

Prepared by  
**BAX KAPLAN INCORPORATED**  
Attorneys  
EAST LONDON

**DEED OF SALE**

MEMORANDUM OF AGREEMENT OF PURCHASE AND SALE entered into  
by and between :

**D T HUDSON CHRISTIAN ECOVILLAGE TRUST**

(Association incorporated under Section 21)

No. 1997/012279/08

being represented herein by

**RONALD DESMOND BEGBIE**

he being duly authorised hereto.

(hereinafter referred to as "the SELLER")

and

\_\_\_\_\_  
Identity No.

(hereinafter referred to as "the PURCHASER")

The Seller hereby sells to the Purchaser who purchases the  
undermentioned property, described as :

PORTION \_\_\_\_\_ of Portion 81 of Farm No. 793 East London  
Local Municipality of Buffalo City  
Division of East London  
Province of the Eastern Cape

IN EXTENT:

upon the following terms and conditions :-

## 1. PURCHASE PRICE

The purchase price payable by the Purchaser to the Seller for the aforesaid property is the sum of R[                    ] ([                    ]RAND)

which amount shall be payable as follows:

1.1 The Purchaser shall pay a deposit equal to 10% of the purchase price to the Seller's attorneys upon signature of this Agreement. The deposit shall be held in trust by the said attorneys until the date of registration of transfer when it shall be paid over to the Seller.

1.2 The balance of the purchase price shall be payable in cash upon registration of transfer and shall be secured prior to transfer in the manner hereinafter set forth:

1.2.1 Pay the said amount, in cash, prior to registration of transfer ;  
or

1.2.2 Furnish such Bank or Building Society guarantee or guarantees to the satisfaction of the Conveyancing Attorneys hereinafter nominated and approved by them of the said amount ; or

1.2.3 A combination of the above ;

within seven (7) days of being called upon to do so by the said attorneys.

1.3 The guarantees aforesaid shall provide for payment of the purchase price to be made in the manner directed by the said Attorneys.

- 1.4 The Purchaser shall issue as many guarantees as the Conveyancing Attorneys may request, but shall be liable for the costs of only one guarantee.
- 1.5 Alternatively, the Purchaser may pay the full purchase price to the Seller upon signature of this Deed of Sale and agrees that such payment need not be held in trust, but may be used by the Seller for the purpose of providing roads and other services to the erven created by the sub-division of Farm 793 East London or for any other purpose.
- 1.6 All payments and all amounts due in terms of this Agreement of Sale shall be made free of exchange at a place or places nominated for payment by the Conveyancing Attorneys.
- 1.7 The parties agree that in respect of any funds which may be received by the Conveyancing Attorneys, such funds may be invested in trust by the said Attorneys in a Special Savings or interest-bearing Account with a recognised Bank or other financial institution in the name of the said Attorneys for the benefit of the purchaser who is entitled to the interest accruing thereon.

## 2. **POSSESSION AND OCCUPATION**

The Purchaser shall be given possession of the said property on the date of registration of transfer with vacant occupation from which date the property shall lie at the sole risk, loss or profit of the Purchaser, who shall make his own arrangements regarding insurance.

### 3. **TRANSFER**

Subject to compliance with the provisions of Paragraphs 1.2 and 5.2, registration of transfer of the said immovable property shall be effected into the name of the Purchaser as near as possible to the [date] and the Purchaser shall be obliged to sign all necessary documents upon request by the Conveyancing Attorneys to enable the transfer to be effected.

### 4. **OCCUPATIONAL CONSIDERATION**

No occupational consideration shall be payable by the Purchaser.

### 5. **COSTS OF TRANSFER**

5.1 All costs of and incidental to transfer, including transfer duty, the cost of drawing this Deed of Sale, and the costs of obtaining any necessary permits or consents from any statutory body or official to effect transfer shall be borne by the Purchaser.

5.2 The costs of transfer as detailed in sub-paragraph 5.1 above shall be paid in advance by the Purchaser to the Conveyancing Attorneys when called upon to do so.

### 6. **RATES AND ASSESSMENTS**

The Purchaser shall pay to the Seller a pro rata share of the current rates, taxes and assessments in respect of the said property from the date of transfer.

### 7. **SALE VOETSTOOTS**

- 7.1 The property is sold as described in the existing Title Deed or Deeds thereof subject to all conditions and servitudes (if any) attaching thereto or mentioned or referred to in the said Title Deed or Deeds and such other conditions as may by law be required to be inserted in the Title Deed to effect registration into the name of the Purchaser.
- 7.2 It is also sold in terms of its existing Diagram or General Plan, whichever is applicable to the extent such as it lies at present, and the Seller shall not be liable for any deficiency existing or which may be revealed on any re-survey, nor shall the Seller benefit by any possible surplus.
- 7.3 The Purchaser acknowledges that the property is purchased as it stands at the date of sale as defined in Paragraph 15, subject to all defects, latent and patent, that may exist or may in future be found to exist in respect of the said property, buildings or erections, any implied warranty being expressly excluded, that is to say, voetstoets.
- 7.4 The property is sold as zoned in terms of the existing Town Planning Scheme, and it is the duty of the Purchaser to familiarise himself with the provisions of the Town Planning Scheme, zoning regulations or other laws or regulations relative or applicable to the said property.

## **8. CONVEYANCING**

Transfer from the Seller to the Purchaser shall be effected by **BAX KAPLAN INCORPORATED**, Clevedon House, 2 Clevedon Road, EAST LONDON.

9. **COMMISSION**

The Purchaser warrants that he was not introduced to the Seller or the property by any Agent, and he hereby indemnifies the Seller against any claim for commission made by any person.

10. **VACANT LAND**

It is recorded that the property sold is vacant land.

11. **DOMICILIUM CITANDI**

The parties hereto choose as their domicilium citandi et executandi :

For the Seller at :                   c/o Bax Kaplan Incorporated  
Clevedon House  
2 Clevedon Road  
EAST LONDON

For the Purchaser at :

as being the address at which each party will accept notice of anything required to be given in terms of this Agreement.

## **12. SANCTIONS**

- 12.1 Should the Purchaser fail to perform any or all of the above conditions or commit any breach of this Deed of Sale and fail to remedy such breach or omission within seven (7) days of the posting of a letter addressed by pre-paid registered post to the Purchaser 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, notifying the Purchaser of such cancellation, in which event 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, or 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. In lieu of such damages, the Seller may regard the deposit paid by the Purchaser together with the interest earned thereon as having been forfeited by the Purchaser, and the Purchaser acknowledges that this is a genuine and fair pre-estimate of the damages the Seller will suffer as a result of such breach by the Purchaser.
- 12.2 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 in respect of 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 rights at any time and without notice to

require strict and punctual compliance with each provision and term hereof.

### **13. CANCELLATION**

- 13.1 In the event of the sale being cancelled by the Seller in terms of Paragraph 12 above, or the suspensive conditions not having been fulfilled, the Purchaser undertakes immediately to vacate the said property. However, the Purchaser shall remain bound to the Seller for payment of the share of rates (as set out in Paragraph 6 above) and for the occupational consideration (as set out in Paragraph 4 above) from date of possession to the date on which the Purchaser vacates the said property.
- 13.2 It is specifically agreed that no agreement of tenancy or occupation shall be created in favour of the Purchaser prior to any cancellation.
- 13.3 The Purchaser shall be liable for the costs of drawing this Agreement of Sale in the event of the Sale not being concluded due to non-fulfilment of suspensive conditions.

### **14. SURVEY**

Should it be necessary to re-survey this property or to locate the existing pegs in order clearly to define the property, then and in such event the costs of such re-survey or locating such survey beacons shall be paid by the Purchaser.

### **15. DATE OF SALE**

The date of sale is the date of signature of this Deed of Sale by the last signatory thereto and the Purchaser acknowledges that he is aware that penalty interest will accrue on transfer duty which has not been paid within six (6) months from the date of sale.

**16. MAGISTRATES COURT'S JURISDICTION**

The Purchaser hereby consents in terms of Section 45 of Act 32 of 1944 or any amendment thereof or substitution therefor to the Seller taking any legal proceedings for enforcing any of his rights under this Agreement for the recovery of moneys claimable under this Agreement, cancellation thereof, damages or otherwise in the Magistrate's Court of any District having jurisdiction in respect of the Purchaser by virtue of Section 28 (1) of the aforesaid Act, if the Seller so elects.

**17. WARRANTIES AND REPRESENTATIONS**

This Agreement 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 upon the Seller unless endorsed hereon and signed by the parties hereto.

**18. OBLIGATIONS ON THE PURCHASER PRIOR TO REGISTRATION OF TRANSFER**

18.1 The Purchaser shall not be entitled to sell, cede, assign or make over any of the Purchaser's rights or obligations in terms of this Agreement without the Seller's prior written consent.

18.2 The Purchaser shall not be entitled to make any alterations to the property without the prior written consent of the Seller, which consent shall be at the Seller's sole and absolute discretion, prior to transfer.

**19. DEFINITIONS**

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 and neuter genders where applicable.

**20. SPECIAL CONDITIONS**

- 20.1 The Purchaser acknowledges having received a copy of the Statement of Mission and goals, Constitution and Bylaws of the Gqunube Green Ecovillage Homeowners' Association. The purchaser further acknowledges that he has had these explained to him and is bound thereby and undertakes that a clause similar to this clause will be inserted into any Deed of Sale whereby he sells the property and that the purchaser of the property and his successors-in-title will likewise be required to insert this clause into any Deed of Sale whereby the property is sold to any further purchaser.
- 20.2 The Purchaser shall upon registration of transfer thereby become a member of the Gqunube Green Ecovillage Homeowners Association. The purchaser undertakes that this provision will likewise be carried forward to all future Deeds of Sale of the property.
- 20.3 The Purchaser may not transfer the property to any other person unless that person has undertaken in writing to become a member of the said Homeowners Association.

20.4 The Purchaser is aware of the provisions of clause 3.12 of the Gqunube Green Ecovillage Home Owners' Association Constitution in regard to the erection of a dwelling on the property.

20.5 The following conditions will be inserted as conditions in the Purchaser's title deeds:

20.5.1 No building or other structure (other than boundary walls and car ports) may be erected closer than five metres from the street boundary of the property, closer than one metre from the rear boundary and closer than two metres from a side boundary; provided, however, that where any relevant building regulations are more restrictive than these provisions, such building regulations shall apply.

20.5.2 No more than 25% of the total area of the property may be built upon.

20.5.3 No structure on the property may consist of more than two storeys and no part of a structure may extend above a horizontal plane located seven metres above the highest point on the property.

20.5.4 The owner of this property shall ensure that excavations within the boundaries of the property do not destabilise or undermine any adjacent erf or common land. Any slope steeper than 30° must be retained by a retaining structure designed and certified by a registered engineer.

20.5.5 Only one dwelling may be erected on this property.

20.5.6 The owner may not transfer the property to any other person unless all levies owing by him to the Homeowners Association are up to the date of transfer have been paid or secured to the satisfaction of the Homeowners Association.

20.5.7 Sewage disposal and treatment shall be effected by means of Biolytic filters, alternatively by means of some other system approved by the Home Owners' Association.

21. In the event of the Purchaser wishing to sell the property he shall first offer it to the Seller which may then within ten days of receiving such offer purchase the property or nominate some other person to whom the Purchaser shall sell the property. In the event of the Seller not exercising its right to purchase the property or to nominate some other person to purchase it, the Purchaser may then sell the property at the same price or a higher price and on the same or more onerous terms and conditions as he offered the property to the Seller. If the Purchaser lowers the price or wishes to offer it for sale on less onerous conditions he shall be obliged to re-offer the property to the Seller at such lower price and/or on such less onerous conditions. The Purchaser undertakes that a clause similar to this clause will be inserted into any Deed of Sale whereby he sells the property and that the Purchaser of the property and his successors-in-title will like wise be required to insert this clause into any Deed of Sale whereby the property is sold to any further purchaser. When the Purchaser or a subsequent owner sells the property to a subsequent purchaser, he shall submit a true copy of the Deed of Sale to the Seller so that it may satisfy itself that he has complied with clauses 20.1, 20.2 and 20.3 above.

22. The Purchaser is aware of the fact that when the subdivision of Farm 793 was approved by the local authority, it was a condition of such

approval that all development on the subdivided portions (of which the property is one) must take place above the 40 metre contour line.

23. **COOLING OFF PERIOD**

23.1 In the event of :

- the abovementioned purchase price not being in excess of R250 000,00; and
- the Purchaser being a natural person; and
- the Seller and Purchaser not having previously entered into a Deed of Alienation in respect of the said property on substantially the same terms and conditions as are contained in this Agreement; and
- the Purchaser not having reserved the right to appoint a nominee Purchaser to assume his or her rights and obligations as stipulated in this Agreement;

the Purchaser shall be entitled within 5 (five) days of signature hereof by him or her or by his or her agent acting on his or her written authority, to terminate this Deed of Alienation by delivery to the Seller or to the Seller's agent of written notice, signed by the Purchaser or the Purchaser's agent, identifying the Deed of Alienation terminated, provided that such termination shall be unconditional.

23.2 All monies that may have been paid in terms of this Agreement shall be refunded to the Purchaser within 10 (ten) days of the date of the Seller's receipt of the Notice of Termination.

23.3 The said 5 (five) day period within which the Purchaser shall be entitled to terminate this Deed of Alienation shall be calculated with exclusion of the day

upon which this Deed of Alienation was signed by the Purchaser or the Purchaser's agent and of any Saturdays, Sundays or Public Holidays.

23.4 Should the Purchaser sign another Deed of Alienation in respect of other property within the category referred to above within the said 5 (five) day period he or she shall be deemed to have exercised the right to terminate this Agreement and shall immediately notify the Seller of the signing of the other contract and of his termination of this contract, in writing. This deemed termination shall not apply to the Purchaser if he or she bona fide intends to purchase both the property sold in terms of this contract and the property sold in terms of the other contract.

24 In the event of the death of the Purchaser, the property may be transferred to one or more of the Purchaser's heirs or legatees provided that –

24.1 The heir/s or legatee/s concerned has/have demonstrated na interest in Gqunube Green village and eco-friendly living by attending at least three one-day courses on eco-friendly living offered by the D T Hudson Eco-village Trust or the Homeowners' Association or by demonstrating such interest in such other manner as is acceptable to the Homeowners' Association; and

24.2 The heir/s or legatee/s acknowledge/s in writing that he/they is/are bound by the Statement of Mission, Constitution and Bylaws of the Gqunube Green Eco-village Homeowners' Association and *mutatis mutandis* by the provisions of clauses 20.1, 20.2 20.3 20.4 and 21 above.

25. **SUSPENSIVE CONDITION**

25.1 This sale shall be conditional upon the Purchaser or the Seller or his agent obtaining from a bank or other financial institution (“the

financial institution”) the offer to the Purchaser of a loan on the security of a first mortgage bond over the property hereby sold of not less than **[amount of loan]**. It is recorded that the primary obligation to obtain the offer of such loan rests with the Purchaser, and the Seller or his agent is authorised to apply for the loan on the Purchaser's behalf but shall not be obliged to do so. The loan aforesaid shall be at such rates of interest and on such conditions as are stipulated by the financial institution to which application for the loan is made.

- 25.2 In the event of the Purchaser (or the agent on the Purchaser's behalf) not being able to obtain the offer of a loan as envisaged in 23.1 from any financial institution within ..... days of the last signature of this Deed of Sale (which time may be extended by the Seller at the Seller's discretion for a further period not exceeding ..... days), then this sale will automatically lapse and be of no further force or effect. The parties agree that if the Seller exercises its discretion to extend the time period for which the quotation and/or pre-agreement statement from the Financial Institution is received, the Seller shall notify the Purchaser in writing accordingly.
- 25.3 The parties specifically agree that this suspensive condition shall be deemed to have been fulfilled on the date that the financial institution issues the offer of a loan referred to in 23.1. The Purchaser's attention is drawn to the fact that in terms of the doctrine of fictional fulfillment, this clause will be deemed to be fulfilled if the Purchaser frustrates the fulfillment of this clause in any way whatsoever.
- 25.4 The Purchaser hereby agrees that should the offer from the financial institution be subject to the Purchaser's spouse or any of the directors

or shareholders or members of the Purchaser as the case may be, binding himself/themselves as surety for and co-principal debtors in solidum with the Purchaser for the fulfillment of all the Purchaser's obligations under the loan, the suspensive condition shall be deemed to have been fulfilled.

- 25.5 The Purchaser hereby undertakes and agrees to do all things necessary to fulfill any conditions imposed by the financial institution as expeditiously as possible and to sign all documents necessary for the granting of the loan and the registration of the Mortgage Bond which is to be registered over the property hereby sold.

**[delete if not applicable]**

DATED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2007

AS WITNESSES :

1.

\_\_\_\_\_

2.

SELLER

DATED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2007

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AS WITNESSES :

1.

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PURCHASER

2.