



BUYING PROCEDURES

July, 2007

RESERVATION AGREEMENT

Whether you are buying a finished property or choosing a plot for your new villa, the first step is to enter into a Reservation Agreement. This will ensure that no other buyer can step in while you are appointing a lawyer and making your financial arrangements. The Reservation Agreement becomes effective with the payment of a deposit of five thousand euros. Should you decide within the reservation period not to proceed with the purchase, this deposit will be promptly refunded in full.

POWER OF ATTORNEY

Your Portuguese lawyer will need a power of attorney (Procuração) to be able to act on your behalf. If you are staying in Portugal, this can be signed at the Notary Office. Otherwise, it can be prepared by the Portuguese Consulate or by a local notary in your country of residence. In this case, it must be accompanied by a Notary Certificate of Apostille of the Hague Convention. If you are buying through a company, then the company fiduciary can provide the requisite documentation. You will also need a Fiscal Number, which you or your lawyer can obtain from the Tax Office.

SEARCHES

- All properties, whether plots or residences, have an entry in the Land Conservatory (Conservatória do Registo Predial), showing the ownership history of the property and whether any mortgages exist against it.
- All urban properties have a Caderneta Urbana from the Tax Office (Finanças). This document gives the article number, size and location of the plot, it defines the boundaries and shows the rateable value for the property. Generally, when purchasing a property, it is advisable to do a search in Finanças as well as in the Conservatória, as there may be actions pending against the property not yet advised to the Conservatória.
- When a new house is built, the change of status from plot to house must be registered in the Conservatória and reported to Finanças. This requires the issue of a Habitation Licence by the local Municipal Council and the submission of an IMI document to Finanças.
- When a new house is built, the engineer or architect responsible for the project must complete three copies of the ficha técnica, which is like a passport for the house. One copy is filed with the local Council, one copy given to the Owner and one copy retained by the Developer.
- All of these searches will be conducted by your appointed lawyer. We recommend that you take independent legal advice.

PROMISSORY CONTRACT

If you are buying a finished property, the next step may be to enter into a Promissory Contract of Purchase and Sale. The buyer pays a deposit, normally 25% of the total purchase price (less any reservation deposit already paid), on signing the contract, and both parties agree to execute the Public deed (escritura) within a defined period of time. The Promissory Contract also records the commitment of the buyer to conform to the restrictive covenants contained in the Complementary Document that forms part of the Public Deed.

PUBLIC DEED

Whether buying a finished property or a plot to have a villa built, the change of ownership is always subject to a public deed (escritura) recorded before the notary, at which all relevant search documents must be produced and at which both parties affirm their agreement to the transaction. The escritura is the Portuguese equivalent of completion or closing. The balance of the property or plot price must be paid at this time, together with the notary fees, which are related to the deed value.

Some days following the public deed, the Notary Office issues a stamped photocopy of the entry of the escritura. Upon showing proof of the escritura at the conservatória, the property can then be registered in the name of the new owner.

COMPLEMENTARY DOCUMENT

Accompanying the public deed is a complementary document containing the rules or covenants of the development. These covenants are binding on all owners and intended to ensure that AlmaVerde is developed and maintained to a consistently high standard. The covenants include the obligation to pay the first 10 years' Spa membership fees, once the main spa building is built, and the obligation to contribute to the annual budget for providing services of benefit to all residents. More information about these services and costs is provided below, under Ownership.

BUILDING SERVICES CONTRACT

If you having a villa built, then, at the same time as executing the deed to purchase the plot, you enter into a Building Services Contract with AlmaVerde. This contract fixes the total cost of the construction and the anticipated completion date, as well as including the plans and exact specifications of the property. AlmaVerde undertakes to provide all of the design, planning, supervision and quality control services necessary to ensure completion of the house. AlmaVerde in turn executes a building contract with the main contractor and supply contracts with suppliers of other systems, materials and services on behalf of the owner. The purchaser commits to making stage payments based on defined construction milestones.

PROPERTY TRANSFER TAX (IMT)

Prior to execution of the public deed, the purchaser is required to pay a property transfer tax namely IMT (formerly sisa tax) to the Tax Office. Transfer of urban plots is taxed at a flat rate, currently 6.5% of the deed value. On finished properties, the tax payable is calculated by reference to tables of tax rates and deduction amounts.

The table for homes intended for personal and permanent habitation, effective January 2007, is as follows:

Deed value in euros	Applicable tax rate	Amount to deduct	
Up to 85,500	0%		
85,501 - 117,200	2%	1,710	As an example, if the deed value of the property is 450,000 euros, the tax applicable to the purchase is $8\% \times 450,000 - 11,086 = 24,914$ euros.
117,201 - 159,800	5%	5,226	
159,801 - 266,400	7%	8,422	
266,401 - 532,700	8%	11,086	
Over 532,700	6%		

The table for other homes not intended for personal and permanent habitation, effective January 2007, is as follows:

Deed value in euros	Applicable tax rate	Amount to deduct	
Up to 85,500	0%		
85,501 - 117,200	2%	855	
117,201 - 159,800	5%	4,371	As an example, if the deed value of the property is 450,000 euros, the tax applicable to the purchase is 8% x
159,801 - 266,400	7%	7,567	450,000 – 10,231 = 25,769 euros.
266,401 - 511,000	8%	10,231	
Over 511,000	6%		

OTHER TRANSACTION COSTS

In addition to IMT, the following additional costs should be borne in mind:

- Notary fees - approximately 1% of the escritura value
- Land Conservatory Registration fees – currently 125 euros
- Legal fees - typically 1% plus IVA (at 21%), but can vary between 1% and 3% of the value, depending upon the complexity of the transaction and the standing of the lawyer or law firm you choose to represent you
- If you are planning to take out a mortgage on the property, the following additional costs will also be payable:
 - Bank survey and valuation fees. Some banks currently offer this service at no charge. Others make a charge related to their own costs
 - Land Conservatory Registration of legal charge over the property – currently 135 euros

ALMAVERDE VILLAGE & SPA COMPANY PURCHASE

When planning to acquire property in Portugal, it is worth considering the benefits of arranging ownership through a company used solely for that purpose.

SELLING THE COMPANY NOT THE PROPERTY

One of the major advantages of corporate ownership arises if you decide to sell your property. You can then sell your beneficial interest in the company rather than the property itself. Any future buyer can avoid property transfer tax as well as notary and registration fees. The seller can therefore expect a higher selling price in comparison to an equivalent property on which these taxes and fees must be paid.

CAPITAL GAINS AND INHERITANCE TAXES

For a non-resident property owner, capital gains are taxed at a flat rate of 25% on any gain. However, if the property is a taxpayer's principal private residence, then no tax is payable provided that the full proceeds from the sale are invested in another residence in Portugal within two years of the sale.

The Portuguese inheritance tax system has recently been reformed such that no tax is payable if the estate passes to surviving partners, children and/or parents. Other lifetime transfers of property attract a 10% stamp duty. However, winding up a foreign resident's estate in Portugal and transferring the property into the beneficiary's name will require the filing of the correct documents and will incur legal and notary fees.

Selling the company rather than the property avoids exposure to Portuguese capital gains taxes and inheritance formalities, although it does not of itself mitigate the potential effects of these taxes and formalities in the beneficial owner's country of residence.

● **REDUCING PURCHASE COSTS**

If you are purchasing the property through a company and require a mortgage, the lender may be willing to take the shares in the company as collateral, rather than the property itself, thus avoiding the additional Land Conservatory fees involved in registering a legal charge over the property.

● **CONFIDENTIALITY & THE FIDUCIARY**

Your property-owning company should be administered by an experienced trust and fiduciary organisation. AlmaVerde works with Bachmann Trust Company Limited, a company based in Guernsey in the Channel Islands, which has been operating since 1974. Such companies can supply nominee shareholders as well as directors, and follow strict guidelines regarding the confidentiality of their clients. The assurance of confidentiality is generally supported by the legal framework of the relevant jurisdiction. At the same time, the statutory body for the licensing and regulation of the Guernsey fiduciary sector, the Guernsey Financial Services Commission, is at the forefront in the adoption of procedures to combat money laundering.

Using a reputable fiduciary organization gives any future buyer of your property confidence that the company has been properly administered, that all necessary filings have been made, and that the company has not entered into any undisclosed liabilities.

Recent legislation has placed additional responsibility on fiduciaries to obtain due diligence information about their clients. Bachmann Trust accordingly requests that each prospective property owner completes a Personal Client Application Form and a Company Formation Form, and provides two professional references, one from a bank and the other from a lawyer, accountant or other financial adviser. Full details of all documentary requirements are outlined in the application form, a copy of which can be downloaded from www.bachmanngroup.com.

● **CHOICE OF COMPANY DOMICILE**

For the above reasons, many owners of higher-priced properties in the Algarve have chosen company ownership rather than personal ownership.

However, property-owning companies domiciled in so-called tax havens are now penalised under Portuguese legislation by high discriminatory local authority property taxes, and the assumption of a level of taxable rental income from the property, whether or not income is actually being generated.

All of the commonly used offshore domiciles - Gibraltar, Isle of Man, British Virgin Islands, etc. - are included in the list of targeted jurisdictions, on the assumption that these domiciles offer low tax regimes. However, as the EU is supposed to be working towards greater tax harmonisation, it is very unlikely that discriminatory legislation of this type would be introduced for companies registered in countries with full EU membership. Neither is the The United States considered a tax haven. Therefore, where appropriate, advisers are now recommending Delaware, Malta, the UK and even Portugal as potential jurisdictions for registering property-owning companies.

● **USING A UK REGISTERED COMPANY**

AlmaVerde works with Bachmann Trust to offer a UK company ownership route.

To be fully effective, the UK property-owning company and the client should enter into a nominee agreement whereby the company owns the property in Portugal only as a nominee for the beneficial owner. The company does not transact any business itself and the property does not appear on the company balance sheet. The company is then able to file abbreviated accounts, thereby saving the expense of auditing.

In considering the tax position of a UK resident beneficial owner, the UK Inland Revenue will "look through" the company to the true beneficial owner. It will take the view that the property is owned by the beneficial owner,

not the company. There is thus no question of the owner being taxed for using the property as if this were a “benefit in kind” being provided by the company.

The arrangement neatly exploits a fundamental difference between UK and continental law. Concepts of “trust” and “nominee” are part of UK common law and not part of continental Civil Code. Portuguese law has no equivalent to a nominee arrangement. Under Portuguese law, the owner of the property is simply the owner of record, namely the company.

Normally, when the ownership of the property changes, the company will simply enter into a new nominee agreement with the new owner. If the new owner does not wish to continue with the company ownership arrangement, then, as the company is not considered as the beneficial owner of the property, there is no UK corporation tax implication on the sale of the property. Under Portuguese law, if the company sells the property, a liability to Portuguese capital gains tax may arise.

This view of the UK tax implications is supported by a written opinion from a leading accounting firm. The opinions given here are of course no substitute for obtaining independent advice from appropriate legal and financial advisers.

TREATMENT OF RENTAL INCOME

Rental income on a property owned by a UK company should be accounted for and declared to the Portuguese fiscal authority according to the appropriate Portuguese tax regime under the name of the owner of record, namely the company. Any tax due should be paid in Portugal in the name of the company.

If the beneficial owner is a UK tax resident, the Inland Revenue would consider this same income as being the income of the beneficial owner, not of the company. The beneficial owner, as the true owner of the property under UK law, should then file a similar set of accounts in the UK and, if necessary, pay tax on any net income in the normal way.

However, provided that the company makes any payments of net income directly to the beneficial owner and does not accumulate the income in the company for long periods, then the UK/Portugal double taxation treaty is helpfully worded so as to enable credit against UK tax to be claimed for tax paid in Portugal. The treaty allows credit for any tax computed by reference to the same profits, income or chargeable gains by reference to which the Portuguese tax is computed. The UK Inland Revenue should allow credit against the UK taxpayer’s own tax, although it may be necessary to produce the nominee agreement if requested.

SHARE PURCHASE AGREEMENT

If you are purchasing the beneficial interest in a property-owning company rather than the property itself, your lawyer will want to ensure that the company has good title to the property, and that it is in good standing.

If you are having a villa built, the Share Purchase Agreement can include terms committing the vendor to carrying out the construction to a defined specification and timescale, and committing the purchaser to making payments at each stage in the construction, up to project completion and the issue of a habitation licence. During construction, the company shares are held in escrow, with beneficial ownership passing to the buyer following the issue of the habitation licence and receipt of the final stage payment.

The total contract price will include the cost of the plot and construction project, as well as the costs involved in forming the company and in transferring the plot, including IMT, notary and registration fees.

The only other costs will be:

- 50% of the fiduciary’s Escrow Fee
- 100% of the fiduciary’s Company Transfer Fee (see below)
- Fees for legal representation

COMPANY OWNERSHIP COSTS

Company ownership costs include the administration fees charged by the fiduciary organisation, together with any annual filing fees payable to the relevant jurisdiction. Set up fees are also payable, as well as transfer fees on change of beneficial ownership, on change of fiduciary, or on renewal of the Power of Attorney.

The Bachmann Trust 2007 fee schedule in pounds sterling is as follows:

Company Formation Fee 875 pounds sterling

To include initial consultation, incorporation and legal expenses, stamp duty, preparation and printing of Memorandum and Articles of Association, share certificates and corporate seal, obtaining a Portuguese fiscal number, providing a Power of Attorney in English or Portuguese, notarized and legalized.

Company Resale or Transfer 1,000 pounds sterling

Payable on transfer of beneficial ownership of the Company to a new owner, including the preparation of new documentation. This fixed fee is also payable on company closure or on transfer of the Company to other managers.

Annual Fee 730 pounds sterling

To include provision of nominee shareholders, directors and the company secretary, maintenance of the statutory record, filing of the annual return where appropriate, holding of board meetings as necessary, preparation of accounts and disbursements to third parties.

Power of Attorney 325 pounds sterling

Power of Attorney in English, notarised and legalised, giving authority to represent the company before Public and Private Authorities in respect of the administration of their property

The above fee scale applies to simple property-owning companies and should not vary, unless an unusual or complex situation arises in which the scope of work undertaken exceeds that envisaged by the basic fees. Disbursements such as courier and other communication charges are passed on to the client.

OFFSHORE TRUSTS

Company ownership does not of itself mitigate the potential effects of capital gains and inheritance tax in your own country of residence. It may be possible to do this through an offshore trust.

FURTHER INFORMATION ON COMPANY OWNERSHIP

For further information and advice on company formation, administration and offshore trusts from Bachmann Trust Company Limited, contact:

David Larkin or Debbie Le Prevost, Bachmann Trust Company Limited

Tel: +44 1481 723573, Fax: +44 1481 711353, www.bachmanngroup.com

ALMAVERDE VILLAGE & SPA FINANCING

A range of financing options is available for buyers with sufficient income to service a loan. For Portuguese residents, euro mortgages can typically be obtained for up to 90% of the property value. For non-residents, mortgages are available in any major currency for up to 75% or even 80% of the property value or purchase price. You should obtain an agreement in principle from a lender for the mortgage finance that you need, before agreeing to purchase a property. If you are purchasing a plot and having a villa built, AlmaVerde has working arrangements in place with lenders for stage payments to be made as construction proceeds.

FOR PORTUGUESE RESIDENTS

For buyers living and working in Portugal, mortgages are readily obtainable from Portuguese banks for up to 90% of the property value, subject to income verification. Tax returns are required for this purpose. Loans are variable rate in euros and with very competitive spreads over the prevailing EURIBOR rate, which at the time of writing (01/07) is approximately 3.75%. Portuguese banks will often offer low fixed rate interest repayments or interest only payments for an initial period.

AlmaVerde has a working arrangement with Banco Internacional do Funchal (BANIF) and can assist with a personal introduction to the local branch or regional manager. For further information, see: banif

Other banks operating in Portugal and offering mortgage finance information and help over the Internet include:

Barclays: www.barclays.pt

BES: www.bes.pt

BPA: www.bpatlantico.pt

CGD: www.cgd.pt

CPP: www2.cpp.pt

FOR NON-PORTUGUESE RESIDENTS

For non-residents of most nationalities, mortgage financing is readily available in any major currency from a number of specialist lenders for up to 75% or even 80% of the property value, subject to income verification. Income can comprise earned income together with pension, investment or rental income. Rental income can include the projected rental income from the AlmaVerde property.

The maximum loan available is often based on joint net "take home" income and is calculated on an affordability basis. As an approximate guideline, other existing liabilities including any mortgage or rental payments, personal loan repayments and maintenance payments, together with your proposed Portuguese mortgage payment, should not generally exceed 40% of your projected net monthly income.

You can borrow in a currency other than the currency in which you receive your income. At the time of writing, the interest rate in euros is lower than the rate in sterling, so that repayments on a euro mortgage will be lower than on a sterling mortgage. However, the amount of liability is only fixed in the mortgage currency. If you take out a euro mortgage, then your liability may increase in the future if converted to sterling, due to exchange rate movements.

AlmaVerde has a working arrangement with the London branch of Banco Totta Santander whereby the bank will provide finance to suitably qualified applicants, for the purchase of Portuguese property, whether the property is held in personal name(s) or in the name of a company, with interest rates of between 1% and 3% over the bank's base rate in the lending currency.

Other lenders can offer repayment terms of up to 30 years or to age 70. It is also possible to arrange equity release finance based on the value of the client's UK property on an interest-only basis, with up to 95% available with proof of income and up to 90% with self-certification.

You can download a mortgage application form from www.bancototta.co.uk

You can find out more about various mortgage packages on offer to assist with the purchase of Portuguese property, including buy-to-let and UK equity release, from:

Corporate & Commercial: www.corpandcommercial.co.uk

You should take appropriate independent legal advice when purchasing a Portuguese property. Your home is at risk if you do not keep up repayments on a mortgage or other loans secured on it.

ALMAVERDE VILLAGE & SPA OWNERSHIP

In developing AlmaVerde Villlage, the management company aims to complement the natural beauty of the surrounding environment by upholding consistent standards of architecture, landscaping and maintenance.

The intention is to create a peaceful, harmonious and safe community for all residents to enjoy.

The complementary document forming part of the plot deed accordingly includes guidelines that owners are obliged to observe. These cover matters of general interest to all residents, such as the appearance of buildings and grounds, the preservation of trees, the keeping of pets and the landscaping and upkeep of public areas. The guidelines also limit timescales for construction and regulate the activities of contractors on site.

The guidelines describe a range of services to be carried out by the management company for the benefit of owners, including the upkeep of public areas, collection of garbage, security services and the provision of a broadband data network connection. Basic services will be provided in accordance with an annual budget, the expenses being shared on an equitable basis among the owners in the form of a co-participation charge.

Property management

In addition to basic services, the management company will offer optional services, including the payment of utility bills, forwarding of mail, regular inspection and upkeep of interiors, pool cleaning and landscaping. For those wishing to rent their properties, the management company aims to maximise rental income by offering attractive hospitality programs to guests, while ensuring that properties are maintained to a high standard.

ALMAVERDE CLUB

Owners automatically become members of the exclusive AlmaVerde Club for a 10-year period from its date of opening. That portion of the property price attributable to the membership fee is only payable at this time. Each resident membership entitles two nominated adults and up to three children to privileged use of the amenities. These will include indoor and outdoor swimming pools, thermal suite, gym, exercise studio and racquets club. Use of the spa itself will be subject to age restrictions.

Club amenities are intended primarily for the enjoyment of residents and visitors staying at AlmaVerde. A limited number of memberships will be offered on a higher fee basis to residents in the surrounding area, and a limited number of visitors may also be admitted on day packages.

OWNERSHIP COSTS

AlmaVerde properties are specifically designed to minimise maintenance and running costs. Substantial savings can be anticipated in these areas when compared with other developments.

For basic services provided by the management company, a basic service charge related to the size of the property will be payable, with additional fees payable for value-added home entertainment and data services.

Property management fees will depend upon the scope of services being provided. Fees in general will be competitive with other developments and companies offering similar services.