

# **MKANTSI RIVER LIFESTYLE ESTATE**

## **DEED OF SALE** **(Plot & Plan)**

### **Entered into by and between**

**KIDDS BEACH LIFESTYLE ESTATE (PTY) LTD**  
**Registration Number 2015/403474/07**

**("the Seller")**

**Whose full particulars appear from Schedule hereto.**

**And**

.....  
.....  
.....

**("the Purchaser")**

**Whose full particulars appear from the Schedule hereto.**

**And**

**LEWCON CONSTRUCTION (PTY) LTD**  
**REGISTRATION NUMBER 2016/214637/07**

**("the Contractor")**

**Whose full particulars appear from the Schedule hereto.**

**In respect of**

**Erf .....Kidd's Beach or Site ..... MKANTSI RIVER LIFESTYLE ESTATE ("the property")**

**More fully described in the Schedule hereto**

#### **1. MKANTSI RIVER LIFESTYLE ESTATE**

MKANTSI RIVER LIFESTYLE ESTATE is an estate which the Seller is in the process of developing on Erf 717 Kidd's Beach.

The MKANTSI RIVER LIFESTYLE ESTATE Management Association of which the Seller as well as each Purchaser shall be a member, shall be responsible for the control, administration and management of the estate as well as such other functions as referred to in this agreement and in the Constitution.

#### **2. DEFINITIONS**

"certificate of practical completion" means a certificate of practical completion issued by the Architect.

"the Attorneys" means Gravett Schoeman Incorporated.

"the Architect" means the architect appointed by the Seller.

"the Contractor" means Lewcon Construction (Pty) Ltd, Registration number 2016/214637/07

"the MKANTSI RIVER LIFESTYLE ESTATE Management Association" means the management association which will come into existence by operation of law when the first property is registered in the name of an end purchaser.

"the Management Committee" means the committee referred to in Clause 11 of this agreement.

"the Operator" or "Health Care Operator" means the person or entity that will be entitled and obliged in terms of a written agreement with the Seller or his successor in title to provide health care services and facilities to residents.

"the village" or "the estate" means the village/estate to be known as MKANTSI RIVER LIFESTYLE ESTATE

### **3. PURCHASE AND SALE**

The Seller hereby sells and the Purchaser hereby purchases the Property as defined in the Schedule being unimproved land on which Lewcon Construction (Pty) Ltd ("the Contractor") shall erect a dwelling in accordance with a separate building contract about to be entered into by and between the Purchaser and the Contractor. When taking transfer the Purchaser shall acquire full freehold ownership of the property.

### **4. PURCHASE PRICE**

The Purchase Price of the Property (the vacant land) shall be the sum of R\_\_\_\_\_ ( \_\_\_\_\_ ) and shall be payable as follows:

- 4.1 A deposit for the amount stipulated in the Schedule shall be paid into the trust account of the Attorneys, within 7 (Seven) days from date of last signature of this agreement. The said Attorneys shall invest the deposit in an interest bearing trust account for the benefit of the Purchaser until registration of transfer.
- 4.2 The Purchaser shall furnish the Attorneys with a guarantee approved of by them, in respect of the balance of the Purchase Price, or alternatively pay the amount in question to them to be held in trust in an interest bearing trust account until registration of transfer. All interest earned on such investment shall be for the benefit of the Purchaser. The guarantees shall be furnished, or payment made, as the case may be, within 14 days from date of request by the Attorneys.
- 4.3 The Purchaser's signature hereto shall constitute the Purchaser's written consent in terms of Section 78 (2A) of the Attorneys Act, authorising the Attorneys to invest these monies in an interest-bearing account for the benefit of the Purchaser until required.
- 4.4 All or any payments to be effected hereunder, shall be made by the Purchaser to the Attorneys without deduction or set-off at EAST LONDON.

### **5. POSSESSION AND VACANT OCCUPATION**

- 5.1 The Purchaser shall be given legal possession of the property on date of registration of transfer, subject to the terms of the separate building contract, from which date the property shall lie at the sole risk, loss or profit of the Purchaser, and from which date the Purchaser shall become liable for all rates

and other charges levied by the municipality with the exception of water and electricity consumption (unless the date of vacant occupation precedes the date of transfer). The risk passing to the Purchaser in terms of this clause, shall not detract from the Contractor's responsibility to keep buildings works insured pending completion as stipulated in the Building Contract.

- 5.2 Vacant occupation of the property shall be given to the Purchaser when the architect issues a certificate of practical completion, from which date the Purchaser shall also become liable for all electricity and water charges levied by the local authority.
- 5.3 In the event of the date of occupation preceding the date of registration of transfer, an occupational rental shall become payable to the Seller as stipulated in the Schedule hereto, calculated from the date of occupation to date of registration of transfer. Payment shall be made to the attorneys monthly in advance.

## **6. TRANSFER**

- 6.1 Subject to the fulfilment of any suspensive conditions herein contained and the due compliance by the Purchaser of his obligations in terms of this agreement, registration of transfer shall be effected into the name of the Purchaser as soon as reasonably possible once all approvals pertaining to the development are in place and a completion certificate has been issued in respect of the installation of services.
- 6.2 Transfer from the Seller to the Purchaser shall be effected by Gravett Schoeman Inc (Hannes Schoeman).

## **7. COSTS**

All costs of and incidental to transfer including the cost of this agreement shall be payable by the Seller. It is however recorded that the transaction is exempt from transfer duty. Bond registration costs, if applicable, shall be payable by the Purchaser. Bond registration costs shall be paid to the Attorneys immediately on request.

## **8. COMMISSION**

- 8.1 The Seller shall upon registration of transfer pay to the Agent, commission at the rate stipulated in the Schedule hereto. The Attorneys are hereby authorised to make payment of the commission directly to the Agent on registration of transfer. In the event of this transaction being cancelled due to default on the part of the Purchaser, the Purchaser shall be liable to the Agent for payment of such commission on demand.
- 8.2 The Purchaser warrants that he was introduced to the Seller and/or the property by the Agent referred to in the Schedule and not any other agent. In the event of a claim for payment of agents commission being made against the Seller by any other agent, the Purchaser hereby indemnifies the Seller against such claim.

## **9. DOMICILIUM**

The Seller and the Purchaser hereby choose domicilium citandi et executandi for all purposes under this Agreement at the address reflected in the Schedule.

**10. SANCTIONS CLAUSE**

- 10.1 Should the Purchaser commit any breach of this Deed of Sale and fail to remedy such breach within SEVEN (7) days of the sending of a letter to the Purchaser by pre-paid registered post, hand delivery or by e-mail at the domicilium citandi et executandi chosen by him herein, the costs whereof shall be borne by the Purchaser, the Seller shall have the right to cancel this contract summarily by directing a letter, addressed to the Purchaser at the said domicilium citandi et executandi by pre-paid registered post, hand delivery or by e-mail notifying the Purchaser of such cancellation. The Purchaser shall be liable for any damage suffered by the Seller by reason of the cancellation as well as eviction from the said property if occupied by the Purchaser and repossession thereof by the Seller. Alternatively, to take action forthwith against the Purchaser for the recovery of the whole of the purchase price together with any other amount payable by the Purchaser under this Agreement.
- 10.2 No indulgence, latitude or extension of time which may be allowed by the Seller to the Purchaser in respect of any payment provided for herein or any matter or anything which the Purchaser is bound to perform in terms hereof, shall be deemed to be a waiver of the Seller's right at any time and without notice to require strict and punctual compliance with each provision and term hereof.
- 10.3 Interest at the prime overdraft rate charged by Absa Bank Ltd from time to time, plus 2 (Two) percent, shall become payable on any amount due and payable by the Purchaser to the Seller which is not paid on due date. Such interest shall be calculated from the due date thereof to the date of actual payment, both days inclusive.

**11. MANAGEMENT ASSOCIATION AND MANAGEMENT COMMITTEE**

- 11.1 The Purchaser shall on registration of transfer become a member of the Management Association as defined in clause 2, of which the Seller and all purchasers of residential sites as well as the holders of life-long rights of occupancy, if applicable, will also be members.
- 11.2 The Management Association, operating through a Management Committee, shall be responsible for the control, administration and management of the village, including, but not restricted to the control of the common property, common facilities and services for the benefit of all members, subject however to clause 21, and shall have the powers and responsibilities as set out in its Constitution.
- 11.3 The Management Committee shall consist of:
- 11.3.1 two representatives of the Seller, as well as
- 11.3.2 two resident owners of residential sites in the village who have been elected to this office at a general meeting of the Management Association.
- 11.4 The management association and management committee shall operate by a simple majority vote, provided that the Chairman, who shall be a representative of the Seller, shall have a casting vote.

## **12. LEVY**

12.1 All costs relating to the general administration and efficient running of the village and required to enable the Management Association to fulfil its duties and responsibilities in terms of the Constitution and in terms of this agreement, shall be covered by a monthly levy to be paid by each Purchaser with effect from the date of registration of transfer of the residential unit into the name of the Purchaser or the date of occupation, whichever is the earlier.

12.2 The services to be covered by the levy aforesaid shall include inter alia:

- Rates and other charges in respect of the common areas
- General administration
- Maintenance of roadways & other common areas, as well as of all common facilities
- Gardening costs relating to the common areas as well as residential sites
- Cleaning of common areas
- Maintenance of the exterior of all buildings forming part of the estate
- Refuse removal
- As well as such further costs as may be determined by the Seller, Management Association and Management Committee from time to time;
- 24 Hour security;

12.3 The monthly levy shall be determined by the Management Committee in consultation with the Management Agent. The Purchaser's levy shall be calculated as a percentage of the total cost, expressed to three decimal places, arrived at by dividing the floor area correct to the nearest square metre, of the Purchaser's improvements, by the aggregate floor area, correct to the nearest square metre, of all the residential accommodation in the village.

## **13. ACKNOWLEDGEMENT BY PURCHASER**

The Purchaser acknowledges and agrees that:

13.1 The Seller shall be entitled in his discretion to effect variations of a non-material nature to the layout, dimensions and finishes of the improvements forming part of the proposed development.

13.2 He will have no claim against the Seller:

13.2.1 for discrepancies of a non-material nature between the completed building and the building plan and specifications relating to the proposed dwelling;

13.2.2 in the event of late completion of the building works on the Erf hereby purchased.

## **14. GUESTS**

14.1 The Purchaser shall ensure that his guests and visitors at all times obey the internal rules pertaining to the Village.

14.2 No guests or visitors shall be permitted to bring any animals into the estate.

## 15. GENERAL

15.1 For the purpose of conducting all or any legal proceedings flowing from this agreement, the parties hereby consent to the jurisdiction of the Magistrates Court under Section 18 of the Magistrates Court Act of 1944 as amended. Notwithstanding the foregoing, the Seller shall have the right at the Seller's sole option and discretion to institute proceedings in any other competent Court which might otherwise have jurisdiction. The party who is successful in such proceedings shall be entitled to recover from the other all legal costs on the scale as between attorney and client.

15.2 The liability of the Purchaser hereunder, if more than one, shall be joint and several, the terms Seller and Purchaser shall include their heirs, executors, administrators or assigns and shall also include the plural thereof and the masculine shall include the feminine gender.

15.3 This Deed of Sale constitutes the entire contract between Seller and Purchaser and is in substitution of any prior agreement or arrangement between the parties and no Warranties, representations or conditions not recorded herein shall be binding on the Seller unless endorsed hereon and signed by the parties hereto.

15.4 The Purchaser warrants that this transaction has not resulted from direct marketing as envisaged in section 16 of the Consumer Protection Act.

15.5 The Purchaser acknowledges that he is aware that he may necessarily suffer a measure of inconvenience from building operations as a result of the construction of the other dwelling units and communal facilities and acknowledges that he will have no claim against the Seller for compensation or damages by reason of such inconvenience.

## 16. SUSPENSIVE CONDITIONS

This transaction in its entirety shall be subject to the following suspensive conditions:

16.1 The Purchaser entering into a written building contract with the Contractor for the construction of a dwelling on terms and conditions acceptable to both the Purchaser and the Contractor. The dwelling shall be in accordance with the architectural guidelines and other specifications applicable to all residential buildings forming part of MKANTSI RIVER LIFESTYLE ESTATE, as determined by the Seller.

16.2 \* The Purchaser obtaining a loan, which shall include a building loan, upon the security of a first mortgage bond to be passed over the property for the sum of R\_\_\_\_\_ (\_\_\_\_\_), upon terms and conditions acceptable to the Seller's Conveyancers, within 21 (TWENTY ONE) days after the last date of

signature of this agreement or such extended period as the Seller may allow. Such bond shall be applied for within 7 days of date hereof. The Purchaser irrevocably appoints the Agent to act as his agent in applying for such bond and undertakes to sign all documents in connection with such application immediately upon request.

\* Delete if not applicable

16.3.1 \* The Purchaser receiving the net proceeds of the sale of his property situate at .....  
..... by not later than .....

\* Delete if not applicable

16.3.2 \* If the said property has not already been sold, this transaction shall further be subject to a sale being concluded by not later than ..... and the purchaser receiving the nett proceeds of the sale of his property by not later than .....

\* Delete if not applicable

**17. ACQUISITION OF ADDITIONAL LAND**

In the event of the Seller acquiring additional land adjacent to Erf 717 Kidd's Beach, the Seller reserves the right to incorporate such additional land into this development. The rights and obligations of all owners of residential sites, whether forming part of the original development or of the newly acquired land, shall be determined as if the newly acquired land formed part of the development from the outset.

**18. SOLE MANDATE**

18.1 In the event of the Purchaser wishing to re-sell his Property at any time, the Seller or his nominee shall have a sole mandate to market the Property for a period of 3 months at a commission of 5% of the selling price plus Vat, on the expiry of which period the Seller shall open the market to a maximum of 3 (three) estate agencies which it has approved for this purpose.

18.2 Any re-sale shall be subject to the new Purchaser signing a deed of sale containing substantially the same terms and conditions as contained in this agreement and accepting the rules applicable to the Development.

**19. RESERVATION OF ERVEN BY THE DEVELOPER**

19.1 It is hereby recorded that site no 96 on the site plan marked "A", shall remain registered in the name of the Seller or his nominee. This land may be used for the erection of improvements which will be to the common good of the development as a whole, including but not restricted to a retirement village, health care facility and clinic, restaurant facility, club house, reception area, library and gymnasium, which services the Seller may elect to provide for its own account, or for such other purpose as the Developer may decide provided that such use shall not detract from the development as a whole.

- 19.2 The Seller reserves the right to open a sectional title register/sectional title registers in respect of the building(s) to be erected on sites 94 and 95 as well as such other sites as it may retain or re-acquire, and to operate a retirement village in respect of one or more of such site(s).
- 19.3 The Purchaser acknowledges and accepts that the MKANTSI RIVER LIFESTYLE ESTATE, any sectional schemes forming part of the Estate, and any retirement village contemplated in 19.2, shall be managed as an integrated development, sharing common facilities. It is recorded that the owners of units in such sectional schemes, including the owners of units forming part of the Mkantsi River Lifestyle Retirement Village, shall not only be members of their respective Body Corporates, but also of the Mkantsi River Lifestyle Management Association, which latter Association shall be responsible to regulate and control matters of common interest.

## **20. INDIVISIBILITY**

- 20.1 This deed of sale and the separate building contract being entered into between the Purchaser and the Contractor as defined in the Schedule, shall be indivisible, the cancellation or lapsing of this sale agreement consequently also resulting in the simultaneous cancellation or lapsing of the building contract.
- 20.2 Notwithstanding anything to the contrary herein contained and in recognition of the fact that the sale of this land and the building agreement are indivisible, the Seller may in the event of the Building Contract being cancelled due to default on the part of the Purchaser, elect to re-possess the Property and take transfer thereof (if already transferred into the name of the Purchaser) against a refund of any monies already paid to the Seller by the Purchaser, transfer cost as well as any damages suffered by the Seller as a result of the Purchaser's default, excluded. The cost of transferring the Property back into the name of the Seller, shall be for the account of the Purchaser.

## **21. PURCHASER: TRUST OR LEGAL ENTITY**

In the event of the Purchaser being a trust or a legal entity, such as a company or close corporation the representative of the legal entity or trust by his signature of this agreement:

- 21.1 warrants that he has been duly authorised to enter into this transaction
- 21.2 binds himself as surety to the Seller for the due compliance by the legal entity or trust of its obligations in terms of this agreement, waiving the benefit of excussion.

## **22. TITLE CONDITION**

The following condition shall be inserted in the title deed of the property:

"Subject to the following condition imposed for the benefit of the MKANTSI RIVER LIFESTYLE ESTATE Management Association:

The property may not be transferred without the prior written consent of the MKANTSI RIVER LIFESTYLE ESTATE Management Association, which consent shall only be given if the transferor has fulfilled all his obligations under the constitution of the said Association, and his financial obligations to the Association, including charges due to service providers, have been duly paid or secured."



**23. DIRECT MARKETING**

The Purchaser hereby acknowledges that he did not purchase the property as a result of direct marketing as envisaged in Section 16(3) of the Consumer Protection Act 68/2008.

**24. COOLING OFF CLAUSE**

In the event of the Purchaser being a natural person who has not reserved the right to appoint a nominee and where the property herein purchased is a residential property at a price of R250 000,00 or less, the attention of the Purchaser is drawn to the Purchaser's rights in terms of Section 29A of the Alienation of Land Act 68 of 1981 (as amended) to revoke this offer or terminate any sale agreement concluded as a result of this offer by written notice delivered to the Seller or the Seller's agent within a period of FIVE (5) days calculated from and including the day after signature hereof by the Purchaser but excluding Saturdays, Sundays and Public Holidays.

**25. RE-LAYOUT NUMBER 3**

It is hereby recorded that the Seller has applied to the Local Authority for the approval of a re-layout of the erven forming part of the Mkantsi River Lifestyle Estate as previously approved. This transaction is subject to approval of this re-layout by Buffalo City Metropolitan Municipality.

THUS DONE and SIGNED by the PURCHASER at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
PURCHASER/S

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
PURCHASER'S SPOUSE (if applicable)

THUS DONE and SIGNED by the SELLER at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
SELLER

\_\_\_\_\_  
WITNESS

THUS DONE and SIGNED by the CONTRACTOR at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
WITNESS

THUS DONE and SIGNED by the AGENT at \_\_\_\_\_

on this \_\_\_\_\_ day of \_\_\_\_\_ accepting the  
benefits flowing from this agreement.

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
AGENT

\_\_\_\_\_  
WITNESS

**SCHEDULE**

**1. "the SELLER"**

Full Name KIDDS BEACH LIFESTYLE ESTATE (PTY) LTD

Registration Number: 2015/403474/07

Present business Address FARM 1015 BURNSIDE, EAST LONDON / PO BOX 1696, EAST LONDON , 5200

Tel No: Bus 082 8591407

E-mail [info@mkantsiriver.co.za](mailto:info@mkantsiriver.co.za)

**2. "the PURCHASER"**

**SPOUSE**

Full Names \_\_\_\_\_

ID Number \_\_\_\_\_

Present Residential Address \_\_\_\_\_

Postal Address \_\_\_\_\_

Tel No: Bus \_\_\_\_\_

Home \_\_\_\_\_

Cell \_\_\_\_\_

e-mail \_\_\_\_\_

Fax \_\_\_\_\_

**3. "the PROPERTY"**

Erf \_\_\_\_\_ Kidd's Beach

Buffalo City Metropolitan Municipality

Division of East London

Province of the Eastern Cape

In extent \_\_\_\_\_

Situate within the magisterial district of East London

**OR** Site \_\_\_\_\_ MKANTSI RIVER LIFESTYLE ESTATE

Kidd's Beach

Measuring approximately \_\_\_\_\_ m2

as will appear from the approved site plan marked A

Situate within the magisterial district of East London

**4.1 COMMISSION :** \_\_\_\_\_ % of the land purchase price plus VAT payable to the Agent

**4.2 "the AGENT" :** \_\_\_\_\_

Of \_\_\_\_\_ (physical address)

PO Box \_\_\_\_\_

E-mail : \_\_\_\_\_

**5. "the ATTORNEYS" :** GRAVETT SCHOEMAN INC (Mr Hannes Schoeman)

of Cnr Lillian Lane & Main Road, Gonubie

PO Box 19772, Tecoma, 5214

E-MAIL: [hannes@gslegal.co.za](mailto:hannes@gslegal.co.za)

**6. "the CONTRACTOR":** LEWCON CONSTRUCTION (PTY) LTD

Registration Number: 2016/214637/07

**7. "the ARCHITECT":** The architect appointed by the Seller.

**ANNEXURE**

Additional information disclosed by the Seller which has not yet been dealt with in the main agreement.

**1. OWNERSHIP**

The Property currently still forms part of Erf 717 Kidd's Beach which is registered in the name of the Seller.

**2. MORTGAGE BOND**

The property is bond free.

**3. INTEREST**

Any amount not paid by the Purchaser on the due date thereof, shall bear interest at the rate of 2% above the prime overdraft rate of Absa Bank from time to time, calculated from the due date until the date of actual payment.

**4. DATE OF VACANT OCCUPATION**

The Purchaser shall be given vacant occupation of the improved property as close as possible to the date stipulated in the Building Contract.