

2 February 2023

AGREEMENT OF SALE

SECTIONAL TITLE SCHEME

Entered into by and between

MANITOKA PROPRIETARY LIMITED
Registration Number 2015/339660/07

Address: 14 Wasbessie Street, Saldanha

(hereinafter referred to as “the Seller” or “Developer”)

and

BIGFOOT CONSTRUCTION
Registration Number 2011/103506/23

Address: 1 Kershout street, Saldanha

(hereinafter referred to as “the Contractor”)

and

(hereinafter referred to as “the Purchaser”)

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23 June 2022

The Schedule**A1 THE SELLER**

Name:	MANITOKA PROPRIETARY LIMITED Registration Number 2015/339660/07
Address:	14 Wasbesie Street SALDANHA
Email:	louis.dewet@consultm.co.za

and includes the Seller's successors-in-title.

A2 THE PURCHASER

PURCHASER 1

Full Names	
ID/Reg. No.	
Marital Status	COP ANC UNMARRIED
Address	
Tel (H)	
Tel (W)	
Fax No.	
Mobile	
E-mail	
Income Tax No	

PURCHASER 2 or SPOUSE when COP

Full Names	
ID	
Marital Status	COP ANC UNMARRIED
Address	
Tel (H)	
Tel (W)	

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Fax No.	
Mobile	
E-mail	
IncomeTax No	

B THE PROPERTY SOLD

THE PROPERTY HEREBY SOLD IN THE SECTIONAL TITLE SCHEME TO BE KNOWN AS MANITOKA AND PRESENTLY BEING DEVELOPED ON ERF 11792 and 11793 SALDANHA, BEING:

	Block	Number	Approximate extent
Flat/Unit No			
Garage No			

HEREINAFTER REFERRED TO AS THE UNIT AND/OR PARKING BAYS AND/OR YARD (IF APPLICABLE) TOGETHER REFERRED TO AS "the Property" as depicted on Annexure "A" hereto, which includes an undivided share in the common property in the land and building as shown and more specifically described on the sectional plan, apportioned to the said section in accordance with the participation quota of the said section specified in the schedule enclosed on the Sectional Plan.

C PURCHASE PRICE for the Property, inclusive of Value-Added Tax at 15 %

Purchase Price of Unit	R
Purchase Price in words	

D PAYMENT OF PURCHASE PRICE

Purchase price as per C above	R
Deposit	R30,000.00 (Cash transaction) R10,000.00 (If Bond Financing)
Date of payment of deposit	As soon as possible to secure the Unit, but not later than 7 (Seven) days from date of acceptance of this offer.
In the event of this Offer be a cash offer, the balance of purchase price to be paid to the Conveyancers within _____ days of signature hereof.	

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E MORTGAGE BOND (INDICATE IF REQUIRED)

Answer yes or no _____

Amount required	
Date by which bond must be granted	Within 30 (thirty) days of acceptance of the offer, or such later date as the Seller in his sole discretion may allow.
Purchaser's preferred financial institution	

F SELLING AGENT

Selling Agency	
Name of Estate Agent	
Vat No. Selling Agency	
Income Tax. No of Agent	
Tel. No.	
Fax. No.	
E-mail adress	
FFC Nr – Estate Agent	

G OTHER

Estimated monthly levy	R900.00
Anticipated Completion Date	

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CONSUMER PROTECTION ACT NOTICE

- A** In complying with the Consumer Protection Act, certain portions of the agreement have been printed in ***bold italics***. The reason for this is to specifically draw the Purchaser’s attention to these clauses as they either: Limit in some way the risk or liability of the Seller or any other person, constitute an assumption of risk or liability by the Purchaser, impose an obligation on the Purchaser to indemnify the Seller or any other person for some cause; or are acknowledgement of a fact by the Purchaser.

- B** It is further recommended that:
 - B1 the Purchaser carefully reads this Agreement (and its Annexures), and complete annexure "C" to record any representations made by the Seller or its Agent concerning material facts which the Purchaser relied on in deciding to purchase the Property and to conclude this Agreement and that are not contained in this Agreement; and
 - B2 the Purchaser consults a suitable qualified person to assist the Purchaser in the interpretation and conclusion of this Agreement; and
 - B3 the Purchaser advises the Seller in writing of any information furnished to the Purchaser in a manner or form which the Purchaser deems not to be plain and understandable language.

- C.** In so far the defects rectification process (more fully set out in clause 13 of the Standard Terms and Conditions) is concerned, it is specifically recorded that the Building is under construction and the Purchaser therefore expressly agrees to accept the Property in the condition that it will be on the Completion Date, subject further to the agreed defects rectification process which provides for the identification of and remedying of the defects / snagging items in the Property subsequent to the Purchaser having purchased and taken occupation of the Property.

I DECLARE HEREWITH THAT I HAVE READ THE IMPORTANT NOTICES SET OUT ABOVE

Signed at _____ on _____ 20__.

PURCHASER who warrants that he/she
Is duly authorized thereto

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STANDARD TERMS AND CONDITIONS

RECORDAL

WHEREAS

The Seller is in the process to become the registered owner of **Erf 11792 and 11793 SALDANHA**, in the Saldanha Bay Municipality, Division Malmesbury, Western Cape Province.

The Seller intends establishing a residential Sectional Title Scheme in respect of such land and buildings to be erected on the land.

The Purchaser wishes to purchase a Unit/s and where applicable, rights to exclusive use areas in the Sectional Title Scheme to be established.

NOW THEREFORE THE PARTIES AGREE AS SET OUT HEREUNDER

1 INTERPRETATION

For the purpose of this Agreement, unless the context indicates otherwise:

- | | | |
|-----|--|---|
| 1.1 | “The Act or Sectional Titles Act” | means the Sectional Titles Act No. 95 of 1986 or any amendments thereof, and regulations promulgated in terms thereof. |
| 1.2 | “Agreement” | means this Agreement of sale with the annexures hereto and includes any addendum and / or amendment recorded in writing and signed by the Parties or their duly authorized representatives. |
| 1.3 | “Architect” | LEONARD DE KLERK, appointed by the Seller to act as such from time to time in respect of the development scheme or a member of a firm so appointed. |
| 1.4 | “Body Corporate” | means a Body Corporate as defined in the STMA, which, upon incorporation will be the Controlling Body of the land and buildings in terms of the STMA. |

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- 1.5 **“Building/s”** means the buildings erected or to be erected on the Land reflected on the annexures.
- 1.6 **Civil or Structural Engineers** means A J VAN WYK (Structa Design Services CC) appointed by the Seller, to act as such from time to time in respect of the development scheme or a member of a firm so appointed.
- 1.7 **“Common Property”** means those portions of the Scheme not forming part of any section, (and/or exclusive use area) in the development and constituted as common property in terms of the Act.
- 1.8 **“Completion Date”** means the date which the Architect certifies to be the date on which the Unit is completed and ready for beneficial occupation.
- 1.9 **“Contractor”** means the principal main contractor Appointed by the Seller for the construction of the Building/s and Property, being BIGFOOT CONSTRUCTION, Number 2011/103506/23 and NHBRC Registration Number 1-135476138.
- 1.10 **“Conveyancers”** mean, the Conveyancer appointed by the Seller, being Nicolaas Johannes Pretorius of Madeleyn Inc., 6 Main Street, Vredenburg, 7380, Phone 0227151114. E-mail niekie@madeleyn.co.za
- 1.11 **“CPA”** means the Consumer Protection Act 68 of 2008.
- 1.12 **“Development”** means the Land and the building/s built / to built on the Land (and in respect of which the Seller intends to open a sectional title register.)
- 1.13 **“Exclusive Use Area”** means that as defined in the Act or STMA.

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- 1.14 **“Land Surveyor”** means M VAN ZYL (MJU GEOMATICS SURVEYORS INC. appointed by the Seller, to act as such from time to time in respect of the development scheme or a member of a firm so appointed.
- 1.15 **“Land”** means Erf 11792 and 11793 Saldanha, in the Saldanha Bay Municipality, Division Malmesbury, Western Cape Province.
- 1.16 **“Levy” or levies”** means the monthly levy contributions that will be payable by the Purchaser to the Body Corporate in terms of section 3 of the STMA, being the initial amount specified in paragraph **H** of the schedule
- 1.17 **“Local Authority”** means The Saldanha Bay Municipality.
- 1.18 **“Minor deviation”** means a deviation in the extent of a Unit of 5% (five percent) or less, between the extent of the Unit sold in terms of this agreement and the extent of the same Unit as per the approved Sectional plan/s.
- 1.19 **“Major deviation”** means a deviation in the extent of a Unit of more than 5% (five), but less than 11% (eleven percent), between the extent of the Unit sold in terms of this agreement and the extent of the same Unit as per the approved Sectional plan/s.
- 1.20 **“NCA”** means the National Credit Act 34 of 2005.
- 1.21 **“Occupation Date”** means The Completion Date.
- 1.22 **“Participation Quota”** means in relation to a section, the decimal fraction allocated thereto in the Sectional Plan and which is calculated in terms of Section 32(1) of the Act.
- 1.23 **“Property”** means the subject matter of this sale, as defined in paragraph **B** of the Schedule as part of the Sectional Scheme.
- 1.24 **“Plans”** means Architects/Designers Plans

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- 1.25 **“Purchaser”** means the Purchaser described in paragraph **A2** in the Schedule, his successor in title, heirs, executors, administrators or assigns.
- 1.26 **“Rules”** means the Conduct and Management Rules as prescribed by the STMA as may be amended by the Developer.
- 1.27 **“Schedule”** means the covering Schedule forming part of and recording the salient facts of the Agreement.
- 1.28 **“Scheme or Sectional Scheme”** means the buildings forming the Sectional Title Scheme to be established on the land reflected in the annexures.
- 1.29 **“Section or Unit”** means the meanings defined in the Act, and with particular reference to this Agreement shall mean that Section comprising that Unit (the Unit includes an undivided share in the common property or exclusive use area) which is sold and is to be transferred in terms of this Agreement notwithstanding that the Sectional Plan relating thereto may not yet be approved or registered.
- 1.30 **“Sectional Plan”** means a Draft Sectional Plan and/or a Sectional Plan approved by the Surveyor-General.
- 1.31 **“Seller”** means the Party recorded as such in Paragraph **A1** of the Schedule and includes “Developer” as referred to in the Act.
- 1.32 **“Site development Plan”** means the plan depicting the location and layout of the Buildings and the Scheme as a whole, which plan is attached as annexure “A”
- 1.33 **“Specifications”** means the schedule of specifications and finishes for the Section attached hereto as Annexure “B”

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- 1.34 **“STMA”** means the Sectional Titles Schemes Management Act 8 of 2011.
- 1.35 **“Transfer Date”** means as soon as possible after receipt of the approved Sectional Plans from the Surveyor – General, which is estimated approximately 12 months after commencement of erecting of the relevant building/s comprising of the Scheme.
- 1.36 **“VAT”** means the value-added tax in terms of the VAT Act.
- 1.37 **“VAT ACT”** means the Value-Added Tax Act No. 89 of 1991, as amended.
- 1.38 Words and expressions defined in the Act shall have the meanings therein defined and pending the registration of the Sectional Plan in respect of the Seller’s property, shall apply *mutatis mutandis* to the areas of which the Unit comprises.
- 1.39 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other, and words importing the singular shall include the plural and vice versa.
- 1.40 The headnotes to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.41 The provisions of the Recordal and annexures to this Agreement shall be deemed to be incorporated in and form part of this Agreement.
- 1.42 ***The Purchaser confirms that he has chosen English as the language of this Agreement.***
- 1.43 If any provisions of this Agreement is in conflict or inconsistent with Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.44 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 1.45 the so-called *contra proferentem* rule of construction shall not apply and accordingly none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision.
- 1.46 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday,

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Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2 SALE

The Seller sells to the Purchaser who purchases from the Seller the Property to be established in terms of the Sectional Titles Act or STMA as described [read with the annexures hereto] and for the Purchase Price stated in Clause C in the Schedule.

3 PURCHASE PRICE

The Purchase Price reflected in clause C of the Schedule is payable as follows:

3.1 The deposit payable as per clause D of the Schedule with a electronic funds transfer, which shall be held in trust by the Conveyancers in an interest bearing account pending the Transfer Date, on a request and written instruction from the Purchaser and on fulfillment of the requirements of the Conveyancers for such an investment, all interest earned on the deposit shall accrue to the Purchaser. The deposit shall not be paid to the Seller until the Transfer Date, or until it shall become otherwise payable in terms hereof.

3.2 The balance in cash or by bank guarantee on the Transfer Date.

3.3 The Purchaser shall furnish the Conveyancers within 30 (Thirty) days from date of request from the Conveyancers, which request shall not be made:

3.3.1 prior to the fulfillment of the suspensive condition contained in paragraph 4 below, if applicable or.

3.3.2 prior to the issuing of written confirmation by the Civil engineers that the services plan has been approved by the Local Authority and that the civil contractor has been appointed,

with an irrevocable guarantee/s drawn in favour of the Conveyancers, or as directed by the Conveyancers, which save for providing for payment against the tendering of registration of transfer of the Property into the name of the Purchaser, shall be unconditional and shall be in terms acceptable to the Seller. The guarantee shall be issued by a registered South African Commercial Bank or other financial institution approved by the Seller in its absolute discretion for the balance of the Purchase Price. The Seller shall not be required to give any reason for any refusal of approval of the guarantee issued. **Withdrawal by a guarantor as aforesaid for any reason whatsoever, shall constitute a breach by the Purchaser of his obligations to deliver a guarantee in terms of this clause and in respect of which breach the Seller shall not be required to give notice in terms of clause 18.** The remedies as provided for in clause 18 shall be applicable.

3.4 In the event of the rate of which VAT is chargeable being amended after the date of signature hereof by the Purchaser and in circumstances in which the amended rate will apply to this transaction, then the Purchase Price shall be adjusted accordingly, the intention being that

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the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

- 3.5 All payments shall be made to the Conveyancers and may be directly deposited into their Trust account.

4 CONDITIONS PRECEDENT

In the event of it being indicated in Clause E of the Schedule that a Mortgage Loan is required, then this Agreement shall be subject to the following suspensive conditions:

- 4.1. The Purchaser shall without delay apply for a loan and shall have it approved in principle in writing by a recognized financial institution, upon its usual terms and conditions in the amount referred to in clause E of the Schedule (or such lesser amount accepted by the Purchaser), by no later than the date specified, upon the security of a mortgage bond to be registered over the Property at such rates of interest and on such conditions as are stipulated by the relevant financial institution, provided that if the loan is granted subject to the Purchaser selling any immovable property or cancelling any existing mortgage bond (except when condition G of the Schedule is applicable) or repaying any existing debt or loan, the suspensive condition will not be fulfilled. This suspensive condition shall be deemed to be fulfilled:

- 4.1.1 On the date that the Purchaser obtains a quotation and/or pre-agreement statement from any Bank in terms of which such Bank offers a loan to the Purchaser in an amount of not less than the amount referred to above and even if such loan is approved subject to the Purchaser's spouse (or any of the directors and/or shareholders and/or members and/or trustees of the Purchaser, as the case may be) interposing himself as surety for and co-principal debtor in solidum with the Purchaser of the fulfilment of all the Purchaser's obligations under the loan; and/or

- 4.1.2 Even if such loan is offered as a conditional approval by a financial institution whether in the form of a grant quotation or as an offer issued in respect of a mortgage loan or as a conditional offer preceding a quotation or otherwise. It is recorded that some Banks issue offers which are not official quotations in terms of the provisions of the NCA as amended and/or replaced from time to time in order to indicate to a purchaser that they would be willing to provide an official quotation in terms of the NCA to such purchaser and in respect of such specific property. In light of the same it is specifically agreed that this suspensive condition will be deemed to be fulfilled in the event that a Bank issues a document which reflects the name of the Purchaser, the Property, a mortgage loan amount which is equal to or greater than the amount set out above and the rate of interest and such other information which would usually reflect on a quotation issued under provisions of the NCA.

- 4.1.3 Upon the Purchaser accepting a quotation and/or pre-agreement statement from a Bank for the granting of a loan for a lesser amount than the amount stipulated above, in which event the Purchaser shall deliver to the Conveyancers a guarantee for the difference between the amount stipulated above on the one hand and the amount

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of the loan accepted on the other hand, within 14 (fourteen) days of the loan or offer being accepted by the Purchaser.

4.2 Failure on the part of

4.2.1 the Purchaser to sign any application for a bond or any other document/s necessary to procure the granting of such loan or registration of such bond, or to furnish relevant information or documentation or to pay the costs of or incidental to registration of any bond or to properly and timeously take all steps reasonably necessary to procure the loan and to comply with the requirements of the financial institution; or

4.2.2 any person nominated to sign a Deed or Deeds of Suretyship as contemplated above to sign such Deed of Suretyship or to furnish relevant information upon demand by the Seller or any prospective Bondholder.

Shall constitute a breach hereof by the Purchaser within the meaning of clause 18 or alternatively shall, at the option of the Seller, entitle the Seller to regard clause 4 hereof as having been duly fulfilled.

4.3 ***The Purchaser warrants that he has no reason to believe that he will not successfully obtain a mortgage loan for the financing of the balance of the purchase price, in the event that he requires same. Should the Purchaser's bond application be declined, the Purchaser will be reimbursed with his / her deposit as well as the interest accrued thereupon.***

4.4 Whereas it is important for the Developer to have proper control over the mortgage loan application it is agreed that the Purchaser shall make use and instruct Ilze Willemse of Mortgage Max Direct Finance to lodge the mortgage loan application with the Purchaser's preferred financial institutions/s.

4.5 In the event of any of the said suspensive conditions not being timeously fulfilled the Seller in its sole discretion may give an extension of time for the fulfillment of this condition.

5 SECTIONAL PLAN, LOCAL AUTHORITY APPROVAL AND PRE-SALES

5.1 ***The Purchaser acknowledges that the Sectional Plan has not yet been approved and that the exact boundaries of the Section forming part of the Unit shall be those shown on the final approved Sectional Plan.*** The Seller warrants that they will be substantially in accordance with those set out in the annexures hereto. The undivided share of the common property apportioned to the Section shall be in accordance with the participation quota which is ultimately determined in terms of the Act or STMA upon approval and registration of the Sectional Plan.

5.1.1 The Purchaser shall not be entitled to claim cancellation of this Agreement or any reduction in the Purchase Price by reason of any minor alteration to the number, location or participation quota of any Section or a Minor deviation to the extent of a Section, or any increase in their number, to that shown on the plans annexed hereto.

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The Purchaser undertakes to accept transfer of the Unit as may be re-defined and re-numbered in the Sectional Plan approved by the relevant Local Authority and/or the Surveyor General.

- 5.1.2 The Land Surveyor shall have the sole decision upon whether an alteration (except a "Minor deviation") referred to in 5.1.1 above is minor and his decision shall be binding on the parties.
- 5.2 In the event that the application to establish the scheme on the land has not yet been approved by the Local Authority, then it is recorded that, should the Local Authority not approve the abovementioned application then this Agreement shall lapse and be of no further force and effect.
- 5.3 The Seller is of the intention to develop the scheme with the assistance of a Development Bond / Third Party finance and it is necessary for the Seller to sell a certain minimum number of Units in the Scheme. Should the Seller not sell the required amount of units to meet the requirements of the development loan then the Seller may cancel this Agreement by written notice to the Purchaser. The Agreement is further subject to the Seller successfully obtain the Development Bond / Third Party Finance. The Purchaser shall have no recourse against the Seller as a result of this cancellation.

6 SECTIONAL TITLE / EXCLUSIVE USE AREAS -RESIDENTIAL

- 6.1 ***The Purchaser acknowledges that this sale is by Sectional Title and that the Purchaser has satisfied his/her/itself regarding the rules, regulations, conditions and servitudes of whatever nature pertaining to the sale, ownership and use of the Property.***
- 6.2 The Purchaser shall, subject to the Rules of the Scheme, be entitled to the exclusive use and enjoyment of the Exclusive Use Areas, the rights of which are hereby sold and shall be ceded to the Purchaser, where applicable.
- 6.3 It is recorded that the exclusive use area/s allocated as per paragraph **B** of the Schedule, shall not be delineated on the Sectional Plan, as a result of which the Developer shall cause for these exclusive use areas to be allocated for the Purchaser's exclusive use in terms of section 10(7) and (8) of the STMA.
- 6.4 **Should the Chief Ombud (as defined in the STMA and Community Schemes Ombud Services Act, No. 9 of 2011) require any substitutions, additions, amendments to or deletion of the language or content of the Rules in order to grant approval or certification in terms of section 10(5) of the Sectional Titles Schemes Management Act, then the Purchaser hereby consents to and approves of all such changes as may be required.**

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7 OCCUPATION / POSSESSION / COMPLETION

- 7.1 The Seller shall give, and the Purchaser shall take vacant occupation on the Completion Date and pays occupational rental as provided for in clause 8 hereunder. ***The failure on the part of the Purchaser to take physical occupation [whether personally or by agent] or to accept the keys to the Section shall not affect the Occupation Date which shall remain as defined.***
- 7.2 ***The Seller does not guarantee that registration of transfer will be on the Completion Date or that the Property will be ready for occupation on the Transfer Date.*** Should the Property not be available for occupation on the Completion Date then the Seller shall give the purchaser (1) one month's written notice prior to the Anticipated Completion Date as provided for in clause H of the Schedule, of such fact.
- 7.3 In the event that the Seller issues a notice as provided for in paragraph 7.2 above, then the Seller shall deliver to the Purchaser not less than one (1) months' notice in writing of the date upon which the property will be available for occupation. ***The Purchaser has no claim for damages or otherwise against the Seller for any variation in the Occupation Date.***
- 7.4 Should occupation of the Section and/or exclusive use area by the Purchaser or anybody through the Purchaser for any reason be prior to the Transfer Date then such occupation shall not create a tenancy, that is to say, in the event of this Agreement being cancelled all rights to the occupation of the section and exclusive use areas shall lapse and the Section and exclusive use areas shall be vacated forthwith.
- 7.5 **The Purchaser shall be obliged to maintain the Property in a fit and proper condition and will furthermore comply with all the duties placed on an owner as described in section 13 of the STMA.**
- 7.6 Possession and therewith the risk and benefit of the Unit shall pass to the Purchaser on the Transfer Date.
- 7.7 From the Completion Date specified by the Architect the Purchaser is liable for occupational rental as set out in clause 8 below. The Purchaser undertakes to accept occupation on the date specified.
- 7.8 Should the Purchaser not accept the Architect's completion decision the matter shall be referred for dispute for arbitration similar as provided for in clause 16.1
- 7.9 ***Where the Purchaser is in default with any of this Agreement's stipulations the Seller may withhold occupation.*** The Purchaser shall however still be liable for all amounts due to the Seller from the Completion Date until the Transfer Date and all outstanding monies in terms of this agreement have been paid.

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- 7.10 From the Occupation Date until the Transfer Date, the Purchaser shall:
- 7.10.1. Not make any alterations to the Unit, alter the colour scheme or redecorate, without the Seller's written consent first being had and obtained, which consent shall not be unreasonably withheld.
 - 7.10.2 Comply with all Rules and Regulations applicable to the Property.
- 7.11 ***Until the Transfer Date, the Purchaser shall not sell, let, or in any other manner dispose of or part with the property or any of his rights thereto without the Seller's written consent first being had and obtained.*** When granting consent, the Seller shall be entitled to impose such reasonable conditions as it considers necessary.
- 7.12 It is recorded that the Land on which the Building is constructed will throughout the construction period be under the control of the Contractor and that the Purchaser shall not be entitled to have any access to the Land prior to the Occupation Date.
- 7.13 The Purchaser shall not use the Property or the Common Property in such a manner so as to cause any damage thereto or to the other sections in the Building or the Scheme, nor shall it store or permit the storage therein of any inflammable materials which may violate any insurance policy in respect of the Scheme or Buildings or which is likely to have the effect of increasing the premiums payable in terms of any such insurance policy.
- 7.14 **The Purchaser shall be entitled to use the Property for residential purposes only.**
- 7.15 The Seller, either personally or through its agents, shall be entitled at all reasonable times, and on reasonable notice to the Purchaser, to have access to the Property for the purpose of inspecting it or to carry out any maintenance or repairs which the Seller may in terms thereof be obliged or entitled to perform, whether such repairs relate to the Property or not, and the Purchaser shall have no claim against the Seller for any disturbance in his occupation out of the exercise by the Seller of the rights hereby conferred;
- 7.16 The Purchaser may use and enjoy only those parts of the Common Property which are completed, in such manner so as not to interfere with the use and enjoyment thereof by other purchasers, occupiers or persons lawfully present in the Scheme. The Purchaser may not use and enjoy those parts of the Scheme which are not completed or are in the process of being completed. **The Purchaser shall ensure that its visitors and invitees comply with the provisions of this sub-clause.**

8 OCCUPATIONAL RENTAL

Occupational rental is payable by the Purchaser to the Seller at the rate of 1% (one percent), per month on the Purchase Price as per clause C of the Schedule, monthly in advance to the Conveyancers, from the Completion Date until the Transfer Date. A *pro rata* adjustments of the occupational rental due shall be done on the Transfer Date. In addition, the Purchaser shall be liable

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for all water and electricity consumed in respect of the Property and sewerage charges from the Occupation Date.

9. PHASED DEVELOPMENT

9.1 In accordance with the phased nature of the Scheme, the Purchaser acknowledges that the Seller will be reserving a real right of extension of the Scheme as envisaged in section 25(1) of the Sectional Titles Act by the erection and completion from time to time but within a period of 10 (TEN) years from date of opening of the Sectional Title Register, for its own account further buildings on a part of the Common Property and to divide such buildings into sections and common property and to confer the right to exclusive use over parts of such common property upon the owner or owners of one or more of such sections.

9.2 The Purchaser acknowledges this clause to constitute proper notice as is required in terms of section 25(14) of the Sectional Titles Act and hereby consents to such extensions aforesaid being carried out.

9.3 In event of such of extension being exercised by the Seller or its successors-in-title and due to changes in circumstances making strict compliance with the Sectional Plan, Building Plans and other documentation and specifications as is referred to in section 25(2) of the Sectional Titles Act impracticable, then the Purchaser consents to such changes/amendments as may be necessitated due to such circumstances within the sole discretion of the Seller or its successors-in-title.

9.4 The Seller's contractors shall be entitled to all such access to completed phases, and sections and Common Property therein, as it may require in respect of the development of later phases, which rights of access shall include the rights to construct and lay pipelines, sewers, drains and the like and the Purchaser shall have no claim against the Seller in respect thereof, provided that the Seller shall exercise such rights so as not to cause any undue inconvenience to the Purchaser.

10. BUILDINGS NOT YET ERECTED

10.1 It is recorded that the Buildings have not yet been completed.

10.2 The Seller shall be entitled to vary the details set out in the annexures hereto, as also the extras referred to in this Agreement to such extent as may be reasonably necessary to, meet any requirements of any Local- or competent Authority; meet any special features of the Property; meet any special impediments such as water, sewer or electrical lines either above or underground or any other soil condition; give effect to any changes in materials, finishes or fittings which the Seller considers to be appropriate or which may not be readily available at the time due to shortage in supply of such materials, finishes or fittings, without however detracting from the quality of the Buildings and/or the Section and to obtain the approval of the sectional title development scheme and/or the opening of the sectional title register.

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- 10.3 In particular it is agreed that the Seller may amend, change or amplify any draft- or approved building plans not only for the reasons referred to in clause 10 above, but also for a practical, aesthetical or cost saving reasons or any other reason the Seller may reasonably deem fit. However, notwithstanding any change to the draft- or approved plans the amended plans will still be substantially the same as the draft- or approved plans prior to the change.
- 10.4 The Seller shall similarly be entitled to vary the number/s allocated to the Section on the Plan and the name of the Development. In the event of a dispute arising in connection with any of the matters referred to in this clause 10.4, then the matter shall be referred to the Architect for determination whose determination shall be final and binding on the parties.
- 10.5 The Seller shall not be required to indicate the position of the beacons or pegs on the Property.
- 10.6 ***The Purchaser acknowledges that, on the Occupation Date, the common property forming part of the Buildings and the Property, as well as other portions of the Buildings may be incomplete and that occupants of the Section may suffer inconvenience from the building operations and the Purchaser further acknowledges that it shall have no claim whatsoever against the Seller by reason of any such inconvenience.***
- 10.7 ***It is specifically recorded that the finishes to the Unit and the Exclusive Use Areas are not necessarily the same as those of any show house/flat which has or may be erected or any other work of the Seller which may contain decorations or non-standard items.***

11 CONTRACTOR

It is within the Seller’s discretion which Contractor he appoints to erect the building work herein referred to. It shall however be a condition that the Contractor erects the buildings according to the plans and specifications and that a NHBRC (National Home Builders Registration Council) certificate is provided for.

12 LEVY / MANAGING AGENT

- 12.1 From and including the Occupation Date as aforesaid, the Purchaser shall be liable to pay to the Body Corporate a monthly levy in advance (pro rata in respect of any portion of a month) on the first day of each and every month, being a proportionate share (in terms of of Participation Quota) the total cost of managing, operating, administering, repairing and maintaining the Buildings and the Property and if the Body Corporate has not yet been established then an amount equal to the Estimated levy as provided for in clause H of the Schedule is payable to the Seller, monthly in advance to the Conveyancers.
- 12.2 The Purchaser hereby irrevocably appoints the Seller as the Purchaser’s proxy, which appointment the Seller accepts to vote on the Purchaser’s behalf at the first meeting of the Body Corporate for the appointment of Managing Agents for the first year of the existence of the Body Corporate.

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13 WARRANTIES / CONSUMER PROTECTION ACT

- 13.1 ***The Purchaser shall within 7 (seven) days after the Occupation Date notify the Seller in writing of all or any defects in the Unit, failing which the Purchaser shall be deemed to have accepted the Unit in good order and condition. The Purchaser shall not be precluded from exercising his/her rights in terms of Section 56 read with Section 55 of the CPA in so far as it may be applicable.***
- 13.2 **The Seller shall only be responsible in terms of clause 13.1 for defects caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim.**
- 13.3 **The Seller shall remedy any material latent defect in the Section due to faulty workmanship or materials, manifesting itself within 180 (ONE HUNDRED AND EIGHTY) days of the Completion Date, provided that the Purchaser notifies the Seller thereof in writing within the said period, *failing which the Purchaser shall be deemed to have accepted the Unit in good order and condition.***
- 13.4 **The Seller shall cause all such reasonable repairs as notified by the Purchaser within such period to be effected as soon as reasonably possible thereafter at the Seller’s cost.**
- 13.5 **The Seller has made every effort to incorporate the Purchaser’s consumer rights, as provided for in the CPA, into this agreement. In the event that any provision in this agreement is found to contravene the CPA, the parties agree that such provision shall be severed from this agreement and be treated as if it were not part of this agreement.**
- 13.6 **In the event of a dispute between the parties as to whether the Seller is liable to make good a defect or whether the defect has been properly repaired and not resolved between the parties within 60 (Sixty) days of receipt of a notice referred in paragraph 13.1 or 13.3 above, then a certificate issued by the Architect to the effect whether the Seller is liable or that any defect has been made good shall be final and binding on both parties and shall relieve the Seller from any further obligation in respect of such defect.**
- 13.7 ***In the event of any defect manifesting itself subsequent to the period referred to in clause 13.1 or 13.3 above for which the Purchaser agrees the Seller shall not be liable the Seller does hereby cede and make over to the Purchaser its rights to claim from the contract or nominated sub-contractor/supplier to the extent that the Seller is not precluded therefrom.***
- 13.8 **All undertakings hereby given to the Purchaser are personal to the Purchaser and cannot be alienated and disposed of by him in any way.**
- 13.9 ***The Purchaser shall not be entitled for whatever reason to withhold, set off or retain any amounts owing by the Purchaser to the Seller nor shall the Purchaser be entitled***

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to withhold or abate payment of any amount due to the Seller in terms of this Agreement by reason of any breach of the Seller's obligations hereunder.

- 13.10 **The Purchaser acknowledges and agrees that he shall have no claim against the Seller in respect of defects whether latent, patent or otherwise in the Common Property or the Units save for Defects of which the Purchaser shall have notified the Seller pursuant to clause 13.1 and 13.3.**

14 PROPERTY SOLD

- 14.1 The Property is sold subject to all conditions and servitudes attaching thereto and all the provisions of, or conditions that may be imposed by the Sectional Titles Act and any conditions imposed by the Developer in terms of Section 11(3)(b) of the Sectional Titles Act. **The Purchaser acknowledges that he carries the obligation to satisfy himself by personal inspection, or by means of independent sources of information, concerning any burdens of servitudes to which the Land and Property may be subject, and also concerning all advantages and disadvantages attaching to the Land and Property and hereby agrees that the Seller shall not be liable to him in respect of any failure by the Seller or the Agent to inform him of any such qualities.**
- 14.2 The Property may be used only as a residential dwelling, and Exclusive Use Area(s) will be used only for parking, which permitted usages will be spelt out in the Rules.
- 14.3 The Unit is sufficiently identified and sold as per the plan and specifications hereto annexed and is a Sectional Title Unit as defined in the Act, which includes an undivided share in the common property *and the Seller's reservation of a right of extension for the development of further phases as per section 25(1) of the Sectional title Act for a 10 year period.* The Seller guarantees that the land relating to the Unit will be fully serviced, according to the specifications of the engineers, before registration of the unit in the name of the Purchaser.
- 14.4 It is recorded that the building is presently in the planning process and/ or under construction and that the Sectional Plan cannot be finalised until completion of the structure and that the exact borderlines of the Section shall be those shown on the final approved Section Plan.
- 14.5 Having regard to the fact that construction is not an exact science and the Unit might be slightly larger or smaller than the size recorded in this agreement, the parties agree that:
 - 14.5.1 *In the event of a Minor deviation the Purchaser shall have no claim for compensation for such deviation, similarly the Developer will also not have a claim particularly if such unit's extent is larger than as provided for in this Agreement.*
 - 14.5.2 In the event of a Major deviation then the Purchaser shall not have the right to cancel this agreement, but will be entitled to a proportionate reduction of the purchase price calculated as follows:

Purchase price as per clause D in the Schedule divided by the square meters sold = Rand value per square metre

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The amount of the reduction is calculated by The Rand value per square meter which is multiplied by the difference in extent between the recorded size of the unit and the size according the approved Sectional Plan, less 5% (five percent).

- 14.5.3 The purchase price shall be reduced by the amount calculated in terms of clause 14.5.2 above or refunded by the Seller to the Purchaser.
- 14.6 *The parties agree that should the extent of the Unit deviate with more than 10% between the contractually recorded size and the size as per the approved Sectional plans either party may cancel this agreement, prior to the Transfer Date, with written notice to the other party and under such circumstances neither party will have a claim for damages against the other party.*
- 14.7 ***The Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, his agent and/or invitees may directly or indirectly suffer by reason of any latent or patent defect in the building or Scheme or by reason of the building or any other part thereof or the Scheme being in defective condition or state of disrepair or any particular repair not being affected by the Seller / Contractor timeously or at all or arising out of any cause either wholly or partly beyond the Seller's / Contractor's control or arising out of any other purchase of a property in the Scheme or from any delay in the Completion Date or from any other cause howsoever arising the Purchaser hereby indemnifies the Seller / Contractor against any such claims.***
- 14.8 ***The purchaser acknowledges that he is aware of the risk of damage voluntarily assumes these risks and indemnifies the seller, his agents and contractors.***
- 14.9 ***The Purchaser is aware that should the Development Scheme or Sectional Plan not be approved or the Sectional Title Register not being opened, it will not be possible for the Seller to transfer the unit to the Purchaser in terms of the Act. In that event, the Purchaser acknowledges that his rights shall be limited to those set out in this Agreement and that he shall have no further claim upon the Seller for damages or otherwise by reason of the failure to transfer the property to the Purchaser in terms of the Act.***

15 TRANSFER

- 15.1 The Seller reserves its right not to pass transfer of the property to the Purchaser, notwithstanding anything to the contrary herein contained until such time as the total Purchase Price and all other amounts for which the Purchaser may be liable in terms hereof to the Transfer Date have been paid and/or payment thereof has been secured as herein provided.
- 15.2 It is recorded that the Transfer Date shall be as close as possible to the Occupation Date as defined herein.
- 15.3 Transfer of the Unit shall be affected by the Conveyancers.

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- 15.4 It is recorded that the Seller will only be in a position to give transfer of the Unit to the Purchaser after the opening of the Sectional Title Register in respect of the Sectional Title Development of which the unit forms a portion and the Seller undertakes to do everything reasonably possible to legitimize the plans as soon as possible.
- 15.5 The Purchaser shall pay all transfer- and bond registration costs in connection with transfer of the Property in the name of the Purchaser and the mortgage bond registration, which includes the costs of registration of transfer and the mortgage bond, Vat on the Conveyancer's fees, Local Authorities' clearance fees, Home Owners Association consent fees, etc.
- 15.6 ***The Purchaser shall within 10 (Ten) days of being so requested by the Seller's Conveyancers, furnish the Conveyancers with such signature and/or documentation as required.***
- 15.7 ***In the event of the Purchaser failing to comply within 10 (Ten) days of being requested by the Conveyancers, to furnish the said Conveyancers with signed documents or documentation of whatever nature necessary for effecting transfer, or where applicable to ensure that the Mortgage Bond documentation or ancillary documentation is satisfactorily completed and the widest possible interpretation shall be used in respect of the terms hereof, then ipso facto (means "by the fact itself") on the 11th day after such request then the Purchaser shall pay to the Seller penalty interest on account thereof, at the rate mentioned in clause 27 below, calculated from the said 11th day until the Transfer Date, both dates inclusive.***
- 15.8 ***In the event of registration of transfer to the Purchaser being delayed as a consequence of a default on the part of the Purchaser, then similarly to the terms of the preceding clause, then the Purchaser shall pay to the Seller monthly in advance interest on the full Purchase Price, less any amount actually paid to the Seller on account thereof, at the rate mentioned in clause 27 below calculated from the Transfer Date would have been possible had it not been for the default of the Purchaser, until the date of actual transfer both dates inclusive.*** The terms of this sub-clause shall not be applied in addition to the terms of clause 15.7 above, but as an alternative thereto as circumstances dictate.
- 15.9 ***The Purchaser acknowledges and accepts that the Purchaser has bought property in a development where a development Mortgage Bond is likely to have been utilized by the Seller and thus transfer to the Purchaser will be simultaneous with transfers to other Purchasers necessitated by the property sold having to be released from the operation of the Mortgage Bond. Accordingly the Purchaser acknowledges and accepts that lodgement of the Purchaser's transfer documents at the Deeds Office shall be entirely in the discretion of the Conveyancers and the Purchaser's obligation to pay Occupational Rental or Interest, if any, as the case may be shall remain and be unaffected by any delay occasioned by the above.***

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- 15.10 ***In the event that minor work and/or rectification still has to be done to the Unit, notwithstanding that the Architect has certified that the Unit is ready for Beneficial Occupation the Purchaser hereby agrees to take transfer or occupation of the Unit and comply with all his obligations in terms of the Agreement.***
- 15.11 The Conveyancers is hereby irrevocably authorised by the Purchaser to sign all relevant documentation and declarations to enable the Conveyancers to obtain a transfer duty exemption receipt from the South African Revenue Services.

16 ARBITRATION

- 16.1 If any dispute arising from or in connection with the interpretation of any term or condition of this agreement, it may be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator appointed by the Foundation.”
- 16.2 If any dispute arises between the Seller (and/or Purchaser) and the Estate Agent relating to payment of the commission, such dispute must be submitted to the Arbitration Tribunal (*the Tribunal*) established by the Estate Agency Affairs Board for decision.
- 16.3 If any dispute arises between the Seller and another estate agent (*the other estate agent*) relating to payment of commission, the Seller: -
 - 16.3.1 must without delay notify the Estate Agent in writing of such dispute; and
 - 16.3.2 may, notwithstanding the provisions of clause 21, withhold payment of the commission to the Estate Agent, provided the Seller, the Estate Agent and the other estate agent, within 14 (fourteen) days after receipt by the Estate Agent of the written notification referred to in clause 16.3.1 above, conclude a tripartite arbitration agreement, in the form determined by the Estate Agency Affairs Board, to submit such dispute for decision by the Tribunal.

17. CERTIFICATE OF COMPLIANCE

- 17.1 On or prior to the Transfer Date, The Seller undertakes to provide the Purchaser, where necessary and at the Seller's cost, with the following certificates:
 - 17.1.1 a certificate of compliance in respect of the Section in terms of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act;
 - 17.1.2 a certificate in respect of the plumbing of the Section, signed by an accredited plumber, certifying that the water installation in respect of the Section conforms to the National Building Regulations and the City of Cape Town Water By-law of 2010 as published in Government Gazette No 6847 dated 18 February 2011; and

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17.1.3 a certificate of conformity for gas installations in the Section in terms of the Pressure Equipment Regulations of 2009 under the Occupational Health and Safety Act (where relevant).

17.2 Once provided with such certificates, the Purchaser shall have no claim whatsoever against the Seller in respect of the electrical, plumbing in the Section.

18 DEFAULT

If a party commits a breach of this agreement and/or fails to comply with any of the provisions hereof, then the other party shall be entitled to give the defaulting party 7 (Seven) days' notice in writing to remedy such breach and/or failure and if the defaulting party fails to comply with such notice, then the other party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which such party may have in law, including the rights to claim damages, to cancel this agreement or to claim immediate performance and/or payment of all the defaulting party's obligations in terms hereof. In the event that the defaulting party is the Purchaser and the Seller elects to cancel the agreement then it will be entitled, but not obliged, to retain all amounts paid by the Purchaser as a genuine pre-estimate of damage suffered by the Seller.

19 CESSION AND ASSIGNMENT OF RIGHTS

The Purchaser shall not be entitled to sell, assign, cede or make over its rights under this Agreement without the prior written consent of the Seller prior to the Transfer Date of the Unit. The Seller, however, may without prior notice to the Purchaser make over, cede and or transfer his rights in terms of this Agreement.

20 NOTICES AND DOMICILIA

20.1 The parties to the Agreement choose the addresses set out in A1 and A2 as their respective *domicilia citandi et executandi* (means **The physical address given by you which you have chosen where summonses, legal documents and notices can be served on you**) for all purposes arising here out and as their respective addresses for the service of any notices required to be served upon them hereunder.

20.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give such notice by telefax or email.

20.3 Either party may by notice to the other change the physical address chosen as its/his *domicilium*, or may advise a telefax number or email address or change the telefax number or email address, provided that such change(s) shall only become effective on the sixth business day after the date of receipt or deemed date of receipt of such notice by the addressee.

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- 20.4 Any notice to a party shall:
- 20.4.1 If sent by pre-paid registered post, be deemed to have been received on the fourth business day after posting unless the contrary is proved.
 - 20.4.2 If delivered by hand, shall be deemed to have been received on the day of delivery or on the next business day if the day of delivery is not a business day.
 - 20.4.3 If sent by telefax or email it shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day unless the contrary shall otherwise be proved.
- 20.5 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a party to this Agreement shall be an adequate written notice or communication to it/him notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi* or transmitted to such party's telefax number or email address as stipulated herein.

21 SELLING AGENTS COMMISSION

The Seller shall pay the Selling Agents commission for the sale of the property as agreed between them. The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any agent other than the Selling Agent named in clause **F of the Schedule**. ***The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against/suffered by the Seller arising out of a breach of any of the foregoing warranty. In the event of this Agreement being cancelled as a consequence of a breach on the part of the Purchaser, the Purchaser shall be liable for any sales commission due by the Seller to the agent who introduced the Property.***

22 JURISDICTION / COSTS

- 22.1 ***The Purchaser hereby consents in terms of Section 45 of the Magistrate's Court's Act No. 32 of 1944 as amended to the jurisdiction of any Magistrate's Court having jurisdiction over its person under Section 28 of that Act, notwithstanding that any action or proceeding arising out of this Agreement would otherwise be beyond the jurisdiction of such court. The Seller shall, however, have the right to institute action in any other Court of competent jurisdiction.***
- 22.2 ***The Purchaser agrees that in the event of the Seller instructing its attorneys and/or taking legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfill any of its obligations in terms hereof then the Purchaser shall pay all legal costs plus VAT incurred by the Seller in connection therewith as between attorney and own client, including commission laid down at the tariff rate applicable.***

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23 JOINT AND SEVERAL LIABILITIES

Should this Agreement be signed by more than 1 (one) person as Purchaser the obligations and liabilities of all the said signatories shall be joint and several.

24 TRUSTEE

24.1 *If this Agreement is entered into by the signatory for the Purchaser in his capacity as Trustee for a Company to be formed, then:*

24.1.1 *the said signatory by his signature hereto hereby binds himself in favour of the Seller as surety and co-principal debtor under renunciation of the benefits of division, excussion and cession of action for the due performance of all the obligations of the said Company in terms of or arising out of this Agreement or any cancellation hereof; and*

24.1.2 *without prejudice to the provisions of clause 24.1.1 in the event of such Company not being formed within 30 (thirty) days after the date of signature of this Agreement by the Purchaser and/or failing to ratify and make the provisions of this Agreement binding upon itself and/or failing within 7 (seven) days to deliver to the Conveyancers the originals or notarially certified copies of its certificate of incorporation, memorandum, articles of association, certificate to commence business and all necessary resolutions of shareholders and/or directors in respect of this sale in the case of a Company then and in any such event the said signatory shall be personally liable in terms hereof as if he had contracted in his own personal capacity.*

25 COMPANY / CLOSE CORPORATION / TRUST

If this Agreement is signed as Purchaser by a person purporting to act for and on behalf of a Company, Close Corporation or Trust (other than a Company not yet formed) he shall be deemed to warrant that he is duly authorised so to sign this Agreement and shall by his signature hereto bind himself in favour of the Seller as surety and co-principal debtor in solidum with such Company, Close Corporation or Trust under renunciation of the benefits of division, excussion and cession of action for the performance of all the obligations of the said Company, Close Corporation or Trust in terms of or arising out of this Agreement or any cancellation hereof.

26 RULES

The rules shall govern the Sectional Scheme.

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27 INTEREST [Only applicable in the event of a Breach]

Any interest, other than occupational interest, payable by the Purchaser in terms of this Agreement shall mean interest at the prime rate on overdraft facilities being that rate charged by Absa Bank Limited to its best customers in the private sector on unsecured loans from time to time. A certificate signed by the Manager of any branch of the said bank be sufficient proof of the said prime rate charged from time to time.

28 OFFER ACCEPTANCE

In as much as this Agreement, signed by the Purchaser and delivered to the Seller, shall constitute an offer to purchase the Property, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller signing same within 60 (sixty) days after the date of signature thereof by the Purchaser.

29. 96 HOUR CLAUSE

Should the Seller, receive another offer to purchase the Property with no suspensive conditions or less onerous suspensive conditions in the Seller's discretion, then the Seller may give the Purchaser 96-hours written notice to waive the suspensive conditions in this agreement or prove that the suspensive conditions contained herein, have been fulfilled, thereby binding the Purchaser unconditionally to the agreement failing which, the agreement will lapse and be of no further force or effect.

30. DIRECT MARKETING COOLING OFF RIGHT

30.1 In terms of section 16 of the CPA, if this sale has resulted from direct marketing by the Seller or its agents the Purchaser has the right to cancel this agreement without reason or penalty by written notice within 5 (five) business days after the agreement was concluded, or within 5 (five) business days after delivery of the Property.

30.2 The Seller is unable to accept the risk of cancellation without reason within 5 (five) business days of delivery as the Seller could in the interim have sold the Property to someone who was not so affected. In addition, if the transaction is cancelled after delivery to the Purchaser the Seller will be left to carry the holding costs of the Property for an uncertain period whilst looking for a replacement Purchaser. This has the potential to create substantial losses for the Seller.

30.3 The Seller is therefore not prepared to enter into this agreement with any Purchaser if the transaction has resulted from direct marketing.

30.4 *The Purchaser therefore warrants that this transaction has not resulted from direct marketing and the Seller enters into this transaction relying entirely upon such a warranty.*

30.5 *If after delivery, the Purchaser is successful in cancelling this agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the CPA,*

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the Purchaser shall be liable for the damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of warranty.

31 GENERAL

- 31.1 ***The parties hereto acknowledge that this Agreement represents the entire Agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever express or implied have been made by either party or their agents other than as set forth in this Agreement.***
- 31.2 No variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.
- 31.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect prejudice or derogate from the rights of such party in respect of this Agreement not shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.
- 31.4 Should any provision of this Agreement be held to be unenforceable, illegal or invalid for any reason whatsoever, such provision shall in the first instance be construed and interpreted to the minimum extent necessary so as to comply with the relevant legislation or law. Should such interpretation not be possible, then such provision shall be treated as *pro non scripto* and will be separate and severable from the remaining provisions of this Agreement which shall continue to be of full force and effect, and his Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein. In such event, this Agreement shall be carried out as nearly as possible according to its original terms and intent, and the Parties further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- 31.4 ***The Purchaser acknowledges that all artistic, architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets, used by the Seller or its agents in the marketing and selling of the Unit/s or Exclusive Use areas hereby purchased and sold, have been prepared and distributed as advertising material only and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby and that no representation is thereby made by the Seller and that the parties shall be bound by the terms contained in this Agreement only.***
- 31.5 In terms of the National Environmental Management: Biodiversity Act 10/2004 Alien and Invasive Species Regulations, 2014, The Seller declares that to the best of his knowledge there are no Invasive Alien Species, as per the National register of alien and listed invasive species, present on the property.

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As Witnesses:

1. _____

2. _____

PURCHASER

1. _____

2. _____

Date:

Place:

As Witnesses:

1. _____

2. _____

SELLER

Date:

Place:

As Witnesses:

1. _____

2. _____

CONTRACTOR

Date:

Place:

The Purchaser is once again alerted to the fact that by signing this agreement the Purchaser will, on signature by the Seller, be contractually bound to an agreement with the Seller. The Purchaser should therefore not sign this agreement until the Purchaser has carefully considered the merits of the agreement and allowed enough time for consideration thereof. As already mentioned on the first page of this agreement the Purchaser must ask for an explanation for any portion of this agreement which the Purchaser does not understand and preferably get the explanation in writing. The portions of the agreement that are in bold print are especially important.

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ANNEXURE A

Plans (Consisting of Floor Plan of The Unit & Parking)

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ANNEXURE B

List of Finishes and Project Specifications

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ANNEXURE D

List of Extras

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