

FIVE ASSEGAIS COUNTRY ESTATE

CONDITIONS OF SALE

I INTERPRETATION

- 1.1 In this agreement, unless inconsistent with or otherwise indicated by the context -
- 1.1.1 "the acceptance date" means the date on which the offer made by the purchaser in terms of the offer to purchase is accepted by the seller;
- 1.1.2 "the Act" means the Share Blocks Control Act, 1980, as amended;
- 1.1.3 "the/this agreement" means those sections of this document entitled "offer to purchase" and "conditions of sale" and the appendices thereto;
- 1.1.4 "the architect" means FRAME INT., of Johannesburg architects or such other architect as may from time to time be appointed by the developer;
- 1.1.5 "the articles" means the articles of association of the share block company;
- 1.1.6 "A' share" means an "A" redeemable preference share in the capital of the country club company;
- 1.1.7 "the attorneys" means _____ Johannesburg or such other attorneys as may be appointed from time to time by the developer;
- 1.1.8 "B' share" means a "B" redeemable preference share in the capital of the country club company;
- 1.1.9 "commencement date" means the date which the architect certifies as the date on which the development is sufficiently progressed to allow holders occupation of the residential sites for the purpose of erecting dwellings;
- 1.1.10 "the common property" means the whole of the property excluding the FREEHOLD STANDS
- 1.1.11 "conditions of sale" means the section of this agreement entitled "conditions of sale";
- 1.1.12 "conditions of use" means the document entitled "conditions of use" attached to this agreement as Appendix CS1, a copy of which has been lodged with the Registrar of Companies in terms of Section 7(5) of the Act;
- 1.1.13 "corporate holder" means any holder who is not a private holder and includes, but is not limited to, companies, close corporations, trusts, partnerships, syndicates and the like;
- 1.1.14 "the country club" means Leopard Creek Country Club, a duly constituted club;
- 1.1.15 "the country club company" means Leopard Creek Country Club Limited, registration number 93/04263/06, a company registered in the Republic of South Africa, the holder of the country club share block;
- 1.1.16 "the country club plan" means the plan marked Appendix CS1.2 attached to the conditions of use, as may be amended in terms thereof;
- 1.1.17 "the country club portion" means that portion of the property on which the golf course, the club house, the sports facilities, the maintenance facilities, the gate and the golf course staff quarters are to be established, as indicated by shading on the country club plan;
- 1.1.18 "the developer" means FIVE ASSEGAIS COUNTRY ESTATE, a company registered in the Republic of South Africa, also defined as "the seller";
- 1.1.19 "the development" means the whole of the improvement of the property by the share block company contemplated in this agreement, as indicated on the layout plan;
- 1.1.20 "dwelling" means a dwelling constructed on a residential site in accordance with the conditions of use;
- 1.1.21 "the final date" means the date by which all amounts owing by the purchaser in terms of the offer to purchase are paid;
- 1.1.22 "the finance charge rate" means the published prime overdraft rate of ABSA Bank Limited in Johannesburg from time to time;
- 1.1.23 "the golf course" means the eighteen hole Gary- Player designed golf course to be established on the property as indicated on the country club plan;
- 1.1.24 "guest" in relation to a holder means any person entering upon the property at the invitation of the holder and includes, but is not limited to
- 1.1.24.1 family, friends, invitees, employees, agents and the like of the holder; and
- 1.1.24.2 nominated occupants of the holder including family, friends, invitees, employees, agents and the like of the nominated occupants;
- 1.1.25 "holder" means the registered holder(s) of a residential share block and includes both corporate holders and private holders;
- 1.1.26 "the hotel portion" means that portion of the property on which the BRIDES LEAP Hotel and the hotel staff quarters are situated, as indicated on the layout plan;
- 1.1.27 "the layout plan" means the surveyor's layout plan of the development, as amplified by the residential site descriptions, the originals of which are filed in the protocol of notary public Jan Willem Dreyer, under number 141/1993, a reduced copy of the plan being attached to the conditions of use as Appendix CS1.3;
- 1.1.28 "the levy" means the annual levy payable by each holder to the share block company as calculated in terms of the conditions of use;
- 1.1.29 "linked claim" means a proportionate share of the seller's total claims against the share block company, allocated to each of the share blocks in the amounts indicated in Appendix CS 1.4 attached to the conditions of use;
- 1.1.30 "nominated occupant" in relation to a holder means a person nominated by the holder in terms of clause 4 of the conditions of use;
- 1.1.31 "occupation date" means the date which the architect certifies as the date on which the development is sufficiently progressed to allow holders the beneficial use and enjoyment thereof;
- 1.1.32 "the offer date" means the date by which the offer to purchase, duly signed by the purchaser, is delivered to the seller and the deposit is paid by the purchaser;

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- 1.1.33 “the offer to purchase” means the section of this agreement entitled “offer to purchase”;
- 1.1.34 “the parties” means the purchaser, the seller, the country club, the Country club company and the share block company;
- 1.1.35 “private holder” means any holder who is a natural person;
- 1.1.36 “the property” means portion 20 of the farm Riverside 173, Registration Division JU, Transvaal, measuring approximately 335 hectares, held by the share block company under Deed of Transfer T 67964/1988;
- 1.1.37 “the purchase price” means the total purchase price reflected in the Offer to purchase;
- 1.1.38 “the purchaser” means the party described as such in the offer to purchase;
- 1.1.39 “the residential portion” means the aggregate of the residential sites;
- 1.1.40 “residential share block” means a number of shares in the share block company (each residential share block being constituted by the shares in the share block company set out in Appendix CS1.4 to the conditions of use) which entitles the registered holder of those shares to exercise the rights of use in respect of the residential site bearing the same number as the registration number of the share block, including such rights of use;
- 1.1.41 “residential site” means a residential site described and indicated as such on the layout plan and in the residential site descriptions;
- 1.1.42 “the residential site descriptions” means the book containing detailed descriptions of each of the residential sites, a copy of which may be obtained from the share block company;
- 1.1.43 “rights of use” means the rights of use as defined in the conditions of use;
- 1.1.44 “the seller” means Leopard Creek Investments (Proprietary) Limited, registration number 93/03399/07, a company registered in the Republic of South Africa, also defined as “the developer”;
- 1.1.45 “the share block company” means Leopard Creek Share Block Limited, registration number 87/04672/07, a share block company registered as such in the Republic of South Africa;
- 1.1.46 “the statutory disclosures” means the disclosures made in terms of Section 17 of the Act, attached hereto as Appendix CS2;
- 1.1.47 “the total amount payable” means the amount reflected as such in the offer to purchase;
- 1.1.48 any reference to the singular includes the plural and vice versa;

1.1.49 any reference to natural persons includes legal persons and vice versa;

1.1.50 any reference to a gender includes the other genders.

- 1.2 Where appropriate, meanings ascribed to defined words and expressions in 1.1 above, shall impose substantive obligations on the parties.
- 1.3 The clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation.

- 1.4 Words and expressions defined in any sub-clause shall, for the purposes of the Clause of which that sub-clause form, part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.5 The provisions contained in 17, 18, 20 and 21 of the conditions of use shall apply mutatis mutandis to the conditions of sale.
- 1.6 This agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

2 INTRODUCTION

- 2.1 The share block company intends establishing the residential sites on the residential portion of the property and the facilities contemplated in 1.1.17 on the country club portion of the property.
- 2.2 The seller is offering share blocks in the share block company for sale subject to the terms and conditions set out in this agreement, the articles and the conditions of use.
- 2.3 The country club is offering membership of the country club and the country club company is offering shares in the country club company for subscription to purchasers of the share blocks which will confer on them membership of and access to the country club Subject to the constitution of the country Club.

3 SHARES IN THE SHARE BLOCK COMPANY

- 3.1 It is recorded that the capital of the share block company consists of 112 505 shares representing 251 residential share blocks, 1 country club share block and 1 hotel share block.
- 3.2 Each residential share block entitles the holder thereof to the rights of use in respect of a residential site.
- 3.3 The country club share block entitles the holder thereof, being the country club company, to the use of the country Club portion.
- 3.4 The hotel share block entitles the holder thereof, being Ingwenya Group Properties (Proprietary) Limited, or its successor in title, to the use of the hotel portion.

4 SALE

The purchaser hereby purchases the residential share block and the linked claim described in the offer to purchase from the seller, who sells the residential share block and the linked claim described in the offer to purchase to the purchaser, as one indivisible transaction with effect from the acceptance date subject to the terms and conditions set out in this agreement.

5 PAYMENT OF TOTAL AMOUNT PAYABLE

5.2.2 The balance of the total amount payable shall be allocated to the linked claim in an amount equal to the amount of the claim and the balance shall be allocated to the shares constituting the share block.

- 5.3 The seller shall pay any VAT payable in respect of the purchase price of the residential share block and the linked claim.
- 5.4 All amounts payable and which may become payable by the purchaser to the seller in terms of this agreement shall be paid in the currency of the Republic of South Africa free of the cost of transfer of funds and without deduction or set-off to the seller at the address of the seller specified in the offer to purchase, or to such other person or at such other address of which the seller may notify the purchaser in writing. The purchaser shall be liable to pay any stamp or other duty payable in respect of this agreement including any transaction recorded in this agreement to which the purchaser is a party.
- 5.6 The seller shall be entitled, in its sole and absolute discretion, to allocate any amounts received from or for the account of the purchaser to the payment of any debt or amount owing by the purchaser to the seller in terms hereof.
- 5.7 The purchaser waives the right to attach any condition of any nature whatsoever to any payment made tender or in connection with this agreement.
- 5.8 The amount paid to the seller on the offer date shall be paid over to the attorneys by the seller with instructions to invest the amount in an interest bearing account in the joint names of the attorneys and the purchaser and the amount in question shall be released to the seller on the date on which the suspensive condition described in 16 is fulfilled or waived, together with any interest earned on the amount.

¹ Should the suspensive condition described in 16 not be fulfilled or waived, the amount paid to the seller on the offer date shall be repaid to the purchaser within 7 days after the non-fulfilment of the suspensive condition together with any interest earned on the amount.

7.10 The balance of the total amount payable shall bear interest at a rate equal to the finance charge rate from a date 7 days after the date of the fulfilment or waiver (whichever occurs first) of the suspensive condition described in 16, until the date of payment.

16 TRANSFER

- 6.1 Ownership of the residential share block and the linked claim Purchased by the purchaser in terms of this agreement shall remain vested in the seller until the final date.
- 6.2 Within 30 (thirty) days after the final date the seller shall deliver to the purchaser -
- 6.2.1 a share certificate in respect of the shares constituting the residential share block, duly registered in the name of the purchaser;
 - 6.2.2 a written cession of the linked claim, made in favour of the purchaser;
 - 6.2.3 a written cession and delegation of the rights of use included in the residential share block, made in favour of the purchaser; and
 - 6.2.4 the share certificates in respect of the shares in the country club company subscribed for by the seller on behalf of the purchaser and/or his nominated occupant(s), if any.
- 6.3 The purchaser by his signature to the offer to purchase accepts the cession of the linked claim in terms of 6.2.2 and the cession and delegation of the rights of use in terms of 6.2.3.

6.4 The seller shall within 14 days after the acceptance date send a copy of this agreement, duly signed on behalf of all the parties to this agreement, to the purchaser by registered mail at the purchaser's address referred to in the offer to purchase.

6.5 Notwithstanding the provisions contained in this clause the purchaser shall not be entitled to deal with the residential share block in any way whatsoever prior to the final date without the prior written consent of the seller.

7 WARRANTIES BY THE SELLER

The seller warrants that -

- 7.1 the share block company is the owner of the property;
- 7.2 the property is unencumbered and is not subject to any mortgage, encumbrance, lien, hypothec, right of retention, option or right of pre-emption in favour of any third party;
- 7.3 the seller is entitled to sell and give valid transfer of the residential share block and the linked claim to the purchaser;
- 7.4 the residential share block bought by the purchaser in terms of the offer to purchase shall entitle the purchaser to exercise the rights of use of the residential site attached to the residential share block as reflected in the offer to purchase;
- 7.5 every necessary licence, authority, consent and permit required for purposes of the establishment and use of the development has been obtained by the share block company;
- 7.6 the statutory disclosures are, to the best of the seller's knowledge and belief and save as shall have been disclosed to the purchaser prior to the date of the purchaser making the offer to purchase, true and correct in every respect;
- 7.7 the annual financial statements of the share block company attached hereto as Appendix CS3 are, to the best of the seller's knowledge and belief, true and correct;
- 7.8 the country club has been established and the country club is, in terms of a binding agreement with the country club company, the holder of the exclusive right to use and enjoy the country club portion;
- 7.9 the property will be developed as set out in the layout plan and the country club plan with the security and other features referred to in the layout plan and each residential site will be capable of being connected to electricity, water and sewerage service points;
- 7.10 the share block company does not intend effecting the opening Of a sectional title register in terms of Section 5 of the Sectional Titles Act, 1971;
- 7.11 the holders have no loan obligation to the share block company. 8

ACKNOWLEDGEMENTS BY PURCHASER The purchaser

acknowledges and agrees that -

- 8.1 the purchaser's ownership of the residential share block acquired in terms hereof shall at all times be governed by the provisions of this agreement, the articles and the conditions of use;
- 8.2 the purchaser has read and understood and accepts and agrees to observe with effect from the acceptance date the provisions contained in this agreement, the articles and the conditions of use;
- 8.3 the purchaser is acquainted with the property and that the residential share block is sold and purchased without any warranties or representations other than those set out herein, either express or implied, and with all defects, if any, latent or patent;
- 8.4 the linked claim may not be enforced against the share block company except in the case of the winding-up of the share block company;

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- 8.5 the seller shall have the right at its discretion to vary the layout plan and the country club plan including the design and layout of the golf course and any building or structure to be erected on the common property, provided that the location and extent of the residential sites shall be and remain Substantially the same as in the layout plan;
- 8.6 the seller shall be entitled to terminate this agreement in the event of the residential share block being the subject of a prior sale provided that the seller notifies the purchaser in writing to that effect within 30 days after the acceptance date, and that neither party shall have any claim whatever against the other pursuant to such termination save that any money paid to the seller by the purchaser in terms of this agreement shall forthwith be refunded to the purchaser,
- 8.7 the improvements on the property described in the layout plan and the country club plan are representative only and the purchaser acknowledges that the actual layout may vary from the illustrations contained in the documents attached to the conditions of use or otherwise Supplied to the purchaser;
- 8.8 the purchaser is aware that for a holder or a nominated Occupant of a holder to become a member of the country club he will be required to -
- 8.8.1 apply for membership of the country club which will be granted in the discretion of the committee of the country Club;
- 8.8.2 be the holder of an "A" or a "B" share in the capital of the country club company;
- 8.9 any act or omission on the part of any guest or nominated occupant of the purchaser shall be deemed to be the act or omission of the purchaser for all purposes of this agreement and the conditions of use;
- 8.10 the purchaser shall not be entitled to encumber, in any way whatsoever, less than the whole of any residential share block held by him and he shall not be entitled to dispose of undivided shares in his residential share block so that the share block is held by more than four persons in undivided shares;
- 8.11 the purchaser has elected that this agreement should be prepared in English.

9 POSSESSION

- 9.1 The purchaser shall be entitled to -
- 9.1.1 commence the construction of a dwelling on the residential site on the commencement date subject to the conditions of use provided however that no such construction shall commence prior to the final date;
- 9.1.2 exercise the rights of use with effect from the occupation date.
- 9.2 The purchaser acknowledges that while the development of the country club and the dwellings on the other residential sites are in progress, the purchaser may suffer inconvenience from building operations, noise and dust resulting therefrom and that the purchaser shall have no claim whatsoever against the seller or the share block company by reason of any such inconvenience nor shall the purchaser have any claim whatsoever against the seller or the share block company by reason of any delay in the completion of the development.

10 ADJUSTMENT

- 10.1 The purchaser shall refund to the seller on demand all levies and other similar amounts paid in respect of the period after the acceptance date to the share block company by the seller in respect of the residential share block purchased from the seller.
- 10.2 The seller shall on demand pay to the purchaser all levies and other similar amounts payable to the share block company in respect of the residential share block purchased from the seller in respect of the period prior to the acceptance date which are in arrears.

RISK AND BENEFIT

Notwithstanding anything to the contrary contained in this agreement, the benefit of and the risk attaching to the residential share block and the linked claim shall pass to the purchaser from the seller on the final date.

12 SUBSCRIPTION FOR SHARES IN THE COUNTRY CLUB COMPANY AND APPLICATION FOR MEMBERSHIP OF THE COUNTRY CLUB

- 12.1 *The purchaser, being a natural person, hereby - 12.1.1
- Subscribes for -
- 12.1.1.1 one "A" share in his own name;
- 12.1.1.2 one "B" share in the names of each of the nominated occupants indicated in the offer to purchase;
- 12.1.1.3 that number of "B" shares (of his entitlement of three "B" shares) not subscribed for in the names of nominated occupants, in his own name;
- 12.1.2 applies for
- 12.1.2.1 founder membership of the Country Club in his own name;
- 12.1.2.2 ordinary membership of the country club in the names of each of the nominated occupants, if any, indicated in the offer to purchase.
- 12.2 *The purchaser, not being a natural person, hereby -
- subscribes for
- 12.2.1 12.2.1.1 one "A" share in the name of the nominated occupant mentioned in the offer to purchase as nominated for founder membership of the country club;
- 12.2.1.2 one "B" share in the names of each of the other nominated occupants indicated in the Offer to purchase;
- 12.2.1.3 that number of "B" shares (of his entitlement of three "B" shares) not subscribed for in the names of nominated occupants, in the name of the nominated occupant mentioned in the offer to purchase as nominated for founder membership of the country club;
- 12.2.2 applies for -
- 12.2.2.1 founder membership of the country club in the name of the nominated occupant mentioned in the offer to purchase as nominated for founder membership of the country club;

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12.2.2 ordinary membership of the country club in the names of each of the other nominated occupants, if any, indicated in the offer to purchase.

12.3 The subscription price for each share in the Country club company is R25 000,00.

12.4 The country club company shall allot and issue the shares subscribed for by the purchaser on the final date.

(* Delete 12.1 or 1 2.2, whichever is inapplicable)

13 RETAINED SHARE BLOCKS

13.1.1 The seller shall be entitled to retain up to a maximum of 50 residential share blocks to be sold at a future date to be determined by the seller.

13.1.2 The residential sites linked to the residential share blocks retained in terms of 13.1.1 shall be identified by the seller and shall form part of the common property until such time as such residential share blocks are sold.

13.1.3 It is recorded that in terms of the conditions of use no levy will be payable in respect of the residential share blocks retained in terms of 13.1.1 until such time as they are sold.

13.1.4 The seller shall not enforce the linked claim attached to the residential share blocks retained in terms of 13.1.1 nor shall the purchasers of the retained residential share blocks be entitled to enforce the linked claims except in the case of the winding-up of the share block company.

13.2 The purchaser acknowledges that the proceeds of the sale of all the residential share blocks retained in terms of 13.1 shall accrue for the sole account of the seller.

14 BREACH 14.1

If-

14.1.1 the purchaser fails to pay any amount owing to the seller on the due date and thereafter remains in default for a further period of 7(seven) days after despatch of a demand by the seller to the purchaser requiring such amount to be paid; or

14.1.2 the purchaser breaches any of the other terms or conditions of this agreement and fails to remedy such breach within 14 (fourteen) days after despatch of a notice by the seller requiring the breach to be remedied,

then the seller shall be entitled, without prejudice to any other rights which it may have, to enforce the remedies described in 14.2.

14.2 In the circumstances described in 14.1 the seller shall be entitled, without prejudice to any other rights which it may have

14.2.1 to enforce the relevant provisions of this agreement and to recover from the purchaser all amounts owing to the seller in terms of this agreement, irrespective of whether such amounts are then due or not, together with interest thereon calculated at a rate Z%) in excess of the finance charge rate with effect from the date of demand or the due date, whichever is the earlier, until the date of payment (provided that if the seller elects such remedy and the purchaser does not perform on demand by the seller, then, notwithstanding any judgment obtained by the seller in that regard the seller's contractual remedy shall not thereby be exhausted and the seller shall be entitled to pursue the remedy set out in 14.2.2); or

14.2.2 to cancel this agreement, whereupon the residential share block and the linked claim, including the rights and obligations of the purchaser in terms of the conditions of use, shall immediately revert to the seller to be dealt with by the seller as its sole property and the seller shall be entitled -

14.2.2.1 to retain as a genuine pre-estimate of the damages suffered by the seller any amounts paid to the seller by the purchaser in respect of the purchase price; or

14.2.2.2 to claim damages from the purchaser, pending the determination of which the seller shall be entitled to retain, for eventual set-off or repayment, any amounts paid by the purchaser to the seller in respect of the purchase price.

14.3 The purchaser shall be deemed, for the purpose of 14.1 and 14.2, to have breached its obligations under this agreement and to have failed to comply with the relevant notice in terms of 14.1 if the purchaser, while he is indebted to the seller in terms of this agreement -

14.3.1 commits an act which is or would be (if committed by a natural person) an act of insolvency; or

14.3.2 allows any judgment against him to remain unsatisfied for a period of 7 (seven) days, or

14.3.3 compromises or attempts to compromise or deter payment of any debt owing by the purchaser to any of his creditors; or

14.3.4 being a natural person, takes any steps to surrender his estate or is provisionally or finally sequestrated; or

14.3.5 being a legal person, allows a resolution for its voluntary winding-up to be passed or is provisionally or finally liquidated or placed under judicial management; or

14.3.6 generally does or omits to do or suffers anything to be done which may in any way prejudice the seller's rights under this agreement or by which the seller may suffer any loss or damage.

14.4 If the seller takes any action against the purchaser as contemplated herein, the purchaser agrees to pay the seller all the costs and expenses incurred by the seller in connection therewith.

14.5 A certificate signed by any director of the seller (whose appointment, authority or qualification it shall not be necessary to prove) shall constitute prima facie proof of any amount payable by the purchaser to the seller in terms hereof and of the fact that the amount is due and payable for all purposes.

15 WHOLE AGREEMENT

15.1 This agreement constitutes the whole agreement between the parties as to the subject-matter hereof and no agreements, representations or warranties between the parties other than those set out herein are binding on the parties. No advertising, information or other brochure prepared in connection with the development shall be deemed to form part of this agreement and no warranty or representation contained in any such brochure shall be binding upon the seller or the share block company.

15.2 No person in the employ of or under contract of agency with the seller or the share block company has any authority to give any prior or subsequent warranty or representation whatsoever in connection with the development.

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IC SUSPENSIVE CONDITION

- 16.1 The sale constituted by the acceptance by the seller of the offer to purchase shall be subject to the suspensive condition that 201 residential share blocks in the share block company shall have been sold by 31 December 1993 or such later date prior to 31 March 1994 as the seller may determine, failing which this agreement shall be of no further force or effect.
- 16.2 It is recorded that the suspensive condition is included in this agreement for the protection of the seller and that the seller may waive fulfilment of the suspensive condition in whole or in part at any time in its discretion.
- 16.3 The seller shall give written notice to the purchaser of the fulfilment or waiver of the suspensive condition no later than fortyeight hours after it Occurs.