



## **AGREEMENT OF SALE**

**FOR**

**VACANT RESIDENTIAL LAND**

**FREEHOLD: RE-SALE**

1 **Schedule:**

1.1 **The Seller:** .....

1.1.1 Seller's: Physical address: .....

Postal address.....

Email address.....

Cellphone number.....

Home and work telephone number.....

1.1.2 **The Buyer**.....

1.1.3 Buyer's: Physical address: .....

Postal address.....

Email address.....

Cellphone number.....

Home and work telephone number.....

1.2 **The property:**

Erf ..... Pietermaritzburg, in extent ..... square metres, situated at Victoria Country Club Estate, Pietermaritzburg;

1.3 **Purchase price:** R.....

(.....Rand) excluding VAT, if applicable;

1.4 **Payment of purchase price:**

1.4.1 Deposit of R..... (.....

.....Rand) to be paid to the conveyancers by

.....;

1.4.2 Further deposit of R..... (.....

.....Rand) to be paid to the conveyancers by

.....;

1.4.3 R..... (.....

1.4.4 .....Rand) payable on transfer from the proceeds of the loan referred to in 1.5 of the schedule, such amount to be secured by a bank guarantee furnished to the conveyancers within 21 days of the date on which the loan is approved in principle;

- 1.4.5 the balance is payable on registration of transfer and must be secured by a guarantee acceptable to the seller, to be delivered the conveyancers by .....
- 1.5 Amount of loan for which buyer will apply: R.....  
.....(.....Rand)
- 1.6 Date by which loan is to be granted: ..... (see paragraph 2 of Conditions of Sale);
- 1.7 Estimated monthly estate levy: R..... (see paragraph 9 of Conditions of Sale);
- 1.8 Estimated amount payable by buyer to Levy Stabilisation Fund: R.....  
(see paragraph 10 of Conditions of Sale);
- 1.9 Agency: .....
- 1.10 Commission: .....% (..... percent) plus VAT calculated on the purchase price; an agreed amount of R..... (..... Rand) plus VAT (see paragraph 16 of Conditions of Sale);
- 1.11 Conveyancers to attend to transfer: .....
- 1.12 Anticipated date of transfer: .....
- 1.13 Offer irrevocable until: ..... (see paragraph 5 of this agreement);
- 1.14 Seller's residency: Resident / Non-resident of South Africa (delete what does not apply); (See paragraph 19 of the Conditions of Sale).

2 **SALE:**  
The seller sells and the buyer purchases the property on the terms set out in this agreement, and in the Conditions of Sale annexed hereto as Annexure "A".

3 **PAYMENT OF PURCHASE PRICE:**

- 3.1 The purchase price payable by the buyer for the property is set out in 1.3 of the schedule.
- 3.2 The purchase price is payable by the buyer in the manner set out in 1.4 of the schedule.
- 3.3 All payments due in terms of this agreement must be made without deduction or demand to the conveyancers.
- 3.4 The conveyancers must pay the purchase price to the seller on date of transfer.

4 **DEPOSITS:**

All cash deposits paid to the conveyancers must be invested by the conveyancers with interest for the benefit of the buyer until date of transfer. The buyer acknowledges that the conveyancers are entitled to deduct their usual administration fee. The buyer acknowledges further that the conveyancers are not able to invest the deposits on the buyer's behalf until such time as the buyer has complied with the Financial Intelligence Centre Act [FICA] and has signed an Investment Mandate.

5 **IRREVOCABLE OFFER:**

This agreement, when signed by the buyer and submitted to the seller, constitutes an offer to purchase the property from the seller which offer shall be irrevocable until the date set out in 1.13 of the schedule.

6 **TITLE DEED CONDITIONS**

It should be noted any reference to any Village HOAs must be deleted from the property title deeds and any rights contained therein should devolve upon the Master HOA. The conveyancer should be instructed to attend to this requirement

**SPECIAL CONDITIONS:**

.....  
.....

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

**Buyer** \_\_\_\_\_ (who, if signing in a representative capacity, warrants that he/she is duly authorised to sign this agreement on behalf of the Buyer)

**Consenting Spouse** \_\_\_\_\_

As witness \_\_\_\_\_  
\_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

**Seller** \_\_\_\_\_ (who, if signing in a representative capacity, warrants that he/she is duly authorised to sign this agreement on behalf of the Seller)

**Consenting Spouse** \_\_\_\_\_

As witness \_\_\_\_\_  
\_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

**Agent Name** \_\_\_\_\_ (on behalf of the Agency and accepting the benefits conferred in terms of this agreement)

As witness \_\_\_\_\_  
\_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

I, \_\_\_\_\_ acting on behalf of the Victoria Country Club Estate MHOA, accept the benefits conferred on the Association in terms of this agreement

\_\_\_\_\_  
(For the Victoria Country Club Estate MHOA, duly authorised)

As witness \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

I, \_\_\_\_\_ acting on behalf of Riel Associates (Pty) Ltd, the developer, accept the benefits conferred on the developer in terms of this agreement

\_\_\_\_\_  
(for Riel and Associates (Pty) Ltd, duly authorised)

As witness \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_ 201

I, \_\_\_\_\_ acting on behalf of Victoria Country Club accept the benefits conferred on the Victoria Country Club in terms of this agreement

\_\_\_\_\_  
(For the Victoria Country Club, duly authorised)

As witness \_\_\_\_\_

\_\_\_\_\_

## CONDITIONS OF SALE

### 1 DEFINITIONS AND INTERPRETATION

For the purposes of the agreement of sale and the Conditions of Sale, unless the context indicates to the contrary -

- 1.1 **"Accredited Architects"** means the list of accredited architects ;
- 1.2 **"Agreement"** means the agreement of sale and all Annexures thereto;
- 1.3 **"Agreement of sale"** means the Agreement to which these Conditions of Sale are annexed;
- 1.4 **"Architectural Review Committee"** means the committee appointed by the MHOA
- 1.5 **"Building Performance Agreement"** means the Building Performance Agreement, as amended from time to time, which is available from the Estate office
- 1.6 **"Buyer"** means the buyer referred to in 1.1.2 of the Schedule;
- 1.7 **"Conditions of Sale"** means these Conditions of Sale;
- 1.8 **"Conveyancers"** means the Attorneys referred to in 1.11 of the Schedule;
- 1.9 **"CPA"** means the Consumer Protection Act No. 68 of 2008;
- 1.10 **"Date of signature"** means the date of signature of the agreement of sale by the last signing of the seller or the buyer;
- 1.11 **"Date of transfer"** means the date of registration of transfer of the property into the name of the buyer;
- 1.12 **"Developer"** means Riel Associates (Pty) Ltd, Registration No: 2003/031718/07, its successors in title or assigns;
- 1.13 **"Estate"** means the Victoria Country Club Estate, which surrounds the Victoria County Club and its Golf Course, and is adjacent to the Queen Elizabeth Park Nature Reserve
- 1.14 **"Estate Architectural Guidelines"** means the guidelines supplied for the Estate, and amended from time to time which are available from the Estate office
- 1.15 **"MHOA"** means Victoria Country Club Estate Homeowners' Association, a non-profit company;
- 1.16 **"Juristic Person"** means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;
- 1.17 **"Landscaping Guidelines"** means the booklet entitled "The Indigenous Gardens of Victoria Country Club Estate", as amended from time to time, which is available on the web site
- 1.18 **"Memorandum"** means the Articles of Association or the Memorandum of Incorporation of the MHOA;
- 1.19 **"Property"** means the immovable property referred to in 1.2 of the Schedule;
- 1.20 **"Schedule"** means the schedule in paragraph 1 of the agreement of sale;
- 1.21 **"Seller"** means the seller referred to in 1.1 of the Schedule

- 1.22 “VCC” means the Victoria Country Club;
- 1.23 “Website” means [www.vcce.co.za](http://www.vcce.co.za);
- 1.24 Clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;
- 1.25 words importing a gender shall include all genders and the singular shall include the plural and vice versa;
- 1.26 if the buyer consists of more than one person, such persons shall be jointly and severally liable in solidum for all their obligations in terms of this agreement;
- 1.27 no indulgences or relaxations granted by either party shall constitute a waiver of that party’s rights under this agreement.
- 1.28 the provisions of this agreement, shall be read in conjunction with the provisions of the CPA, (insofar as applicable), and insofar as the provisions of this agreement are inconsistent with the provisions of the CPA, the provisions of the CPA shall prevail;
- 1.29 reference to a natural person shall include a juristic person and vice versa;
- 1.30 this agreement shall be binding on and enforceable by the administrators, trustees, successors in title, successors in office, assigns or liquidators of the parties as fully and effectually as if they had signed this agreement and reference to any party shall be deemed to include such party’s administrators, trustees, successors in title, successors in office, assigns or liquidators, as the case may be;
- 1.31 this agreement incorporates the annexures (if any), which annexures shall have the same force and effect as the provisions set out in the body of this agreement. The various documents forming part of this agreement are to be taken as mutually explanatory. in the event of any conflict or inconsistency the provisions contained in the main body of this agreement will prevail;
- 1.32 where a number of days is prescribed, it shall consist of all days (i.e. including Saturday, Sunday and Public Holidays) and shall exclude the first day and include the last day; and
- 1.33 the words and expressions set out in the schedule and the agreement of sale have the meanings ascribed to them and form part of the agreement.

## 2 **LOAN FROM FINANCIAL INSTITUTION**

- 2.1 This agreement is subject to the buyer obtaining a loan in principle, from a South African commercial bank for the amount stated in 1.5 of the schedule and the seller receiving a copy of the written approval of such loan by the aforesaid commercial bank, both by no later than the date stated in 1.6 of the schedule, failing which this agreement shall lapse and be of no further force and effect. this clause is inserted for the benefit of both the seller and the buyer.
- 2.2 The buyer undertakes forthwith to apply to a financial institution for the loan referred to in paragraph 2.1 above and undertakes to sign all documents and do all things as are necessary to implement the conditions of loan and the registration of the mortgage bond relating to the loan.

## 3 **VOETSTOOTS**

- 3.1 Save as provided for in the CPA to the contrary, the property is sold and purchased voetstoots, absolutely as it stands, with all its defects (if any) whether patent or latent.
- 3.2 The property is sold subject to all conditions and servitudes contained in the existing title deeds and any conditions and servitudes that may have been imposed by the local or any other authority in approving the Estate and/or the development.

- 3.3 The buyer acknowledges that he has satisfied himself as to the nature, locality and extent of the property and the seller shall not be liable for any deficiency in the extent therefore nor shall it benefit by any surplus.

4 **POSSESSION, OCCUPATION AND RISK**

- 4.1 provided the buyer has paid all costs, signed all bond and transfer documents, delivered such guarantees as may have been called for and is not otherwise in breach of this agreement, the buyer will be entitled to occupation of the property at midday on the date of registration of transfer.
- 4.2 The risk in and to the property and the liability to pay all rates, levies, taxes, insurance premiums and other outgoings will pass to the buyer on the date of transfer or on such other date as the parties may agree in writing.
- 4.3 The buyer shall not in any way alter the property prior to the date of transfer
- 4.4 The seller undertakes to maintain the property in the same condition as it was at the date of signature of this agreement until the date of occupation, fair wear and tear excepted.

5 **VICTORIA COUNTRY CLUB ESTATE DEVELOPMENT**

- 5.1 The buyer acknowledges that on date of occupation the Estate may be incomplete and that he and every person claiming occupation and use through him may suffer inconvenience from building operations and from noise and dust resulting therefrom. the buyer will have no claim whatsoever against the seller, the developer or The MHOA by reason of such inconvenience.
- 5.2 The Estate surrounds and is integrated with a golf course which has wildlife on it, and the buyer accepts the risks involved in living on such an estate.
- 5.3 The buyer waives all claims against the seller, the developer and the Homeowners' Association For any loss or damage to property or any injury to person which the buyer may sustain in or about the property, or on any other portion of the Estate and indemnifies the seller, the developer and the Homeowners' Association against any such claim, and any claim that may be made against the seller, the developer or the Homeowners' Association by a member of the buyer's family or any tenant, nominee, invitee or any other person who occupies the property and/or goes upon the Estate by virtue of the buyer's rights thereto, for any loss or damage to property or injury to person suffered in or about the property, or any other part of the Estate howsoever such loss or damage to property or injury to person may be caused .

6 **AGREEMENTS WITH THE MSUNDUZI MUNICIPALITY, THE VICTORIA COUNTRY CLUB AND EZEMVELO KZN WILDLIFE**

- 6.1 The developer entered into agreements with the Msunduzi Municipality, VCC and Ezemvelo KZN Wildlife regarding the development of the Estate, which agreements also bind the MHOA, and affect the ongoing management of the Estate.
- 6.2 These agreements are available to the buyer on the website.

7 **MEMBERSHIP OF VCC**

- 7.1 If the buyer is not already a member of VCC, then the buyer must become a house member or sport member of VCC before the property can be transferred into the buyer's name. The buyer must before date of transfer obtain written confirmation from VCC that either:
- 7.1.1 the buyer is an existing member; or
- 7.1.2 the buyer has signed a membership application form and has made payment of a year's subscription in advance.
- 7.2 The buyer must remain a member of VCC for as long as he owns the property.



- 7.3 The buyer must ensure that any person who buys the property from the buyer understands and accepts the obligation to become a member of VCC.
- 7.4 The buyer will be entitled to use the clubhouse, tennis courts, swimming pool, squash courts and golf course according to the buyer's chosen membership category, but separate club memberships are required, and separate subscriptions are payable, in order to use the squash and tennis facilities.
- 7.5 The buyer understands and accepts that VCC is an independent club operated by its members under its own constitution and in accordance with the agreements between VCC, the developer, Ezemvelo and the Msunduzi Municipality.

## 8 **THE MHOA**

- 8.1 The Estate is managed by the MHOA.
- 8.2 The buyer is obliged to become a member of the MHOA and to remain a member for as long as the property is registered in the buyer's name.
- 8.3 The buyer must ensure that any person who buys the property from the buyer is made aware of this obligation.
- 8.4 The buyer is obliged to comply with the Memorandum

## 9 **LEVY AND OTHER CHARGES**

- 9.1 The buyer accepts liability with effect from the date of transfer for payment of the monthly levies payable in terms of the Memorandum and acknowledges that such levies are payable to the MHOA, monthly in advance
- 9.2 The estimation of the levy referred to in 1.7 of the Schedule is given in good faith and the seller is not liable for any inaccuracies in that estimate.
- 9.3 The levies payable to the MHOA exclude electricity and water consumption charges, rates levied by the Msunduzi Municipality and the charges for any services not included in the budget of the MHOA.
- 9.4 The buyer will be required to sign a debit order facility in favour of the VCCE MHOA for payment of his/her monthly levies

## 10 **LEVY STABILISATION FUND**

- 10.1 On date of transfer the buyer must pay the contribution to the Levy Stabilisation Fund referred to 1.8 of the Schedule (being 1% of the purchase price) to the MHOA.
- 10.2 The Levy Stabilisation Fund is managed by the MHOA and is used for operational expenditure and capital items that the MHOA identifies from time to time.
- 10.3 Whenever the property is re-sold, the new buyer must pay an amount of 1% of the purchase price to the Levy Stabilisation Fund on date of transfer to the new buyer.

## 11 **ARCHITECTURAL AND LANDSCAPE CONTROLS**

- 11.1 The buyer acknowledges that the property, all buildings on the Estate, and any alterations to such buildings must:
- 11.1.1 comply with the Estate Architectural Guidelines;
- 11.1.2 comply with the Landscaping Guidelines;
- 11.1.3 comply with the Building Performance Agreement.
- 11.2 Plans for buildings on the Estate or for alterations to such buildings, must be drawn by one of the accredited Architects and must be approved by both the Architectural Review Committee and the Msunduzi Municipality before building can begin.

11.3 The buyer must pay the Architectural Review Committee a submission fee for the scrutiny of the plans in an amount determined by the MHOA.

11.4 The Estate Manager is authorised to oversee compliance with approved plans.

## 12 **BUILDING ON THE PROPERTY**

12.1 The buyer must finish building a dwelling house on the property:

12.1.1 within 9 (nine) years of the date of transfer of the property from the developer to the first buyer; or

12.1.2 within such extended period as may be determined by the developer from time to time.

12.2 Building should commence within 12 months of date of registration of the property. Once building on the property commences, building operations must be continuous (there must be no period during which building is stopped except for rainy days, public holidays and builders' holidays) and must be finished:

12.2.1 within 18 (eighteen) months from the date on which the site handover agreement is signed

12.2.2 If the buyer does not finish all building on the property within the time period prescribed in clause 12.1, then the developer and/or the MHOA shall have the right at its election to

12.2.3 grant the buyer an extension of time within which to complete the building on the property against payment by the buyer of an extension fee equal to 5% (five percent) of the purchase price of the property for every year of extension that may be granted, such extension fee to be split equally between the Levy Stabilisation Fund and the developer; and/or

12.2.4 impose additional levies on the property ( double levies for months 19 through 24 (inclusive) and triple levies per month thereafter; and/or

12.2.5 sell the property by public auction by an auctioneer nominated by the developer in which event the price achieved at the public auction will be used to defray all expenses relating to the sale of the property, including but not limited to advertising costs, auctioneer's commission and a 5% (five percent) handling fee payable to the developer, with the balance of the purchase price to be paid to the buyer. The provisions of this clause 12 will be applicable to any person who buys at the auction.

## 13 **INDEMNITY IN FAVOUR OF THE MSUNDUZI MUNICIPALITY**

13.1 The agreement between the developer and the Msunduzi Municipality provides that the Msunduzi Municipality must not be held responsible for providing any of the services to the Estate if the developer has failed to carry out all of its obligations.

13.2 The buyer indemnifies the Msunduzi Municipality against any claims that the buyer may have against the Msunduzi Municipality if the developer has failed to carry out all of its obligations.

## 14 **SERVITUDES**

14.1.1 The property is sold subject to:

14.1.2 the servitudes reflected on the Site Diagram;

14.1.3 the conditions imposed by the Development Tribunal; and

14.1.4 any further conditions imposed by the developer or the MHOA.

14.2 The buyer accepts the property subject to these servitudes and conditions.

## 15 **TRANSFER**

15.1 The Conveyancers shall pass transfer of the property to the buyer as close as possible to the anticipated date of transfer in 1.12 of the Schedule.

15.2 The buyer shall, within 7 (seven) days of being called upon to do so by the Conveyancers:

15.2.1 pay to the Conveyancers all costs of and incidental to the passing of transfer of the property to the buyer, including any transfer duty, bond costs, bank charges and all conveyancing fees and disbursements; and

- 15.2.2 furnish all such information, sign all such documents and pay all such amounts that may be necessary or required to enable the Conveyancers to pass transfer of the property.
- 15.3 The buyer shall be obliged to accept transfer of the property subject, inter alia, to:
- 15.3.1 the conditions, reservations and servitudes which burden the property;
- 15.3.2 a condition registered against the title deed to the property to the effect that the property or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the MHOA first being had and obtained;
- 15.3.3 any other conditions in this agreement as the MHOA may require to be registered against the title deeds to the property on the date of transfer, in such form as the Registrar of Deeds may permit.
- 15.4 If the seller is a non-resident of South Africa, then he authorises and instructs the Conveyancers to withhold the required percentage of tax, as stipulated in Section 35A of the Income Tax Act, No. 58 of 1962, from the proceedings of the sale and to pay these to SARS within 14 (fourteen) days of date of transfer.

## 16 **ESTATE AGENT AND ESTATE AGENT'S COMMISSION**

- 16.1 The agency is entitled to the commission referred to in 1.10 of the Schedule and the parties authorise the Conveyancers to pay such commission to the agency on date of transfer.
- 16.2 If this agreement is cancelled due to a breach on the part of the buyer, the buyer acknowledges that he will be liable to the agency for payment of the equivalent of the commission by way of liquidated damages without prejudice to the rights of the agency against the seller in terms of this agreement or otherwise.

## 17 **RE-SALE OF PROPERTIES**

If the buyer intends to re-sell the property, then he must:

- 17.1 register the intention to re-sell the property which with the MHOA;
- 17.2 use only the appropriate agreement of re-sale: which is available from the MHOA when entering into the re-sale; and
- 17.3 comply with all rules imposed by the MHOA regarding the sale of properties in the Estate.

## 18 **BREACH**

- 18.1 If either party fails to carry out any of its obligations under this agreement and remains in default for a period of 10 (ten) days after receiving written notice, then the aggrieved party will be entitled to enforce this agreement or to declare it cancelled, and in either event, to claim such damages as have been suffered.
- 18.2 If the aggrieved party is the seller, the seller will be entitled, upon cancellation, to recover possession of the property and to re-sell it either by public auction or private sale at the expense of the buyer. Any amounts paid by the buyer to the seller or its agent in respect of the sale must be retained by the Conveyancers pending assessment of the amount of damages, following which a set-off shall apply.
- 18.3 Upon re-sale, any loss suffered by the seller will constitute damages payable by the buyer and any surplus arising from the re-sale shall be forfeited to the seller.

## 19 **NOTICES**

- 19.1 The addresses given by the parties in 1.1.1 and 1.1.2 of the Schedule, will always be the addresses chosen by the parties where summonses, legal documents and notices can be served on the parties.
- 19.2 Notices will be deemed to have been received:
- 19.2.1 if delivered by hand, on the date of delivery;
- 19.2.2 if sent by pre-paid registered post, on the 4<sup>th</sup> business day following the posting; and

19.2.3 if sent by telefax or e-mail, 48 hours after transmission.

## 20 **TRUSTS, COMPANIES AND CLOSE CORPORATIONS**

20.1 If a person signing this agreement is doing so in his capacity as trustee for a company to be formed, then that person personally agrees to ensure that:

20.1.1 the company is formed within 30 (thirty) days of the signature of this agreement by that person; and

20.1.2 the company ratifies this agreement within 14 (fourteen) days of incorporation.

20.2 If the person signing this agreement fails to comply with his obligations, then the property shall be transferred into the name of that person, who will have all the rights and obligations of the buyer under this agreement.

## 21 **SURETY**

If:

21.1 the buyer is a trust, company or close corporation; or

21.2 the person signing this agreement is doing so in the capacity of a trustee for a company to be formed and the entity is subsequently formed and ratifies this agreement,

then the person signing this agreement agrees to be personally bound as surety and co-principal debtor with the buyer for all the buyer's obligations under the agreement.

## 22 **SOLE CONTRACT**

22.1 The buyer acknowledges that this agreement constitutes the sole basis of the contract between himself and the seller, and that he has not been induced to enter into such contract by any representations or warranties (whether contained in any letter, brochure, advertising material or otherwise) other than those contained herein and he shall be deemed to have satisfied himself in regard to all other relevant matters of whatsoever nature not specially dealt with herein.

22.2 No agreement to cancel this agreement or to vary the terms and conditions shall be of any force and effect unless reduced to writing and signed by the parties or their agents duly authorised in writing.

## 23 **COSTS**

Each party shall bear its own costs, if any, incurred in connection with the negotiation, preparation and execution of this agreement.

## 24 **CESSION**

The buyer shall not sell, assign, cede or dispose of the buyer's rights under this agreement.

## 25 **MORA INTEREST**

25.1 In the event of there being any delay in connection with the registration of transfer for which the buyer is responsible, the buyer agrees to pay interest on the full purchase price at the prime overdraft rate charged by Investec Bank (from time to time) plus 3% (three percent), calculated from the date the buyer is notified in writing by the seller (or the seller's agent) as being in mora, to the date upon which the buyer has ceased to be in mora, both days inclusive.

25.2 A certificate by any manager of the said Bank as to such prime overdraft rate from time to time shall be *prima facie* proof of such rate.