care of Heunis Law, 1 Haarhof Street, Bene, Somerset West, 7130, and email address jakkie@heunislawgroup.co.za & info@heunislawgroup.co.za, and
- 15.1.2 The Purchaser: at the address and email address set out in the schedule.
- 15.2 Any notice or communication required or permitted to be given in terms of this deed of sale shall be valid and effective only if in writing, but it shall be competent to give notice by email.
- 15.3 Any party may, by notice to any other party, change the physical address chosen as its domicile to another physical address in South Africa, or email address. Such change shall become effective on the 3rd weekday (that is not a public holiday) from the deemed receipt of the notice by the addressee.
- 15.4 Any notice to a party:
- 15.4.1 sent by prepaid registered post to it at its domicile shall be deemed to have been received on the 7th day after posting (unless the contrary is proved);
- 15.4.2 delivered by hand to a responsible person during ordinary business hours at its domicile shall be deemed to have been received on the day of delivery, or
- 15.4.3 sent by email shall be deemed to have been received on the first business day following the date of sending of such email.
- 15.5 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 at its chosen domicile.

16. JURISDICTION

For the purposes of any proceedings arising from this deed of sale the parties hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction over the person of the defendant in terms of Section 28 of the Magistrate's Court Act of 1944, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the Court pursuant to Section 45 of the Magistrate's Court Act of 1944, or any amendment thereof, provided that the Seller shall have the right at its sole option and discretion to institute proceedings in any other competent court in respect of any claim which, but for the foregoing, would exceed the jurisdiction of the Magistrate's Court.

17. GENERAL

- 17.1 No indulgence granted by the Seller shall constitute a waiver of any of the Seller's rights under this deed of sale. The Seller shall not be precluded, because of having granted such indulgence, from exercising any rights against the Purchaser which may have arisen in the past or which may arise in the future.
- 17.2 Should there be more than one purchaser, they shall be liable jointly and severally and *in solidum* for the payment of all monies hereunder and for the carrying out of all the terms of this contract.
- 17.3 The Seller shall be entitled to erect or to have erected marketing material on the Development Site for the purpose of selling properties in the Development.
- 17.4 This deed of sale constitutes the entire contract between the parties and any representation, terms, conditions or warranties not contained in this deed of sale shall not be binding on the parties.
- 17.5 No agreement varying, adding to, deleting from or cancelling this deed of sale shall be of any effect unless reduced to writing and signed by or on behalf of the parties.

18. SUSPENSIVE CONDITIONS (* please delete clauses that are not applicable)

- 18.1 * This deed of sale is subject to the approval of a loan to the Purchaser against security of a first mortgage bond over the Property and/or a mortgage bond over another property of the Purchaser's choice no later than 21 days after the date of last signature to this deed of sale for an amount not less than the Bond Amount set out in the schedule. The Seller may unilaterally extend such time limit by a further 14 days, but is not obliged to do so.
- 18.2 * This deed of sale is subject to the sale of the Purchaser's property described in the schedule hereto by the date specified on terms and conditions reasonably acceptable to the Purchaser. The Purchaser's property shall only be considered sold in terms of this clause once all suspensive conditions applicable to such sale have been fulfilled.
- 18.3 * Until such time as the Purchaser's property has been sold as set out in clause 18.2 above, the Seller shall be entitled to continue marketing the property, provided that:

- 18.3.1 Should the Seller receive a non-suspensive offer from a third party which it wishes to accept, it or its agent shall notify the Purchaser thereof in writing;
- 18.3.2 From receipt of such notice the Purchaser shall have 3 days (excluding the day on which the notice is received and including the last day) to waive the suspensive condition by notifying the Seller or its agent of such waiver in writing;
- 18.3.3 Unless the suspensive condition in clause 18.2 above is fulfilled or the Purchaser waives it in the 3 days referred to in clause 18.3.2, this deed of sale shall lapse and be of no further force or effect. Any payments made by the Purchaser in respect of the purchase price, plus interest earned thereon, shall be paid to the Purchaser without delay.
- 18.4 * It is recorded that the Purchaser's property described in the schedule hereto has been sold and that all suspensive conditions in respect thereof have been fulfilled.
- 18.5 * If either clause 18.2 or 18.4 applies to this deed of sale, the sale of the Property in terms of this deed of sale is financially dependent on the sale and transfer of the Purchaser's property. The parties shall do their utmost to register the transfer of the Property simultaneously with, or as soon as possible after, the transfer of the Purchaser's property.

19. OWNERS' ASSOCIATION

- 19.1 The Purchaser acknowledges that:
- 19.1.1 he is aware that the Property forms part of an environmentally friendly estate, to be known as Newlands Estate;
- 19.1.2 he has been made aware that one of the conditions imposed by the Stellenbosch Municipality when approving the Development is that a owners' association is to be established for the Development as contemplated in Section 29 (1) of the Stellenbosch Municipality Land Use Planning By-law of 2015;
- 19.1.3 he shall automatically become a member of the Newlands Owners' Association on transfer of the Property;
- 19.1.4 he and his successors-in-title shall remain a member of the Association as long as he is the registered owner of a property in Newlands Estate;
- 19.1.5 by virtue of his membership of the Owners' Association, will be obliged to pay levies to enable the Owners' Association to:
- 19.1.5.1 pay the rates and taxes and service charges, including water and electricity, levied on the land owned by it;
- 19.1.5.2 provide such refuse removal services as determined by the Stellenbosch Municipality;
- 19.1.5.3 provide administration facilities;
- 19.1.5.4 administer and manage Newlands Estate or have the estate professionally administered and managed;

- 19.1.5.5 maintain and insure the land and buildings owned by the Owners' Association, including the internal roads, substations, gates, fences and private open spaces;
- 19.1.5.6 provide such other services as it may decide;
- 19.1.6 the conditions imposed in terms of this clause 19 shall be deemed to have been imposed as a *stipulatio alteri* for the benefit of the members of the Owners' Association, so that such conditions may be enforced by the Owners' Association on behalf of any or all such members at any time.
- 19.1.7 he and his successors-in-title shall be bound by the Constitution of the Owners' Association, the Rules and the Design Guidelines in respect of new dwellings, alterations and additions. These documents will be available for inspection at the offices of the Seller or its agent.
- 19.1.8 he is deemed to have viewed a copy of the proposed constitution of the Owners' Association and acquainted himself with the contents, the terms of which constitution is incorporated into this deed of sale by reference.
- 19.2 It is agreed that a condition in favour of the Newlands Estate Owners' Association - imposed by the Seller as developer of Newlands Estate - substantially in accordance with the following wording, shall be included in the title deed of the Property sold hereby:

"The transferee, his/her/their/its successors in title and assigns shall not be entitled to transfer the herein mentioned property or any interest therein without a clearance certificate from the Newlands Estate Owners' Association to the effect that the provisions of its constitution, including – but not limited to - provisions relating to the payment of levies have been complied with."

20. **DESIGN GUIDELINES**

The Purchaser acknowledges that he is aware that he is obliged to build a dwelling and develop a garden on the Property according to the Design Guidelines and environmental controls as approved by the Stellenbosch Municipality.

21. **AGENT'S COMMISSION**

Unless stipulated otherwise elsewhere in this deed of sale, the Seller shall be liable to the estate agents appointed by it to market the Development.

22. **OFFER**

- 22.1 This deed of sale, once signed by the Purchaser, shall be regarded as an offer by the Purchaser and shall be irrevocable and open for acceptance by the Seller for a period of 14 (Fourteen) days from date of signature by the Purchaser and shall not be capable of being withdrawn during the said period.

22.2 Acceptance of the Purchaser's offer shall be conveyed to the Purchaser within 7 (Seven) days of acceptance hereof by the Seller by furnishing the Purchaser with a copy of the signed deed of sale.

23. **SPECIAL CONDITIONS**

Signed by the parties on the dates and at the places stated hereunder:

Date: _____

Place: _____

Time: _____

Witness

PURCHASER/S
(or duly authorised representative)

I, the spouse of the purchaser, hereby consent to the foregoing and confirm all the terms and conditions herein.

Date: _____

Place: _____

Time: _____

Witness

PURCHASER'S SPOUSE

Witness

Date: _____

Place: _____

Time: _____

Witness

SELLER'S REPRESENTATIVE

SCHEDULE

Erf no: _____

In extent: _____ square meters

Purchase price: R _____

Purchaser's domicile (Clause 15.1.2): _____

*Bond Amount (Clause 18.1): R _____

*Purchaser's property (Clauses 18.2 & 18.4) _____

Date by which Purchaser's property is to be sold _____

Full name of Purchaser no 1: _____

Form of address (Mr, Mrs, etc): _____

Identity Number/Date of Birth/Registration number: _____

Marital Status

i) Married/Unmarried: _____

ii) In/Out of Community of property: _____

iii) Ante nuptial contract No: _____

iv) Date of Marriage: _____

v) Husband's domicile at the time of marriage: _____

Income tax reference number: _____

Country of residence (non-residents): _____

Passport number (non-residents): _____

Full name of Purchaser no 2: _____

Form of address (Mr, Mrs, etc): _____

Identity Number/Date of Birth/Registration number: _____

Marital Status

i) Married/Unmarried: _____

ii) In/Out of Community of property: _____

iii) Ante nuptial contract No: _____

iv) Date of Marriage: _____

v) Husband's domicile at the time of marriage: _____

Income tax reference number: _____

Country of residence (non-residents): _____

Passport number (non-residents): _____

Purchaser's postal address: _____

Postal code: _____

Telephone numbers Work: _____

Home: _____

Cell: _____

Fax: _____

E-mail: _____

Purchaser's language preference: _____