

CONTRACT OF SALE : SECTIONAL TITLE : PHASED DEVELOPMENT : MSUNDUZI COUNTRY LIFESTYLE ESTATE : PHASE 1

entered into by :

NEWINVEST 37 (PTY) LTD

Registration No. 2000/001156/07

herein represented by _____ he being duly authorised by Resolution of Directors
(the "SELLER")

Physical Address: Edstan Business Park, 2 Ibhubesi Road, Riverhorse Valley Business Estate, Durban

Postal Address: P.O. Box 401263, Redhill, 4051

and

Name
.....
(the "PURCHASER")

Postal Address
..... Code

Physical Address
..... Code

Tel. No (Home) (Business)

Cell No

Fax No.

Email Address.

Identity No./Registration No.

Marital Status (if the PURCHASER is an individual)

INTRODUCTION

A The SELLER intends erecting a Sectional Title development on the PARENT PROPERTY comprising a maximum of 133 dwellings units and 16 storage units and applying in terms of the provisions of the Sectional Titles Act, No 95 of 1986, as amended, for the opening of a sectional title register in respect of the aforesaid development.

B The SELLER has agreed to sell, and the PURCHASER has agreed to buy, the PROPERTY on the terms and conditions as set out herein.

| | | |
|------|---|---|
| 1.9 | The anticipated <u>latest</u> date that possession of the SECTION shall be given to the PURCHASER (see paragraph 4 of the CONDITIONS OF SALE) | 30 April 2022 |
| 1.10 | Name of ARCHITECT nominated by SELLER | Millenium Consortium Architects |
| 1.11 | Estate Agent | _____ of |
| | Estate Agency | _____ |
| 1.12 | Permitted use of SECTION | Residential |
| 1.13 | Proposed name of the SCHEME | MSUNDUZI COUNTRY LIFESTYLE ESTATE |
| 1.14 | PARENT PROPERTY description | Erf 9923 Pietermaritzburg, Registration Division FT, Province of Kwazulu-Natal, |
| 1.15 | Latest date by which the Sectional Title Register of the SCHEME will be opened | 1 October 2021 |
| 1.16 | The amount payable by the PURCHASER towards the Levy Stabilisation Fund established by the BODY CORPORATE (see paragraph 3.4 of the CONTRACT OF SALE) | R5 000.00 |

**** Delete if not applicable**

2 **SALE**

- 2.1 Subject to and in accordance with the provisions hereof and the CONDITIONS OF SALE annexed hereto as **Annexure "A"**, the SELLER sells and the PURCHASER purchases the PROPERTY.
- 2.2 The SECTION shall be erected substantially in accordance with the PLAN. The PURCHASER agrees that he shall not be entitled to amend or procure any amendments to the PLAN. The PURCHASER acknowledges that the SECTION will be situated on the PARENT PROPERTY in substantially the position as indicated on the SITE PLAN and is to be built in accordance with the PLAN (see clause 3.1 of the CONDITIONS OF SALE).
- 2.3 The PURCHASER agrees that the precise extent, boundaries and description of the PROPERTY shall be as shown on the sectional plan and as finally determined and approved by the Surveyor-General and/or the relevant competent authorities and shall be binding upon the parties, provided always that the area of the SECTION shall be within 5% (FIVE PERCENT) of the area as stated in 1.2 of the CONTRACT OF SALE.

3 **PAYMENT OF THE PURCHASE PRICE**

- 3.1 It is recorded that the PURCHASER has made payment of the amount referred to in 1.5.1 above, to the SELLER in terms of the OPTION AGREEMENT, which amount shall be deemed to be set-off against the purchase price of the PROPERTY on the DATE OF TRANSFER.
- 3.2 The amount referred to in 1.5.2 of the CONTRACT OF SALE has been paid to the CONVEYANCERS by the PURCHASER. Such payment shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver account, all interest to accrue for the benefit of the PURCHASER until the DATE OF TRANSFER whereupon the CONVEYANCERS shall release the capital to the SELLER and all accrued interest, less their usual fee, to the PURCHASER (after deduction of any amounts due to the SELLER in terms of this CONTRACT by the PURCHASER). The PURCHASER acknowledges that the CONVEYANCERS are not able to invest the amount referred to in 1.5.2 nor any other amount paid into trust with the CONVEYANCERS, on the PURCHASER'S behalf, until such time as the PURCHASER has complied with all the requirements of the Financial Intelligence Centre Act No. 28 of 2001 and has signed the necessary investment mandate, both of which the PURCHASER undertakes to do as soon as reasonably possible in the circumstances.
- 3.3 Subject to 3.4 below, the PURCHASER shall secure the due payment of the amount referred to in 1.6 of the CONTRACT OF SALE by furnishing the CONVEYANCERS with a guarantee from a registered South African commercial bank, in a form and on terms acceptable to the CONVEYANCERS for such amount. Such guarantee shall be furnished by the PURCHASER within 14 days of request therefor by the CONVEYANCERS, provided that if the PURCHASER requires a loan for the amount stated in 1.7 of the CONTRACT OF SALE, such guarantee shall not be called for until the loan has been granted. The aforesaid guarantee shall be payable on the DATE OF TRANSFER.
- 3.4 Alternatively, the PURCHASER shall be entitled to pay the amount referred to in 1.6 to the CONVEYANCERS by way of Electronic Funds Transfer into the CONVEYANCERS' Trust Account (the details of which are as follows : GARLICKE & BOUSFIELD INC; STANDARD BANK; KINGSMEAD BRANCH; ACCOUNT NO. 050 128 760; BRANCH CODE: 040 026) within the aforesaid 14 day period, which amount shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver account, with all interest to accrue for the benefit of the PURCHASER. This amount shall be paid to the SELLER by the CONVEYANCERS on the DATE OF TRANSFER and in the event of the PURCHASER choosing this alternative, the PURCHASER shall be deemed to have irrevocably instructed the CONVEYANCERS to deal with the amount in this manner (i.e. to pay the aforesaid amount to the SELLER on the DATE OF TRANSFER). The interest on the aforesaid amount, shall be released to the PURCHASER on the DATE OF TRANSFER, (after deduction of the CONVEYANCER'S usual fee).
- 3.5 The amount referred to in 1.16 of the CONTRACT OF SALE, shall be paid by the PURCHASER to the CONVEYANCERS, within 7 (SEVEN) days of request for such payment by the CONVEYANCERS. Such payment shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver account, all interest to accrue for the benefit of the PURCHASER until the DATE OF TRANSFER, whereupon the CONVEYANCERS shall release the capital to the BODY CORPORATE (as the PURCHASER'S contribution to the BODY CORPORATE'S Levy Stabilisation Fund), and all accrued interest, less their usual fee, to the PURCHASER.

3.6 It is recorded that the Total Consideration, referred to in paragraph 1.4 of the CONTRACT OF SALE, is inclusive of Value Added Tax at the rate of 15%. The parties agree that, should there be any change in the rate of Value Added Tax applicable at the time of supply, as determined in accordance with the Value Added Tax Act 89 of 1991, the Total Consideration shall be amended to take into account the adjustment in the Value Added Tax rate.

3.7 Unless otherwise provided, all payments hereunder shall be made without set-off, deduction or demand to the SELLER at the offices of the CONVEYANCERS. All bank charges incurred by the CONVEYANCERS in connection with this transaction, shall be for the account of the PURCHASER.

4. **PHASED DEVELOPMENT**

This sale is subject to the following special conditions, which are imposed by the SELLER in terms of Section 11(2) of the ACT:

4.1 The SELLER in terms of Section 25 of the ACT hereby reserves for itself the real right to extend, for its personal account, the SCHEME by the erection and completion from time to time but within a period of 20 (TWENTY) years of:

4.1.1 a further building or buildings,

4.1.2 a horizontal extension of an existing building or buildings and

4.1.3 a vertical extension of existing buildings

on that part of the common property outlined on the plan which is Annexure "C" to this CONTRACT, to divide such building or buildings into a section or sections and common property and to confer the right of exclusive use over parts of such common property upon the owner or owners of one or more of such sections in the SCHEME.

*5 **CONSUMER PROTECTION ACT**

5.1 The PURCHASER, who is a JURISTIC PERSON, warrants to the SELLER that its asset value or annual turnover, at the DATE OF SIGNATURE and the DATE OF TRANSFER, shall equal or exceed the threshold determined by the Minister in terms of section 6 of the CPA (namely, R2,000,000.00 (TWO MILLION RAND)) and, as a consequence, the sale of the PROPERTY to the PURCHASER in terms of this CONTRACT, is exempt from the provisions of the CPA (save for the provisions of section 60 and 61 of the CPA).

5.2 It is recorded that the aforesaid warranty is material to the SELLER in entering into this CONTRACT.

5.3 The PURCHASER undertakes, within 7 (SEVEN) days of being requested to do so by the SELLER, to furnish the SELLER with its last audited financial accounts, and such other financial information in respect to the PURCHASER as the SELLER may reasonably require, in order to confirm that the PURCHASER'S asset value and/or turnover is as warranted in paragraph 5.1 above.

** Delete if not applicable*

DATED at.....this..... day of 2020

AS WITNESS:

1.

PURCHASER:

I acknowledge that I am acquainted with and understand the contents of this CONTRACT and that all the annexures referred to in this CONTRACT were attached hereto when I signed same.

CONSENTING SPOUSE

This portion to be signed by legal guardian / member / director/ trustee in the event of the PURCHASER being a minor / close corporation / company / trust.

.....
(Full names of the Guarantor)

of

.....
(Full address and telephone number)

hereby consents to the conclusion of this CONTRACT and guarantees and binds himself/herself as surety for and co-principal debtor in solidum with the PURCHASER to the SELLER for the due and punctual fulfilment and discharge of all the obligations undertaken by the PURCHASER to the SELLER pursuant to this CONTRACT, under renunciation of the benefits of excussion and division with the meaning and effect of which benefits and the renunciation thereof he acknowledges himself to be acquainted. No variation or amendment or novation of this CONTRACT shall prejudice the suretyship obligations hereby undertaken by the aforesaid guarantor, the object being that he shall remain liable at all times as surety and co-principal debtor, even if this CONTRACT is varied or amended or novated and even if the aforesaid PURCHASER is granted an indulgence by the SELLER.

DATED at.....this..... day of 2020

AS WITNESS :

1.

Guarantor

DATED at.....this..... day of 2020

AS WITNESS:

1.

NEWINVEST 37 (PTY) LTD
("the SELLER")

ANNEXURE "A"

CONDITIONS OF SALE

1 DEFINITIONS AND INTERPRETATION

For the purposes of the CONTRACT OF SALE and the CONDITIONS OF SALE, unless the context indicates to the contrary -

- 1.1 "ACT" means the Sectional Titles Act No. 95 of 1986 (as amended) and any regulations in force thereunder, as read with the Sectional Titles Schemes Management Act No. 8 of 2011 and all regulations thereto;
- 1.2 "ARCHITECT" means the architect nominated by the SELLER in terms of paragraph 1.10 of the CONTRACT;
- 1.3 "BODY CORPORATE" means the future Body Corporate of the SCHEME as contemplated in the ACT;
- 1.4 "this CONTRACT" means the CONTRACT OF SALE and all **Annexures** thereto;

- 1.5 "CONTRACT OF SALE" means the contract of sale to which these conditions of sale are **Annexure "A"**;
- 1.7 "CONDITIONS OF SALE" means these conditions of sale;
- 1.8 "CONVEYANCERS" means Garlicke & Bousfield Incorporated, 7 Torsvale Crescent, La Lucia Ridge, 4051 (Telephone No: 031 570 5300, Facsimile No: 031 570 5302);
- 1.9 "CPA" means the Consumer Protection Act No. 68 of 2008;
- 1.10 "DATE OF SIGNATURE" means the date of signature of this CONTRACT by the last signing of the SELLER or the PURCHASER;
- 1.11 "DATE OF POSSESSION" means the date that the SELLER specifies, in a written notice to the PURCHASER, that the PROPERTY shall be sufficiently complete for beneficial occupation (as contemplated in paragraph 4.1 of the CONDITIONS OF SALE);
- 1.12 "DATE OF TRANSFER" means the date of registration of transfer of the PROPERTY into the name of the PURCHASER in the Deeds Registry in Pietermaritzburg;
- 1.13 "EXCLUSIVE USE AREA" means those portions of the common property of the SCHEME referred to in 1.3 of the CONTRACT OF SALE;
- 1.14 "GARDEN EXCLUSIVE USE AREA" means that portion of the common property of the SCHEME specifically referred to in paragraph 1.3.3 of the CONTRACT OF SALE, the position of which is shown on the PLAN;
- 1.15 "JURISTIC PERSON, means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;
- 1.15 "LOCAL AUTHORITY" means the Msunduzi Municipality;
- 1.17 "OPTION AGREEMENT" means the Option Agreement entered into between the SELLER and the PURCHASER, in terms of which the SELLER granted the PURCHASER an option to purchase the PROPERTY and to which this document is Annexure "O";
- 1.18 "PARENT PROPERTY" means the property described in paragraph 1.14 of the CONTRACT OF SALE;
- 1.19 "PLAN" means the plan of the SECTION, and schedule of finishes in respect thereof, being **Annexure "D"** to the CONDITIONS OF SALE;
- 1.20 "PURCHASER" means the purchaser in terms of this CONTRACT designated as such in the introductory section of the CONTRACT OF SALE;

- 1.21 "PROPERTY" means the unit to be established in terms of the ACT, consisting of:
- 1.21.1 the SECTION and
- 1.21.2 an undivided share in the common property in the SCHEME apportioned to the SECTION in accordance with the participation quota to be specified on the sectional plan (the estimate of which is set out in the schedule Annexure "B" hereto. It is recorded that Annexure "B" hereto is an estimate of the participation quota of the SCHEME, which is subject to variation once the SCHEME has been completed and measured by the SELLER'S appointed professional land surveyor);
- 1.22 "PURCHASER" means the PURCHASER in terms of this CONTRACT designated as such in the introductory section of the CONTRACT OF SALE;
- 1.23 "RULES" means the rules of the BODY CORPORATE;
- 1.24 "SECTION" means the proposed section in the SCHEME, referred to in paragraph 1.1 of the CONTRACT OF SALE, which section is shown on the PLAN;
- 1.25 "SCHEME" means the proposed sectional title scheme comprising the PARENT PROPERTY and all buildings constructed and to be constructed thereon;
- 1.26 "SELLER" means Newinvest 37 (Pty) Ltd, Registration Number 2000/001156/07;
- 1.27 "SITE PLAN" means the plan which is **Annexure "C"** hereto;
- 1.28 words importing a gender shall include all genders and the singular shall include the plural and vice versa;
- 1.29 words or expressions defined in the ACT shall have the same meanings in this CONTRACT;
- 1.30 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;
- 1.31 if the PURCHASER consists of more than one person, such persons shall be jointly and severally liable in solidum for all their obligations in terms of this CONTRACT;
- 1.32 no indulgence or relaxation which the SELLER may allow to the PURCHASER in regard to the carrying out of the PURCHASER'S obligations in terms of or pursuant to this CONTRACT shall prejudice the SELLER'S rights under this CONTRACT in any manner whatsoever, or be regarded as a waiver of the SELLER'S rights in terms of this CONTRACT, or be construed to act as an estoppel against the SELLER to otherwise strictly enforce compliance of the PURCHASER'S obligations in terms of this CONTRACT;

- 1.33 if there is any conflict between the provisions or the information in the CONTRACT and the plans and schedules which constitute annexures to the CONTRACT OF SALE, the provisions of the CONTRACT OF SALE shall prevail and be regarded as correct and binding;
- 1.34 any reference to a natural person shall include the legal person and/or an association of persons and vice versa;
- 1.35 where an expression has been defined, and such definition contains a provision conferring rights or imposing obligations on any party, effect shall be given to the provision as if it was a substantive provision contained in the body of this CONTRACT;
- 1.36 if a number is reflected in numerals and words, the words shall prevail in the event of any conflict between the two; and
- 1.37 where a number of days are prescribed, they shall consist of all days (i.e. including Saturday, Sunday and Public Holidays) and shall exclude the first day and include the last day.
- 1.38 in interpreting this CONTRACT, no provision shall be construed in a limiting fashion or in accordance with the Eiusdem Generis Rule (i.e. whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" in specific examples, such examples must not be construed as to limit the general ambit of the provision concerned).
- 1.39 the provisions of this CONTRACT, shall be read in conjunction with the provisions of the CPA (insofar as the CPA is applicable), and insofar as the provisions of this CONTRACT are inconsistent with the provisions of the CPA, the provisions of the CPA shall prevail;
- 1.40 reference to a natural person shall include a JURISTIC PERSON and vice versa;
- 1.41 any reference to any statute, legislation or regulations shall be deemed to include any lawful amendments thereto or re-enactments thereof;
- 1.42 this CONTRACT shall be governed by and construed according to the Laws of the Republic of South Africa;
- 1.43 the expiration or termination of this CONTRACT shall not affect those provisions of this CONTRACT which expressly provide that they will operate after any such expiration or termination or, which out of necessity must continue to have effect after such expiration, notwithstanding the fact that the paragraphs do not expressly provide this;
- 1.44 to the extent that the CONTRACT is signed on a date which results in the use of any tense being inappropriate, the CONTRACT shall be read in the appropriate tense;
- 1.45 a fully executed facsimile copy of this CONTRACT shall be accepted as an original and this CONTRACT may be signed in counterparts and will be effective as such, each of which will be deemed an original and all of which together shall constitute one and the same CONTRACT as at the date of signature of the party last signing one of the counterparts;

1.45 this CONTRACT shall be binding on and enforceable by the administrators, trustees, successors in title, successors in office, assigns or liquidators of the parties as fully and effectually as if they had signed this CONTRACT in the first instance and reference to any party shall be deemed to include such party's administrators, trustees, successors in title, successors in office, assigns or liquidators, as the case may be;

1.46 this CONTRACT incorporates the annexures (if any), which annexures shall have the same force and effect as the provisions set out in the body of this CONTRACT. The various documents forming part of this CONTRACT are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the CONTRACT will prevail.

*2 **LOAN FROM FINANCIAL INSTITUTION**

2.1 This CONTRACT is subject to, and conditional upon, the PURCHASER being granted a loan, in principle, from a registered South African commercial bank for the amount stated in 1.7 of the CONTRACT OF SALE by no later than the date stated in 1.7 of the CONTRACT OF SALE. The PURCHASER undertakes to make application for the aforesaid loan, and to do whatever else may be reasonably required in this regard, as soon as possible in the circumstances, and further undertakes to advise the SELLER, as soon as possible in the circumstances, of the outcome of the aforesaid loan application. Should the aforesaid loan not be granted by the date stated in 1.7 of the CONTRACT OF SALE (or such later date as the SELLER may agree to in writing), then in that event, this CONTRACT shall lapse and be of no further force and effect between the parties. In the event of the CONTRACT lapsing as contemplated above, the SELLER shall forthwith repay or procure the repayment of the amount paid by the PURCHASER in respect of the purchase price as referred to in paragraph 1.5 of the CONTRACT, after deduction of the CONVEYANCERS agreed wasted costs in this regard, in the amount of R3 000.00 (including Value Added Tax). It is recorded that this clause has been inserted for the benefit of both the SELLER and the PURCHASER and neither party shall be entitled to unilaterally waive compliance therewith.

2.2 In order to expedite the DATE OF TRANSFER, it is the intention of the SELLER and the PURCHASER that the CONVEYANCERS be appointed by the bank, granting the loan referred to in paragraph 2.1 of the CONDITIONS OF SALE, to attend to the registration of the mortgage bond over the PROPERTY in favour of the aforesaid bank on the DATE OF TRANSFER. The PURCHASER undertakes to utilize its best endeavours to prevail upon the aforesaid bank to appoint the CONVEYANCERS in this regard.

2.3 It is specifically recorded that it is not a condition of this CONTRACT that the PURCHASER shall be required to sign a letter of satisfaction in respect of the SECTION, once same is completed, before transfer of the PROPERTY into the PURCHASER'S name. Should the transfer of the PROPERTY be delayed due to the PURCHASER'S refusal to sign a letter of satisfaction (or such similar document) which the bank referred to in paragraph 2.1 of the CONDITIONS OF SALE, may require to be signed prior to the DATE OF TRANSFER, then in that event, the PURCHASER shall be deemed to be delaying the DATE OF TRANSFER which will entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 19 of the CONDITIONS OF SALE and, in addition, the PURCHASER shall be deemed to be in breach of the conditions of this CONTRACT entitling the SELLER to, inter

alia, cancel the CONTRACT should the PURCHASER not rectify such breach within 7 (SEVEN) days of receipt of the notice contemplated in paragraph 9.1 of the CONDITIONS OF SALE.

** Delete if not applicable*

3. COMPLETION OF THE SECTION

- 3.1 The SELLER hereby undertakes to procure that the SECTION is erected substantially in accordance with the PLAN and is sufficiently complete for beneficial occupation, by the DATE OF POSSESSION, provided the PURCHASER has duly secured the Total Consideration referred to in 1.4 of the CONTRACT OF SALE (as contemplated in paragraph 3 of the CONTRACT OF SALE).
- 3.2 The PURCHASER shall not give any instructions of any nature to the ARCHITECT, contractor or sub-contractor(s). Should the SELLER agree to any deviation from the PLAN, such deviation shall be reduced to writing and signed by the parties hereto and any amounts payable in terms of such deviation shall be payable by the PURCHASER to the SELLER on demand.
- 3.3 The PURCHASER shall, within 10 (TEN) days of the DATE OF POSSESSION, deliver to the SELLER a list, signed by himself, enumerating any defects in the SECTION where same are due to defective materials or workmanship, and the SELLER shall procure that such defects are made good as expeditiously as possible in the circumstances. Once such defects have been made good to the satisfaction of the ARCHITECT (acting as an expert and not an arbitrator and whose decision shall be final and binding on the parties), the PURCHASER shall have no further claim against the SELLER, save as otherwise provided for herein. Should the PURCHASER fail to deliver the aforesaid list to the SELLER within the aforesaid 30 (THIRTY) day period, then in that event, the PURCHASER shall be deemed to have inspected the SECTION and not found any defects therein.
- 3.4 Save as provided in this CONTRACT and the CPA to the contrary, the PURCHASER purchases the PROPERTY voetstoots and shall have no claim against the SELLER in respect of any defects whether latent or patent in the PROPERTY or the common property of the SCHEME.
- 3.5 If there is any dispute between the PURCHASER and the SELLER as to whether the SECTION has been constructed substantially in accordance with the PLAN and/or has been erected in substantially the position as reflected in the SITE PLAN and/or is sufficiently complete for beneficial occupation and/or whether there are any defects in the SECTION due to defective materials or workmanship, then such dispute shall be referred to the ARCHITECT (acting as an expert and not as an arbitrator) whose decision shall be final and binding upon the parties.
- 3.6 The PURCHASER acknowledges that after the completion of the SECTION the SELLER and/or its agents, contractors and workmen may be engaged in erecting other buildings, driveways and other structures on the PARENT PROPERTY and the PURCHASER agrees that the SELLER and/or its agents, contractors and workmen shall at all times have reasonable access to the PARENT PROPERTY for the purposes of carrying out such work as may be necessary to enable the SELLER to procure the erection and layout of the aforementioned dwellings, driveways and other structures. The PURCHASER shall have no claim whatever against the SELLER by reason of any

inconvenience or interference with the PURCHASER'S rights arising hereout and the PURCHASER shall not, in any way whatsoever, interfere with the performance of the aforesaid work.

- 3.7 The SELLER warrants that the PROPERTY will be enrolled with the National Home Builders Registration Council as contemplated in the Housing Consumer Protection Measures Act, No. 95 of 1998.
- 3.8 As is required in terms of Section 13(2)(a) of the aforesaid Act 95 of 1998, the SELLER warrants that:
- 3.8.1 the SECTION shall be constructed in a proper and workmanlike manner;
- 3.8.2 the SECTION will be fit for habitation on the DATE OF POSSESSION;
- 3.8.3 the SECTION shall be constructed in accordance with:
- 3.8.3.1 the National Home Builders Registration Council Technical Requirements to the extent applicable to the SECTION at the date of enrolment of such SECTION with the National Home Builders Registration Council; and
- 3.8.3.2 the terms, plans and specifications referred to in this CONTRACT;
- 3.9 As provided for in Section 13(2)(b) of the aforesaid Act 95 of 1998, the SELLER undertakes to:
- 3.9.1 rectify any major structural defects in the SECTION caused by non-compliance with the National Home Builders Registration Council's Technical Requirements which occur within a period of five (5) years from the DATE OF POSSESSION and of which the SELLER is notified of by the PURCHASER within that period;
- 3.9.2 rectify non-compliance with or deviation from the terms, plans and specifications referred to in this CONTRACT or any deficiency related to design, workmanship or material, of which the SELLER is notified by the PURCHASER of within a period of three (3) months from the DATE OF POSSESSION;
- 3.9.3 repair roof leaks attributable to workmanship, design or materials occurring and of which the SELLER is notified by the PURCHASER of within a period of twelve (12) months from the DATE OF POSSESSION.
- 3.10 In no way detracting from the generality of any other provision in this CONTRACT, it is recorded that the SELLER may, at the SELLER's discretion, elect not to install any item on the schedule of finishes (which forms part of the PLAN), provided that the SELLER installs a similar item of similar quality in its place. In the event of there being any dispute as to whether the item installed by the SELLER is of a similar quality, a certificate by the ARCHITECT (acting as an expert and not an arbitrator) certifying that such item is of a similar quality, shall be final and binding on the parties.
- 3.11 It is recorded that the schedule of finishes of the SECTION, which forms part of the PLAN, makes provision for the PURCHASER to choose certain finishes for the SECTION from a selection to be provided by the SELLER. The PURCHASER shall be obliged to make its selection in this regard within 15 (FIFTEEN) days after the SELLER gives

the PURCHASER notice that the aforesaid finishes, are available for inspection, failing which the SELLER will be entitled to make this selection on the PURCHASER'S behalf.

3.12 Again in no way detracting from the SELLER'S rights in terms of this CONTRACT or at law, is specifically recorded that the PURCHASER shall not be entitled to delay or refuse to comply with his obligations in terms of this CONTRACT (including, but in no way limited to the payment of the deposit(s) and the furnishing of the guarantees referred to in paragraph 3 of the CONTRACT OF SALE), if it disputes that the PROPERTY is sufficiently complete for beneficial occupation or should it believe that the SELLER has not complied with his obligations in terms of paragraph 3.3 of the CONDITIONS OF SALE.

3.13 Notwithstanding anything contained herein or elsewhere, under no circumstances whatsoever, shall the SELLER be liable to make good any damage to any unit or the common property of the SCHEME caused by the PURCHASER or the PURCHASER'S employees, contractors, agents, representatives or any other person who comes upon the SCHEME by virtue of the PURCHASER'S rights thereto. Further, the PURCHASER shall be liable for the costs of repairing any damage caused to the common property or any unit in the SCHEME by the PURCHASER, its contractors, agents, representatives, employees or other persons who come upon the SCHEME by virtue of the PURCHASER'S rights thereto.

3.14 Notwithstanding anything contained herein or elsewhere, and in no way detracting from the generality of any other provision of this CONTRACT, it is specifically recorded that the SELLER shall not be liable for the rectification of any defects or faults in the SECTION caused by surface water, storm water or rain water, normal settlement or cracking resulting from normal settlement, normal shrinkage, thermo cracking, geological disturbances, or normal wear and tear from use or neglect by the PURCHASER.

3.15 It is recorded that the SECTION is a "special order good" as contemplated and defined in the CPA, in that the detailed design and specifications of the SECTION (as set out in Annexure "D" hereto) have been formulated and altered to meet the PURCHASER'S requirements.

4 **OCCUPATION DATE**

4.1 The SELLER shall give the PURCHASER at least 35 (THIRTY FIVE) days written notice of the date on which the SECTION shall be sufficiently complete for purposes of beneficial occupation, which date (subject to the provisions of paragraph 4.4 below), shall be the DATE OF POSSESSION for the purposes of this CONTRACT.

4.2 Should the SECTION not be complete for the purposes of beneficial occupation by the date stated in 1.9 of the CONTRACT OF SALE, then in that event, either party shall be entitled to resile from this CONTRACT on written notice to the other, provided that such notice is given within 7 (SEVEN) days of the date stated in 1.9 of the CONTRACT OF SALE. In the event of either party resiling from this CONTRACT as contemplated in this paragraph 4.2, then in that event, this CONTRACT shall lapse and be of no further force and effect between the parties, save that the PURCHASER shall be entitled to a refund of all amounts paid in respect of the purchase price of the PROPERTY together with all interest that may have accrued thereon while invested with the CONVEYANCERS (less the CONVEYANCERS usual fee).

- 4.3 In the event of any dispute as to when or whether the SECTION is sufficiently complete for beneficial occupation, a certificate by the ARCHITECT (acting as an expert and not an arbitrator) certifying that the SECTION is sufficiently complete for beneficial occupation, shall be final and binding upon the parties.
- 4.4 Notwithstanding anything contained herein, the PURCHASER shall not be entitled to occupation of the SECTION until such time as the Total Consideration, referred to in paragraph 1.4 of the CONTRACT OF SALE, has been secured in full, as contemplated in paragraph 3 of the CONTRACT OF SALE. Should the SECTION be sufficiently complete for beneficial occupation but the amount referred to in 1.4 not have been secured in full, then in that event (without prejudice to the SELLER's rights to claim specific performance or to any other rights the SELLER may have in terms of this CONTRACT or at law) possession and occupation of the SECTION shall only be given to the PURCHASER once such amount has been secured and the date of securement shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT.
- 4.5 Unless otherwise agreed by the SELLER and the PURCHASER in writing, it shall be incumbent upon the PURCHASER to collect the keys and access devices to the PROPERTY, from the offices of the SELLER on the DATE OF POSSESSION, during normal working hours. It is specifically recorded that the failure of the PURCHASER to collect the aforesaid keys and access devices or to actually take occupation of the PROPERTY, shall in no way vary the DATE OF POSSESSION or the PURCHASER'S obligations provided for in this CONTRACT.
- 5 RIGHTS AND OBLIGATIONS IN RESPECT OF OCCUPATION**
- 5.1 The PURCHASER acknowledges that, on the DATE OF POSSESSION, the SCHEME may be incomplete and that he and every person claiming occupation and use through him may suffer inconvenience from building operations and from noise and dust resulting therefrom (particularly in respect of building activity and the like undertaken in future phases of the SCHEME) and the PURCHASER shall have no claim whatsoever against the SELLER, by reason of any such inconvenience.
- 5.2 From the DATE OF POSSESSION the PURCHASER –
- 5.2.1 shall be entitled to beneficial occupation of the SECTION and the SECTION shall be used only for residential purposes subject to compliance with the RULES, and for no other purpose whatsoever;
- 5.2.2 shall, at his own expense, maintain the interior of the SECTION in a good, clean and thoroughly tenable and attractive condition, and where necessary repair or refurbish any damaged item and replace any lost item;
- 5.2.3 shall, at his own expense, maintain in a good working order and condition all electrical, plumbing and sewerage installations and appurtenances of whatever nature, serving the SECTION;

- 5.2.4 shall, if the SECTION is separately metered for the supply of electricity and/or water thereto, make arrangements with the suppliers to obtain the relevant connections and shall pay for any consumption of electricity/water;
- 5.2.5 shall be entitled to the use and enjoyment, along with occupiers of other sections in the SCHEME, of those parts of the common property of the SCHEME not subject to rights of exclusive use, subject to the RULES. In using the common property of the SCHEME, the PURCHASER shall do so in such a manner so as to not interfere unduly or unreasonably with the lawful rights of the use and enjoyment thereof by other occupiers of the sections in the SCHEME or other persons lawfully upon the SCHEME. The PURCHASER shall procure that all other occupants of the SECTION comply with the provisions of this CONTRACT;
- 5.2.6 shall at all times comply with the provisions of the ACT and the RULES;
- 5.2.7 waives all claims against the SELLER for any loss or damage to property or any injury to person which the PURCHASER may sustain in or about the PARENT PROPERTY and indemnifies the SELLER against any claim that may be made against the SELLER by an employee of the PURCHASER'S or any tenant, nominee, invitee or any other person who goes upon the PARENT PROPERTY by virtue of the PURCHASER'S rights thereto, for any loss or damage to property or injury to person suffered in or about the PARENT PROPERTY howsoever such loss or damage to property or injury to person may be caused (save for any loss or damage to property or injury to person caused by the intentional or grossly negligent acts of the SELLER);
- 5.2.8 shall not, prior to the DATE OF TRANSFER, without the prior written consent of the SELLER make or cause or allow to be made any change or improvements to the SECTION or remove or demolish any improvements whatever. If any such changes or improvements are made, with or without the prior aforesaid written consents then, without prejudice to any rights the SELLER may have in terms of the CONTRACT or at law, the PURCHASER shall not have any claim against the SELLER in respect of any expenditure upon or improvements to the SECTION;
- 5.2.9 shall be liable for the payment of all services provided to the SECTION in the form of telephones, television, electricity and water and any deposits payable in connection with the supply of any such services and
- 5.2.10 shall be liable for the payment of all rates and other outgoings arising from the SECTION (in this regard, it is recorded that, in the event of the local authority failing to amend its records timeously to reflect the PURCHASER as the owner of the SECTION, and as a consequence the SELLER is billed for the rates payable in respect of the SECTION after the PURCHASER shall become liable for the payment of same as aforesaid, then in that event, the PURCHASER shall pay such rates contribution to the SELLER, who shall in turn make payment of same to the local authority until such time as the local authority has amended their records accordingly).
- 5.3 All the benefit of and risk in and to the PROPERTY shall pass to the PURCHASER on the DATE OF POSSESSION.

- 5.4 The SELLER either personally or through their servants or agents shall be entitled at all reasonable times to have access to the SECTION and the common property of the SCHEME for the purpose of inspection or to carry out any maintenance or repairs whether relative to the SECTION or not, and the PURCHASER shall have no claim against the SELLER for any disturbance in his occupation arising out of the exercise of the rights hereby conferred.
- 5.5 The PURCHASER shall not use the SECTION or permit it to be used in such manner or for such purposes as shall cause a nuisance to any occupier of any section in the SCHEME or interfere with the amenities of the SCHEME or so as to breach the RULES or any law, ordinance or by-law or provision of the Town Planning Scheme in force in relation to the SCHEME.
- 5.6 The maximum number of persons that shall be entitled to occupy the PROPERTY shall be determined by multiplying the number of bedrooms in the SECTION by two.
- 5.7 From DATE OF POSSESSION until the DATE OF TRANSFER (both days inclusive), the PURCHASER shall pay to the SELLER monthly occupational interest, calculated on the full (VAT inclusive) purchase price, at the prime overdraft rate charged by the Standard Bank of South Africa Limited, from time to time. A certificate by any manager of the said bank as to such prime overdraft rate shall be *prima facie* proof of such rate. Such occupational interest shall be payable monthly in advance on the 2nd (second) day of each and every month and shall be calculated using the aforesaid prime overdraft rate on the first day of that particular month. Occupational interest shall be adjusted pro rata for any period of less than 1 (ONE) month, the final adjustment to be made on the DATE OF TRANSFER.
- 5.8 The PURCHASER shall be entitled to utilise the EXCLUSIVE USE AREA(S), for their designated purposes in accordance with the RULES. The PURCHASER shall maintain such EXCLUSIVE USE AREA(S), at its cost, in a good and neat condition at all times. It is recorded that :
- 5.8.1 the position of the EXCLUSIVE USE AREA(S) referred to in 1.3.1 and 1.3.2 of the CONTRACT OF SALE, shall be determined by the SELLER, in the SELLER'S sole and absolute discretion, prior to the DATE OF TRANSFER. Further, such EXCLUSIVE USE AREA(S), shall be allocated to the SECTION in terms of the RULES (as contemplated in Section 10(7) of the Sectional Title Schemes Management Act 8 of 2011) and
- 5.8.2 the position of the GARDEN EXCLUSIVE USE AREA is shown on the PLAN. The GARDEN EXCLUSIVE USE AREA shall be ceded by the CONVEYANCERS, from the SELLER to the PURCHASER, as contemplated in Section 27 of the ACT, on the DATE OF TRANSFER. It is recorded that the extent of the GARDEN EXCLUSIVE USE AREA referred to on the PLAN, is simply an approximation and is subject to change on final survey (and the SELLER shall not be liable for any decrease in the final surveyed extent of the GARDEN EXCLUSIVE USE AREA nor shall it benefit by any increase).
- 5.9 The PURCHASER shall be entitled to inspect the SECTION, prior to the DATE OF POSSESSION, at such times and on such dates as may be agreed to by the SELLER (whose agreement shall not be unreasonably withheld), the PURCHASER acknowledging that its visits to the site in this regard need to be limited and regulated due to the fact that the PARENT PROPERTY is partially a construction site (and thus poses a hazard to visitors) and further, as the presence of parties not connected with the construction of the SCHEME may hinder the progress of same. The PURCHASER waives all claims against the SELLER for any loss or damage to property or injury to

person which the PURCHASER may sustain in or about the PARENT PROPERTY and indemnifies the SELLER against any claim that may be made against the SELLER by any employee of the PURCHASER or any tenant, nominee, invitee or other person who goes upon the PARENT PROPERTY by virtue of the PURCHASER'S rights in terms of this clause, for any loss or damage to property or injury may be caused (save for any damage to property or injury to person caused by the intentional or grossly negligent act of the SELLER).

6 LEVY AND OTHER CHARGES

6.1 The PURCHASER accepts liability with effect from the DATE OF POSSESSION for the payment of a monthly levy to the BODY CORPORATE (and prior to the BODY CORPORATE's formation, to the SELLER) in respect of those items listed in the ACT.

6.2 The amount stated in 1.8 of the CONTRACT OF SALE are an estimation of the monthly levy payable by the PURCHASER, made in good faith by the SELLER and the SELLER shall not be responsible for any inaccuracy in this estimation.

6.3 The PURCHASER agrees that he shall have no right to reclaim from the BODY CORPORATE any amount paid by way of a monthly levy or special levy, save as provided herein.

6.4 Notwithstanding anything contained herein or elsewhere, in the event of the SELLER delaying the DATE OF POSSESSION due to the PURCHASER not having secured the Total Consideration (as contemplated in paragraph 4.4 of the CONDITIONS OF SALE), then in that event, the PURCHASER shall be responsible for payment of the aforesaid levy from the date that the ARCHITECT certifies that the SECTION is sufficiently complete for beneficial occupation (as contemplated in paragraph 4.3 of the CONDITIONS OF SALE).

7 TRANSFER

7.1 The PURCHASER acknowledges that it is not possible for the SELLER to give transfer of the PROPERTY to the PURCHASER until such time as the Sectional Title Register of the SCHEME is opened in terms of the ACT. Accordingly, the SELLER undertakes, in a reasonable time and at its own expense, to take such steps as may be reasonably necessary to procure the opening of the said Sectional Title Register.

7.2 If the said Sectional Title Register is not opened by such date referred to in 1.15 of the CONTRACT OF SALE, then failing any agreement to the contrary arrived at between the parties and recorded in writing, both the SELLER and the PURCHASER shall have the right, on written notice to the other party, to resile from this CONTRACT, provided that such notice is received by the party to whom it is sent, within a period of 7 days of the date referred to in 1.15 of the CONTRACT OF SALE, and in such event:

7.2.1 the PURCHASER shall be entitled to be refunded all monies paid on account of the purchase price;

- 7.2.2 save as herein provided, neither party shall have in such event any further claims whatsoever against the other, nor shall the PURCHASER be entitled to claim or allege any right of occupation or tenancy of the PROPERTY and
- 7.2.3 the PURCHASER and every person claiming occupation through the PURCHASER shall vacate the SECTION on a date not later than 30 (THIRTY) days from the date of the notice, and the PURCHASER shall re-deliver the SECTION to the SELLER in the same good order and condition as at the DATE OF POSSESSION, fair wear and tear excepted.
- 7.3 The PURCHASER shall, within 7 (SEVEN) days of being called upon to do so by the CONVEYANCERS –
- 7.3.1 pay to the CONVEYANCERS all costs of and incidental to the passing of transfer of the PROPERTY and cession of the GARDEN EXCLUSIVE USE AREA to the PURCHASER, including bond costs, bank charges and all conveyancing fees and disbursements and
- 7.3.2 furnish all such information, sign all such documents and pay all such amounts that may be necessary or required to enable the CONVEYANCERS to pass transfer of the PROPERTY and cession of the GARDEN EXCLUSIVE USE AREA.
- 7.4 The CONVEYANCERS shall pass transfer of the PROPERTY to the PURCHASER as soon as is reasonably practicable in the circumstances, provided the PURCHASER has complied with all his obligations under this CONTRACT.
- 7.5 No liability of any nature whatsoever shall attach to the SELLER arising out of any delays in effecting transfer of the PROPERTY to the PURCHASER.
- 7.6 The PURCHASER shall be obliged to accept ownership of the PROPERTY subject to –
- 7.6.1 the conditions, reservations and servitudes which affect the PARENT PROPERTY;
- 7.6.2 such conditions of sectional title as are imposed by the SELLER, the local authority and the Minister of Local Government (KwaZulu-Natal);
- 7.6.3 any change in the number of the SECTION or any change in the name of the SCHEME (it being recorded that the current proposed name of the SCHEME is as set out in 1.13 of the CONTRACT OF SALE);
- 7.6.4 a condition registered against the title deeds to the PROPERTY to the effect that the PROPERTY shall be used for residential purposes only and for no other purposes whatsoever;
- 7.6.5 such other conditions in this CONTRACT as the SELLER may require to be registered against the title deeds to the PROPERTY on the DATE OF TRANSFER, in such form as the Registrar of Deeds may permit.

7.7 It is recorded that in order to effect transfer of the PROPERTY, the CONVEYANCERS shall be required to lodge, inter alia, a Transfer Duty exemption certificate, issued by the South African Revenue Services (hereinafter in this paragraph 7.7 referred to as "SARS") with the Deeds Registry. It is further recorded that SARS have adopted a policy of not issuing the aforesaid certificate in the event of any party to the transaction in question being in arrears with the payment of any amounts SARS believes is due to it or otherwise not being in compliance with Tax Laws. Should SARS refuse to issue a Transfer Duty exemption certificate in respect of the sale of the PROPERTY, in terms of this CONTRACT, due to the fact that the PURCHASER is in arrears with any payments to SARS or has otherwise not complied with any Tax Laws, then in that event, the PURCHASER shall be deemed to be in breach of this CONTRACT OF SALE and the SELLER shall be entitled to cancel this CONTRACT should the PURCHASER not rectify such breach within 7(SEVEN) days of receipt of a notice from the SELLER calling upon him to remedy such breach (as contemplated in paragraph 9.1.2 of the CONDITIONS OF SALE). Further, should there be any delay in the issue of the aforesaid Transfer Duty exemption certificate by SARS for either of the aforesaid reasons, then in that event, the PURCHASER shall be deemed to be delaying the registration of transfer which shall entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 19 of the CONDITIONS OF SALE.

8 **AGENT'S COMMISSION**

8.1 The PURCHASER warrants that it was introduced to the PROPERTY by the estate agent referred to in 1.11 of the CONTRACT OF SALE who, it is recorded, was the effective cause of the sale in terms of this CONTRACT. The SELLER shall pay a selling commission to the agency referred to in 1.11 of the CONTRACT OF SALE in accordance with its mandate with such agency. The aforesaid commission shall be deemed to have been earned and shall be payable on the DATE OF TRANSFER.

8.2 The PURCHASER warrants that no agent, other than the agent referred to in clause 1.11 of the CONTRACT OF SALE, was responsible for introducing him to the PROPERTY and further warrants that no other agent or agency will have any claim against the SELLER for agent's commission arising out of this transaction. The PURCHASER indemnifies and holds harmless the SELLER against any loss, damage or expense sustained, suffered or incurred by the SELLER arising out of any breach of the foregoing warranty.

9. **DEFAULT**

9.1 If the PURCHASER :

9.1.1 fails to pay any amount in terms of this CONTRACT, or commits any breach of the remaining conditions of this CONTRACT and should the PURCHASER fail to remedy such breach within 7 (SEVEN) days of the date of delivery, if delivered by hand, or receipt if posted by prepaid registered post, of a written notice calling on him to remedy such breach, or

9.1.2 commits a repetition of such breach within a period of two months after having been warned by the SELLER to desist therefrom,

the SELLER shall be entitled, without prejudice to any other rights, which it may have at law or in terms hereof and at the SELLER'S election to –

- (a) cancel this CONTRACT, and retake possession of the PROPERTY, and should the SELLER so elect it may recover any damages however incurred as a result of such cancellation (including any loss and expenses on a resale, whether by public auction or private treaty), in which event the amount or amounts paid to the SELLER or the CONVEYANCERS (including any amount held in trust by the CONVEYANCERS and any interest thereon) shall be retained by the SELLER by way of set off or partial set off against the damages claimed by the SELLER (it being recorded that the damages that the SELLER may suffer in this regard may include, inter alia, loss of interest, agents commission and other professional fees incurred, holding costs incurred in respect of the PROPERTY, including, but in no way limited to, rates and levies payable in respect of the PROPERTY, and should the PROPERTY subsequently be resold for a lower purchase price than that referred to in this CONTRACT, the difference in such purchase prices) or
- (b) claim immediate performance by the PURCHASER of all his obligations in terms of this CONTRACT whether or not the due date for the performance shall otherwise have arrived.

9.2 Notwithstanding the foregoing, should the SELLER exercise any of his rights in terms hereof and should the PURCHASER dispute the SELLER'S right to do so, then pending the determination of that dispute, the PURCHASER shall continue to pay all amounts payable in terms of this CONTRACT on the due date thereof, and to comply with all the terms hereof, and the SELLER shall be entitled to recover and accept such payments and/or other performance without prejudice to the SELLER'S claim to have exercised its rights in terms hereof, and in the event of the SELLER succeeding in such dispute, the SELLER shall be entitled to retain such amounts received in the interim as payment for the occupational rights exercised and/or enjoyed by the PURCHASER in the interim.

9.3 For all purposes of this CONTRACT any act or omission on the part of any tenant, nominee or other person who occupies the PROPERTY, or invitee of the PURCHASER, or of such tenant, nominee or other person who goes upon the PARENT PROPERTY, shall be deemed to be an act or omission of the PURCHASER.

9.4 Should the SELLER, commit a breach of any of the provisions of this CONTRACT, then the PURCHASER shall be entitled to give the SELLER written notice to remedy the breach. If the SELLER fails to comply with that notice within 7 (SEVEN) days of receipt thereof (or in the event of it not been possible to rectify such breach within the period of 7 days, within such longer period as may be reasonably required to rectify such breach), subject to any other provisions of this CONTRACT to the contrary, the PURCHASER shall be entitled to cancel this CONTRACT or to claim specific performance, in either event without prejudice to the PURCHASER'S right to claim damages. The foregoing is without prejudice to any other rights the PURCHASER may have in terms of this CONTRACT, common law or statute.

10. **JURISDICTION AND COSTS**

10.1 In the event of any action or application arising out of this CONTRACT, the parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of the Magistrate's Court Act of

1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said court's jurisdiction, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.

10.2 Notwithstanding anything to the contrary herein contained either party hereto shall have the right at its sole option and discretion to institute proceedings in any other court which might otherwise have jurisdiction.

10.3 All legal costs incurred by either party in consequence of any default of the provisions of this CONTRACT by the other shall be payable by the defaulting party on demand to the maximum amount permitted by Law and shall include collection charges, the costs incurred by the aggrieved party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of the aggrieved party in relation to, in terms of or arising out of this CONTRACT.

11. **PURCHASER'S ACKNOWLEDGMENTS**

11.1 No unit or area of the common property in the SCHEME shall be used for the purposes of servant's quarters. It is recorded that this provision will be incorporated into the Rules of the BODY CORPORATE on the opening of the Sectional Title Register of the SCHEME.

11.2 When selling the PROPERTY, the PURCHASER shall utilise such documentation (including the standard Sale Agreement), prescribed by the BODY CORPORATE.

11.3 In the event of a breach of this clause 11, the SELLER shall be entitled in their absolute discretion to refuse their written approval as required to the sale and transfer of the PROPERTY until the provisions of this clause 11 are complied with and no party to this CONTRACT OF SALE shall have any claim for damages arising out of the SELLER'S refusal to give such written approval.

11.4 In order to protect the SELLER'S rights in this regard, the PROPERTY shall be transferred to the PURCHASER, subject to a condition in the Title Deeds to the PROPERTY to the effect that the PROPERTY, or any portion thereof or interest therein shall not be alienated or otherwise transferred without the prior written consent of the SELLER first being had and obtained.

11.5 In no way detracting from the generality of the aforesaid, the PURCHASER shall be liable for the payment of all services provided to the PROPERTY and any deposits or fees payable in connection with the supply of such services. In no way detracting from the generality of the aforesaid, it is specifically recorded that it shall be incumbent upon the PURCHASER to make application for, and to pay the relevant deposits in respect of water, electricity, sewer and telephone connections to the PROPERTY.

11.6 The PURCHASER acknowledges that the SELLER shall enter into an agreement with its nominated service provider (in which it may have a financial interest), to provide electronic communication services to the SCHEME (which will include the laying of a fibre optic cable on the SCHEME). The BODY CORPORATE, when

formed, shall be required to take cession of this agreement. It is recorded that a servitude may be registered over the aforesaid infrastructure and cabling in favour of the aforesaid service provider.

- 11.7 The PURCHASER further acknowledges that the BODY CORPORATE shall enter into an agreement with the SELLER'S nominated service provider (in which the SELLER may have a financial interest), in respect of the supply of electricity to residents on the SCHEME. The PURCHASER agrees to make payment to the nominated service provider directly in respect of electricity used by the PURCHASER. The SELLER warrants that the amount payable to the aforesaid nominated service provider by the PURCHASER, in respect of the supply of electricity, shall not exceed the amount that the PURCHASER would otherwise have been liable for, in the event of the electricity to the PROPERTY have been supplied by the LOCAL AUTHORITY, on a prepaid basis.
- 11.8 The PURCHASER acknowledges that it understands the English language and considers itself fluent therein.
- 11.9 The PURCHASER acknowledges it has had the opportunity to carefully read and consider the provisions of this CONTRACT and that it has being free to secure independent legal advice in respect of the provisions of same. In addition, the PURCHASER acknowledges that the SELLER or the CONVEYANCERS, will explain any provisions of the CONTRACT, which the PURCHASER may not have understood fully and, to the extent that the PURCHASER made the SELLER aware of any provisions of the CONTRACT that it did not understand, such provisions were fully explained to the PURCHASER.
- 11.10 The PURCHASER authorises the SELLER to make such alterations or amendments to the BODY CORPORATE'S Rules as well as to file and lodge such altered and amended rules with the Ombud the SELLER believes is necessary to give effect to the provisions of this CONTRACT so as to provide for the homogeneous and harmonious operation of this SCHEME, and for that purpose the PURCHASER irrevocably and *in rem suam* appoints the SELLER or its nominee, as the PURCHASER'S duly authorised attorney, agent and proxy on the PURCHASER'S behalf and to the PURCHASER'S exclusion to attend all such meetings and do all such things as are necessary to give effect to the provisions of this clause.
- 11.11 For so long as the SELLER owns a right to extend the SCHEME by the erection of a unit or owns a unit in the SCHEME: -
- 11.11.1 the PURCHASER irrevocably and *in rem suam* appoints the SELLER or its nominee to exercise the PURCHASER'S voting rights with regard to the appointment of the Trustees of the BODY CORPORATE and in the appointment of the Managing Agents of the SCHEME, the PURCHASER acknowledging that the SELLER or it's nominee may apply and be appointed as Managing Agents of the SCHEME and
- 11.11.2 the PURCHASER shall not be entitled to vote in favour of the amendment of any of the BODY CORPORATE'S Rules without the SELLER'S prior written consent.
- 11.12 The PURCHASER acknowledges that the boundary between the SCHEME and neighbouring golf course shall be fenced. Should the SECTION be freestanding (i.e. not part of a building within which other sections are situated), the PURCHASER shall be entitled, at the PURCHASER'S cost, to fence the garden exclusive use area in accordance with the specifications dictated, and the plans approved of, by the ARCHITECT.

12. **SOLE CONTRACT**

The PURCHASER acknowledges that this CONTRACT constitutes the sole basis of the contract between himself and the SELLER, and that he has not been induced to enter into such contract by any representations or warranties (including, but in no way limited to, any artist's impression of the SCHEME, whether contained in any letter, brochure, advertising material or otherwise) other than those contained herein and he shall be deemed to have satisfied himself in regard to all other relevant matters of whatsoever nature not specially dealt with herein. The PURCHASER confirms that, to the extent that any representations or warranties in respect of the PROPERTY were made to the PURCHASER, prior to the DATE OF SIGNATURE, such representation and/or warranties shall not be binding on the SELLER. Any agreement between the PURCHASER and the SELLER to cancel, alter or add to this CONTRACT shall not be binding and shall be of no force or effect unless reduced to writing and signed by the parties hereto, or by their agents acting on their written instructions.

13. **INDEMNITY**

The SELLER does not warrant any information given in respect of the PROPERTY, whether this information is given prior to or subsequent to the signing of this CONTRACT, save for the information in respect of the PROPERTY specifically warranted in this CONTRACT. Neither the SELLER nor the Estate Agency referred to in 1.11 of the CONTRACT OF SALE, shall be liable for any claim, of any nature whatsoever, that may arise due to any inaccuracies in information given in good faith by the SELLER or the aforesaid Estate Agency to the PURCHASER, his agent or his nominee in respect of the PROPERTY and the PURCHASER hereby indemnifies the SELLER and the aforesaid Estate Agency and holds them harmless against and in respect of any injury, loss or damage however caused which the PURCHASER may suffer as a result of any inaccuracies in any information given by the SELLER or the Estate Agency in good faith (save for the information specifically warranted in this CONTRACT).

14. **DOMICILIUM**

14.1 The parties choose as their **domicilium citandi et executandi** for all purposes under this CONTRACT, whether in respect of court processes, notices or other documents or communications of whatsoever nature their respective physical addresses referred to in the heading of this CONTRACT OF SALE.

14.2 Any notice or communication required to permit to be given in terms of this CONTRACT shall be valid and effective only if in writing.

14.3 Any party may by notice to any other party change the physical address chosen as its domicilium citandi et executandi vis-à-vis that party to another physical address in the Republic of South Africa, provided that the change shall become effective vis-à-vis that address on the 7th business day from the deemed receipt of the notice by the addressee.

14.4 Any notice to a party:-

14.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at its domicilium citandi et executandi shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved); or

14.4.2 delivered by hand to a responsible person during ordinary business hours at its domicilium citandi et executandi, shall be deemed to have been received on the date of delivery.

14.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered to its chosen domicilium citandi et executandi.

15. **COSTS OF THE CONTRACT**

The SELLER shall bear its own costs in connection with the preparation and execution of this CONTRACT.

16. **CESSION**

The PURCHASER shall not, sell, assign, cede or dispose of the PURCHASER'S rights under this CONTRACT.

17. **ARREARS**

17.1 Any amounts in arrears in terms of this CONTRACT shall bear interest at the prime overdraft rate, from time to time, charged by the Standard Bank of South Africa Limited, plus two percentage points, which interest shall be calculated monthly in advance from the date that such amount became due.

17.2 A certificate by any manager of the said bank as to such prime overdraft rate, from time to time, shall be prima facie proof of such rate.

18. **MORA INTEREST**

18.1 In the event of there being any delay in the DATE OF TRANSFER for which the PURCHASER is responsible or in the event of the PURCHASER not paying the deposit(s) or furnishing the guarantees referred to in paragraph 3 of the CONTRACT OF SALE timeously, then in that event, the PURCHASER agrees, in addition to any other payment due in terms of this CONTRACT, to pay interest on the full purchase price at the prime overdraft rate charged by the Standard Bank of South Africa Limited, from time to time, plus two percentage points, calculated from the

date the PURCHASER is notified in writing by the SELLER (or the SELLER'S agent) as being in mora, to the date upon which the PURCHASER has ceased to be in mora, both days inclusive.

18.2 A certificate by any manager of the said bank as to such prime overdraft rate shall be prima facie proof of such rate.

19. **ELECTRICAL CERTIFICATE**

19.1 The SELLER shall at the SELLER'S own expense furnish a certificate of compliance from an accredited person in respect of all electrical installations in the PROPERTY in accordance with the requirements of the Electrical Installation Regulations made under the Occupational, Health and Safety Act No. 85 of 1983. Such certificate shall be delivered to the PURCHASER prior to the DATE OF POSSESSION.

19.2 If the accredited person reports that he is unable to issue such certificate of compliance unless certain works are taken to the electrical installation, the SELLER shall be entitled to have the work done so that the certificate can be furnished timeously.

*20. **TRUSTEE FOR A COMPANY TO BE FORMED**

20.1 In the event of the signatory to this CONTRACT on behalf of the PURCHASER having concluded this CONTRACT in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in paragraph 20 referred to as the "SIGNATORY"), then the SIGNATORY by his signature hereto warrants that the said company:

20.1.1 will be formed;

20.1.2 will ratify and adopt the terms and conditions of the CONTRACT OF SALE; and

20.1.3 will provide the SELLER with written proof thereof;

all within a period of 30 days from the date of signature of this CONTRACT OF SALE by the SIGNATORY.

20.2 The SIGNATORY, in his personal capacity hereby under renunciation of the benefits of excussion and division with the full meaning and effect of which he declares himself to be fully acquainted, binds himself and agrees to bind himself as surety and co-principal debtor in solidum with the company to be formed by him in favour of the SELLER for the due and punctual performance of such company's obligations to the SELLER in terms of this CONTRACT OF SALE.

20.3 If the terms and conditions of Clause 20.1 above are not fulfilled, then the SIGNATORY will by his signature to this CONTRACT OF SALE be deemed ipso facto to have concluded the CONTRACT OF SALE in his personal capacity as PURCHASER.

****Delete if not applicable***

21 **LETTING**

21.1 In order to ensure that any tenant of any unit in the SCHEME is made aware of and complies with the RULES it is agreed that, should the PURCHASER wish to lease the PROPERTY that it shall use the standard lease agreement prescribed by the BODY CORPORATE from time to time. The PURCHASER shall ensure that any such tenant and their invitees shall at all times comply with the RULES.

21.2 In no way detracting from the generality of the aforesaid, it is specifically brought to the PURCHASER'S attention that in terms of the RULES, the SECTION may not be leased for a period of less than 30 days, save with the prior written consent of the SELLER and the BODY CORPORATE (which consent the SELLER and/or BODY CORPORATE may in their sole and absolute discretion, grant or refuse).

LIST OF ANNEXURES

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| ANNEXURE "A" | CONDITIONS OF SALE |
| ANNEXURE "B" | DRAFT PARTICIPATION QUOTA |
| ANNEXURE "C" | SITE PLAN |
| ANNEXURE "D" | PLAN (OF THE PROPERTY AND SCHEDULE OF FINISHES IN RESPECT THEREOF) |
| ANNEXURE "F" | LIST OF FICA DOCUMENTATION |
| ANNEXURE "G" | INVESTMENT MANDATE |