

Kumbagana County Estate

Sale Agreement

Between

**C. B Electrical Wholesalers and Contractors CC
(1997/016843/23)**

(The Seller)

And

(The Purchaser)

Kumbagana Country Estate

Schedule of Information

1. SALE INFORMATION

- 1.1 “Agent” _____

- 1.2 “Agreement” the agreement as set out in this document and the annexure hereto;
- 1.3 “Architectural design guidelines and requirements” the architectural design guidelines and requirements attached marked D and initialled by the parties for the purposes of identification;
- 1.4 “conveyances” VON WIELLIGH INCORPORATED
No 38, @ Office Building, Cnr Kock & Brink Street,
Rustenburg, 0299
Tel: (014) 592 7254; Fax: (014) 592 7705
- 1.5 “Development Facilitation Act” Development Facilitation Act, No 67 of 1995
- 1.6 “guarantee date” a date which is either within – 14 (Fourteen) day of the fulfilment of the suspensive condition referred to in 6 of the offer in the event of the purchaser requiring a loan, or such extended period as may be agreed to in writing by the seller; or 30 (thirty) days of the signature date in the event of the purchaser not requiring a loan, or such extended period as may be agreed to in writing by the sell;
- 1.7 “Kumbagana Home Owners Association” the Kumbagana Home Owners Association (An Association incorporated under Section 21 of the Companies Act 1973) in respect of the scheme;
- 1.8 “Layout plan” the plan indicating the relative situation of the Portion attached marked B;
- 1.9 “loan” R _____
- 1.10 “occupation date” the transfer date

- 1.11 “Offer” the Schedule of Information together with the Conditions to Offer to Purchase Property (annexure A) Initialled by the parties for the purpose of identification;
- 1.12 “property” The Farm Kromrivier 347, Registration Division J.Q, North-West Provinces, measuring _____ hectares
- 1.13 “portion” Portion _____ of the property as demarcated in black on the layout plan attached marked B and initialled by the parties for the purpose of identification
- 1.14 “purchase price” R _____ (inclusive of VAT). The purchase price for the portion is made up as Follows:
- 1.14.1 “Deposit” 10% of the purchase price, and further as per 5.1 in Annexure A.
- 1.14.2 “balance” R _____
- 1.14.3 “account” payment of the deposit must be made into the trust Account of the conveyancer which is as follows:
- | | |
|---------------|----------------------------|
| Bank account: | Nedbank |
| Brach: | Rustenburg |
| Account name | Von Wielligh Incorporated |
| Account no | 149 604 5580 |
| Branch code | 149 642 |
| Reference | Farm name & portion number |
- 1.15 “scheme” land development project know as KUMBAGANA COUNTRY ESTATE
- 1.16 “signature date” the date on which the last signing party signs this Agreement;
- 1.17 “schedule of Information” the schedule of information;
- 1.18 “transfer date” the date of registration of transfer of the portion into the name of the purchaser;
- 1.19 “VAT” Value Added Tax at the applicable rate in terms of The Value Added Tax Act, No 89 of 1991;

2. SELLER INFORMATION

- 2.1 Seller C.B Electrical Wholesalers and Contractors C.C
Registration number 1997/016843/23
- 2.2 Registered Address Portion 19, Farm Kromrivier 347 J.Q.

- 2.3 Postal Address P O BOX 238
KROONDAL
0350
- 2.4 Physical Address Portion 19, Farm Kromrivier 347 J.Q
- 2.5 Telephone (014) 535 0008
- 2.6 Telefax (014) 535 0098

3. PURCHASER INFORMATION

A. Natural person (to be completed if purchaser is natural person)

- 3.1 Title (Mr, Mrs, Dr) _____
- 3.2 Surname _____
- 3.3 First names _____
- 3.4 Identity number _____
- 3.5 Residential address _____

- 3.6 Postal address _____

- 3.7 Telephone
Home _____
Work _____
Cellular _____
- 3.8 Telefax _____
- 3.9 e-mail _____
- 3.10 Occupation _____
- 3.11 Marital status (tick where applicable) _____
Unmarried _____
Married in community of property _____
Married out of community of property (ANC) _____
Other (please specify) _____

- 3.12 Country of marriage _____
- 3.13 Date of marriage _____
- 3.14 Spouse's full names _____
- 3.15 Spouse's identity number _____

B. Company, Close Corporation or Trust (tick where applicable)

- 3.16 Is the purchaser a –
- Company _____
- Close Corporation _____
- Trust _____
- Trustee for the company to be formed _____
- Trustee for a CC to be formed _____
- 3.17 if the entity has already been formed –
- Name of entity _____
- Registration number _____
- Authorised signatory _____
- Registered address _____
- Postal address _____
- Telephone number _____
- Fax number _____
- Cell _____
- e-mail _____

4. SCHEDULES AND ANNEXURE

Schedules and annexure to this schedule of information shall be deemed to be incorporated in and form part of the agreement and definitions in such schedules or annexure shall bear the same meanings in this schedule of information and in the other schedules or annexure.

Signature below constitutes signature of the agreement.

Signed at _____ on this _____ day of _____

WITNESSES:

1. _____

2. _____

Purchaser
(or for the Purchaser, if applicable
and for purposes of clauses 3.16.4
or 3.16.5 of this schedule of information
as the case may be, also in my personal
capacity)

Signed at _____ on this _____ day of _____

WITNESSES:

1. _____

2. _____

Husband / Wife
(if married n community of property)

Signed at _____ on this _____ day of _____

WITNESSES:

1. _____

2. _____

For C B Electrical Wholesalers and
Contractors C. C. who warrants that he is
duly authorized hereto

LIST OF ANNEXURES

- A. Conditions to Offer to Purchase Property**
- B. Architectural Design Guidelines and Requirements**
- C. Kumbagana Country Estate - Constitution**
- D. Kumbagana Country Estate - Rules**

ACKNOWLEDGEMENT OF SIGNATURE AND RECEIPT OF ANNEXURES

I, _____, the undersigned, acknowledge herewith that I have read and understood all annexure to the Schedule of Information and that I have initialled, with witnesses, each page of the said annexure. I also acknowledge receipt of the original signed annexure for safekeeping.

Signed at _____ on this _____ day of _____

WITNESSES:

1. _____

2. _____

PURCHASER

ANNEXURE A

CONDITIONS OF OFFER TO PURCHASE

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Kumbagana Country Estate

Conditions of Offer to Purchase

1. INTERPRETATION

In this agreement –

- 1.1 clause heading are for convenience and shall not be used in its interpretation;
- 1.2 unless the context clearly indicated a contrary intention and expression which denotes a natural person includes an artificial person and vice versa, the singular includes the plural and vice versa;
- 1.3 expressions defined in the schedule of information shall bear the same meanings assigned to them therein;
- 1.4 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement.

2. RECORDABLE

It is recorded that the seller –

- 2.1 is the registered owner of the property;
- 2.2 has established a residential estate and private game reserve on the properties; and
- 2.3 has submitted an application to develop the properties in terms on the Development Facilitation Act
- 2.4 that the remainder of the property as described in 1.12 will remain the property of the seller and will not be transferred to the Kumbagana Home Owners Association.

3. OFFER TO PURCHASE

The purchaser hereby offers to purchase from the seller the property as indicated on the schedule of information in the terms and conditions contained herein.

4. PURCHASE PRICE

- 4.1 The purchase price payable by the purchaser to the seller for the portion is the amount set out in item 1.14 of the Schedule of Information

- 4.2 If Vat in respect of the purchase price in 1.14 is increased or decreased by the relevant authority then the purchase price shall be adjusted accordingly, it being recorded and agreed that any additional VAT shall be paid by the purchaser, the intention being that the seller shall receive the same net amount after payment of VAT, regardless of the rate at which it is applicable.

5. PAYMENT

The purchase price shall be paid by the purchaser to the seller as follows –

- 5.1 the non refundable deposit is payable on the signature date and shall be deposited with the Conveyancer as per 1.14.3 in the Schedule of Information which deposit shall be invested in an interest bearing account at any bank for the benefit of the purchaser in accordance with the provisions Section 78(2A) of the Attorneys Act 53 of 1979 until registration of the transfer; and
- 5.2 the balance of the purchase price shall be paid by the purchaser to the seller on the transfer date. As security for payment of the balance of the purchase price, the purchaser shall by not later than the guarantee date, furnish to the seller or its nominee a bank guarantee in the amount set out in clause 1.14.2 of the info schedule, reasonably acceptable to the seller and payable in cash, free of exchange and any deductions at Rustenburg on the transfer date.

6. SUSPENSIVE CONDITIONS

- 6.1 The whole of this agreement is subject to the suspensive condition that the purchaser obtains a loan in the amount set out in item 1.9 of the Schedule of Information from a bank within twenty one days (21) of the signature date, which loan will be sufficient to enable the purchaser to take transfer of the portion.
- 6.2 the period referred to in 6.1 shall automatically be extended for successive period of twenty one days (21) each until the seller in its sole and absolute discretion, notifies the purchaser in writing that no further extension will occur.
- 6.3 The suspensive condition is expressed to be for the benefit of the purchaser only.
- 6.4 The suspensive condition will be deemed to be fulfilled if any bank agrees to grant such loan –
- 6.4.1 subject to its being guaranteed by the purchaser's spouse; and/or
- 6.4.2 subject to any terms usually imposed by such bank.
- 6.5 The purchaser –
- 6.5.1 warrants that his financial position is such that, having regard to the criteria or requirements usually applied by banks, his application for the loan should not be refused; and
- 6.5.2 shall use his best endeavours to procure fulfilment of the suspensive condition and, without limiting the generality of the foregoing, the purchaser undertakes to do all such things as are normally required by any bank in connection with the grant of any such loan.

- 6.6 The purchaser irrevocably appoints the seller and/or the agent, in his stead, to apply for the loan referred to in 6.1
- 6.7 In the event that the suspensive condition is not fulfilled or the purchaser is granted a loan for a lesser amount than that applied for, the seller shall use it best endeavours to procure that a loan be granted by a third party to the purchaser either for the full amount of the loan referred to in 6.1 or the difference between the amount of the loan referred to in 6.1 and the amount of the loan granted, as the case may be, against the security of a first or second mortgage bond to be registered over the portion, in which event the suspensive condition shall be deemed to have been fulfilled.
- 6.8 If the suspensive condition is not fulfilled within the period referred to in 6.1 or the extended periods referred to in 6.3 then this agreement shall cease to be of any force or effect and the parties shall be restored to the positions in which they would have been had this agreement not been entered into and neither party shall have any claims against the other as a result of the failure of suspensive condition, except for such claim, if any as may result from a breach of provisions of this clause, and the deposit referred to in 1.14.3 will be retained by the seller.

7. RISK

From the transfer date all the benefits and risks of ownership of the property shall pass to the purchaser and the purchaser shall be liable for all rates and taxes and other imposts levied upon the property.

8. OCCUPATION

Occupation of the property shall be given to and be taken by the purchaser on the occupation date as set out in item 1.10 of the Schedule of Information, by which date the seller and all other occupants of the property shall vacate the portion.

9. TRANSFER

- 9.1 Transfer shall be effected by the conveyances at the purchaser's cost and expense as soon as is reasonably possible after the purchaser has complied with his obligations in terms hereof.
- 9.2 The purchaser shall, within seven (7) days of being called upon so to do by the conveyancers at any reasonable time (having regard to the date when transfer can and should be given) furnish all such information, pay all such costs and sign all such documents as may be necessary or required to enable the conveyancers to pass transfer of the portion into the name of the purchaser.
- 9.3 The purchaser is liable for the payment of all transfer costs, including transfer duty or VAT, whichever is applicable to the transaction.

- 9.4 The purchaser shall not by reason of any delay in the transfer of the portion to him due to any cause whatsoever be entitled to cancel this agreement or to refrain from paying, or suspend payment of, any amount payable by him in terms of this agreement or to claim and recover from the seller any damages or compensation.

10. AGENTS COMMISSION

A non-refundable deposit is paid by the purchaser into the trust account of the conveyancer. If this transaction is cancelled due to breach of thereof by the purchaser, the purchaser shall be liable for such agent's commission and will the deposit be utilized to pay a portion of the agent's commission. The agent's commission is _____ percent of the purchase price exclusive of VAT. If the transaction is cancelled due to breach thereof by the seller, the seller shall be liable for the agent's commission.

11. BREACH

- 11.1 If the purchaser commits any breach of any provision of this agreement and –
- 11.1.1 such breach is incapable of being remedied; or
 - 11.1.2 if such breach is capable of being remedied, fails to remedy such breach within seven (7) days after the posting to the purchaser, the registered post, of written notice requiring the purchaser to remedy the breach, then the seller shall be entitled, without prejudice to any of its other rights or remedies in terms hereof or at law, either
 - 11.1.3 to claim immediate payment of all amounts payable in terms of this agreement, whether or not such amounts are then due for payment; or
 - 11.1.4 to cancel this agreement forthwith written notice to the purchaser. The cancellation shall be deemed to take effect on the date of posting of the notice to the purchaser be registered post.
- 11.2 In the event of such cancellation -
- 11.2.1 the purchaser shall forthwith deliver possession and occupation of the property and any improvements thereon to the seller at the purchaser's expense;
 - 11.2.2 the purchaser shall have no claim for compensation for any improvements on the property, which improvements shall vest in the seller; and
 - 11.2.3 any amounts paid by the purchaser to the seller shall be forfeited to the seller or, alternatively, at the seller's option, the seller shall be entitled to claim and recover such damages as the seller may have suffered (together with interest hereon calculated at the publicly quoted prime rate at which the seller's bankers lend money to customers as proved by a certificate issued by any manager of such bank, whose authority, identity and appointment need no be proved) from the date of the relevant breach by the purchaser to the date of payment in full, pending the determination of which the seller shall entitled to retain all such amounts to be set off against the said damages upon the determination thereof.

12. COMPANY OR CLOSE CORPORATION TO BE

It the person who signs this agreement for the purchaser professes to act as a trustee or agent for a company or close corporation not yet formed, incorporated or register, the person so signing shall be deemed to be personally the purchaser in terms of this agreement if within thirty (30) days of the signature date the relevant company or close corporation –

- 12.1.1 is not formed, incorporated or registered;
 - 12.1.2 does not obtain a certificate to commence business; or
 - 12.1.3 does not ratify and adopt this agreement.
- 12.2 If the relevant company or corporation is formed, incorporated or registered, obtains a certificate to commence business and ratifies and adopts this agreement within the said period of thirty (30) days, the person referred to in 12.1 by his signature hereto binds himself in favour of the seller as surety for an co-principal debtor with the relevant company or close corporation under renunciation of the benefits of excursion and division for the due and punctual performance by the relevant company pr close corporation of all its obligations arising out of this agreement or any cancellation thereof.

13. VOETSTOOTS

- 13.1 Save as specifically set out in this agreement, the property is sold “voetstoots” without any warranties, or representation of any nature in regard to the property, express or implied. The seller shall not be liable for any defects, latent or otherwise, or for any damage occasioned by such defects.
- 13.2 The property is sold subject to all the conditions, burdens and servitudes refer to in the Title Dees of the property, to all such other conditions, burdens and servitudes which may exist in regard hereto and to any conditions which may be imposed by the tribunal in approving the land development application in terms of the Development Facilitation Act.
- 13.3 The purchaser is deemed to be acquainted with the nature, condition, beacons, extent and locality of the property, the seller and the seller’s agents being entirely free from all liability in respect thereof.
- 13.4 The seller shall not be liable for any deficiency in the extent of the property which may be revealed on any resurvey, nor shall the seller benefit y any excess.

14. INDEMNITY

The purchaser acknowledged that it is aware of the aim to achieve and maintain a high standard of development within the Kumbagana Country Estate. The purchaser acknowledge that the Kumbagana Home Owners association has been established whose members will be all the owners/registered owners of property in the estate as well as the remainder of the property, and accordingly, the provisions of the Memorandum and Articles of Association and the rules of the Kumbagana Home Owners Association shall pertain the property and the purchasers thereof.

15. CONDITIONS IMPOSED BY THE SELLER AND/OR THE TRIBUNAL IN TERMS OF THE DEVELOPMENT FACILITATION ACT

The property shall be subject to the following restrictive conditions, which the purchaser acknowledges shall be enforceable by the seller and which conditions shall be incorporated insofar as possible in the Title Deed of the portion –

- 15.1 the purchaser shall not be entitled to erect a dwelling house or building on the portions without the prior written approval of the Kumbagana Home Owners Association;
- 15.2 the portion may not be fenced;
- 15.3 the purchaser shall not be entitled to sink any boreholes on the portion;
- 15.4 the purchaser may not subdivide the portion;
- 15.5 the purchaser shall have traversing rights on the remainder of the properties.

16. OBLIGATION TO MAINTAIN THE GAME FENCING, PERIMETER ROAD & GATEHOUSE

The purchaser acknowledges that the Kumbagana Home Owners Association shall procure (and be responsible to procure) that the game fencing around the estate referred to in 2.2 be maintained in accordance with all applicable requirements and that all roads on such estate (other than any driveway or other form of road on the property) be maintained to a suitable condition. The purchaser, however, acknowledges that it shall not have any claim for compensation or otherwise against the Kumbagana Home Owners Association in that regard and indemnifies the Kumbagana Home Owners Association against any and all claims that may be made against the Kumbagana Home Owners Association by an invitee of the purchaser to the property and against any loss, cost, damage and/or expense incurred or suffered by either one or both of them in that regard.

17. USE OF ROADS / SERVITUDES IN FAVOUR OF PURCHASER

- 17.1 The purchaser hereby applies for membership of the Kumbagana Home Owners Association in accordance with the memorandum and articles of the association of the Kumbagana Home Owners Association.
- 17.2 The purchaser acknowledges that, in his capacity as member of the Kumbagana Home Owners Association, and in accordance with the provision of the memorandum and articles of association of the Kumbagana Home Owners Association, the purchaser shall be entitled to use certain parts of the road on the estate referred to in 2.2 (subject, however, to certain restrictions) and to traverse the property and all other properties forming part of such estate (also subject, however, to certain restrictions)

18. ARCHITECTURAL DESIGN GUIDELINES

The purchaser acknowledge and agrees that he and his successors-in-title to the property will be bound to the provisions of the architectural design guidelines and requirements attached marked pertaining to the development and will be obliged to adhere to the theme of the estate and referred to n 2.2 and be bound by all obligations and restrictions imposed in terms thereof.

19. WATER AND ELECTRICITY

- 19.1 The owner of the property shall install a water meter at his own cost on the portion.
- 19.2 An electricity power point to the boundary of the property has been provided for by the developer
- 19.3 All costs of an incidental to the connection of the water and electricity shall be for the account of the purchaser.

20. GENERAL

- 20.1 This agreement together with its Schedules and annexure constitutes the sole record of the agreement between the parties in regard to the subject matter thereof.
- 20.2 Neither party shall be bound by any representation, express nor implied terms, warranty promise or the like not recorded herein or reduced to writing and signed by the parties nor their representatives.
- 20.3 No addition to, variation, or agreed cancellation of this agreement or any of its schedule and annexure shall be of any force or effect unless in writing and signed by or on behalf of the parties.
- 20.4 The parties undertake to do all such things, sign all such documents and take all such steps as may be necessary, incidental or conducive to the implementation of the terms, conditions and import this agreement.
- 20.5 If this agreement is signed by more than one person as purchaser, the obligations of all the signatories shall be joint and several. If this agreement is not signed by all the persons named as purchasers, this agreement nonetheless shall be remaining binding on the purchasers who have signed this agreement.
- 20.6 No latitude, extension of time or other indulgence which may be given or allowed by the seller to the purchaser in respect of any payment provided for in this agreement or hereunder shall under any circumstance be considered to be an implied consent by the seller or operate as a waiver or a novation of, or otherwise affect, any of the seller rights in terms of or arising from this agreement, or stop compliance with each and every provision or term hereof; nor shall any such latitude, extension of time or other indulgence discharge or otherwise affect the liability of any person who may be or become bound in terms hereof as surety for and co-principal debtor with the purchaser.

20.7 This agreement shall be governed by, construed and interpreted in accordance with the laws of the Republic of South Africa. The parties irrevocably submit to the jurisdiction of the High Court of the Republic of South Africa (Transvaal Provincial Division) in respect of any dispute arising from or in connection with this agreement

21. DOMICILIUM

21.1 The parties choose domicilium citandi et executandi for all purposes arising from or pursuant to this agreement, as follows –

21.1.1 The seller item 2.2 and 2.3 of the Schedule of Information

21.1.2 The purchaser item 3.5, 3.6 and 3.17.4 of the Schedule of Information

21.2 Each of the parties shall be entitled from time to time, by written notice to the other vary its domicilium to any other physical address within the Republic of South Africa.

21.3 Any notice given and any payment made by any party to the other which –

21.3.1 is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be reputedly presumed to have been received by the addressee at the time of delivery;

21.3.2 is posted by registered post from and address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be reputedly presumed to have been received by the addressee on the seventh (7) day after the date of posting.

21.3.3 Any notice given by either party to the other which is sent by telefacsimile to the particular addressee's domicilium for the time being shall be reputedly presumed to have been received by the addressee on transmission thereof.

22. KUMBAGANA HOME OWNERS ASSOCIATION

22.1 Prior to registration of transfer and occupation of the property by the purchaser, the purchaser shall –

22.1.1 Become (on the basis set out in 17.1), and whilst he is the registered owner of the property remain, a member of the Kumbagana Home Owners Association;

22.1.2 Conform to and comply with the memorandum and articles of association of the Kumbagana Home Owners Association,

22.1.3 Conform to comply with the constitution and rules formulated from time to time by the directors of the Kumbagana Home Owners Association in accordance with the power vested in them in the said articles of association, copies of which is attached marked C & D

22.1.4 Whilst he is a member of the Kumbagana Home Owners Association and with effect from date of registration of transfer of the property into his name, pay all fees, levies and / or special levies raised and charged by the Kumbagana Home Owners Association;

22.2 The purchaser shall not sell the property to any person who has not bound himself to become a member of the Kumbagana Home Owners Association with effect from date of registration of transfer of the property into that person's name, nor shall the purchaser be entitled to transfer the property unless and until he has received from the Kumbagana Home Owners Association a certificate stating that all amounts owing by the purchaser to the Kumbagana Home Owners Association have been paid, and that the new purchaser has bound himself to conform and comply with the provisions of this clause 22.

- 22.3 The purchaser hereby irrevocably authorizes the seller to do all such things as may be necessary to enrol the purchaser as a member of the Kumbagana Home Owners Association with effect from transfer date.
- 22.4 The conditions of this clause, if registerable in the above form or in some other modified form, shall be registered as a condition of title of the portion and the purchaser undertakes to sign any documents that may be required for that purpose.

23. IRREVOCABLE OFFER

Signature of this agreement by the purchaser shall be deemed to constitute an irrevocable offer by the purchaser to the seller to enter into this agreement, and shall remain open for acceptance at any time thereafter. This agreement shall be binding on the seller only when duly signed by it, until which time no obligation or liability on the part of the seller shall be deemed to exist. It shall not be necessary for the seller to communicate to the purchaser its acceptance of the offer constituted in terms hereof for this agreement to become valid and binding.