

**CONTRACT OF SALE : SECTIONAL TITLE : PHASED DEVELOPMENT : DARTER**

entered into by :

**SPECIFIELD (PTY) LTD**

Registration No. 2014/251236/07

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

Physical Address: Suite 415, First Floor, Block 4, Island Office Park, 35/37 Island Circle, Riverhorse Valley East,  
4017

Postal Address: P O BOX 1738, UMHLANGA ROCKS, 4320

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 48 dwellings 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	<b>SCHEDULE</b>	
1.1	SECTION No.	.....
1.2	Approximate extent of the SECTION (including patios and balconies, if any)	.....m <sup>2</sup>
1.3	Exclusive Use Area(s) :	
1.3.1	Number of open uncovered parking bays	.....
1.3.2	Number of open, shade cloth covered parking bays	.....
*1.3.3	Number of Lock up garage(s)	.....
1.3.4	Garden Exclusive Use Area	.....
1.4	Total Consideration (including Value Added Tax) (ie the aggregate of the amounts referred to in 1.5 and 1.6 below)	R..... ( _____ _____ _____ _____ _____ _____)
1.5	Deposits :	
1.5.1	amount paid by the PURCHASER to the SELLER (see paragraph 3.1 of the CONTRACT OF SALE)	R15 000.00
1.5.2	amount paid by the PURCHASER to the CONVEYANCERS (see paragraph 3.2 of the CONTRACT OF SALE)	R.....
1.6	Balance (to be paid in accordance with the provisions of 3.3 and 3.4 of the CONTRACT OF SALE)	R.....
**1.7	The amount of the loan for which the PURCHASER will apply	R.....
	Date by which loan is to be granted	.....
1.8	Amount estimated as being the monthly levy payable by the PURCHASER to the BODY CORPORATE in terms of the provisions of the ACT	±R1 900.00 (including sewerage service fee – see paragraph

		11.21 of the CONDITIONS OF SALE)
1.9	DATE OF POSSESSION (subject to 4 of the CONDITIONS OF SALE)	28 June 2019
1.10	Name of ARCHITECT nominated by SELLER	Millenium Consortium Architects
1.11	Estate Agent	N/A
	Estate Agency	N/A
1.12	Permitted use of SECTION	Residential
1.13	Proposed name of the SCHEME	DARTER
1.14	PARENT PROPERTY description	Erf 2747 Hillcrest, Registration Division FT, Province of Kwazulu-Natal,
1.15	Latest date by which the Sectional Title Register of the SCHEME will be opened	31 January 2020
1.16	The amount payable by the PURCHASER towards the Levy Stabilisation Fund established by the BODY CORPORATE (see paragraph 3.5 of the CONTRACT OF SALE)	R5 000.00
1.17	The amount payable by the PURCHASER towards the Levy Stabilisation Fund established by the ASSOCIATION (see paragraph 3.6 of the CONTRACT OF SALE below)	R5 000.00

**\* NOTE: The purchase price of the lock up garage is to be included in the total consideration referred to in 1.4 below.**

**\*\*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 of the CONTRACT OF SALE to the CONVEYANCERS in cash 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 The amount referred to in 1.17 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 ASSOCIATION (as the PURCHASER'S contribution to the ASSOCIATION'S Levy Stabilisation Fund), and all accrued interest, less their usual fee, to the PURCHASER.

3.7 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.

3.8 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 (see also paragraph 23 of the CONDITIONS OF SALE in this regard).

#### \*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*

**6 CONDITIONS PRECEDENT**

6.1 This CONTRACT shall be subject to and conditional upon :

6.1.1 the eThekweni Municipality approving the SELLER'S subdivisional and rezoning application in respect of the ESTATE, in terms of the KwaZulu-Natal Planning and Development Act No. 6 of 2008;

6.1.2 the eThekweni Municipality approving the building plans in respect of the SCHEME and

6.1.3 the SELLER being granted the necessary finance, on terms and conditions reasonably acceptable to the SELLER, to develop the SCHEME as envisaged herein

all by no later than 1 June 2018.

6.2 Should any of the aforesaid conditions not be met timeously, then in that event, this entire CONTRACT shall lapse and be of no further force and effect between the parties, save that the SELLER shall refund, or procure the refund of, all amounts paid by the PURCHASER in respect of the purchase price of the PROPERTY (including the amount referred to in 1.5.1 of the CONTRACT OF SALE). It is recorded that all the aforesaid conditions have been inserted solely for the benefit of the SELLER, who may waive compliance one or more of the aforesaid conditions prior to the CONTRACT OF SALE lapsing as a consequence of the non-fulfilment.

**7. ACCEPTANCE ON BEHALF OF THE ASSOCIATION**

It is recorded that the SELLER is duly authorized to accept the rights and benefits conferred upon the ASSOCIATION in terms of the CONTRACT, which, by its signature hereto, it does.

DATED at.....this..... day of ..... 201\_\_

**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.

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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 ..... 201\_\_

**AS WITNESS :**

1. ....

---

Guarantor

DATED at.....this..... day of ..... 201\_\_

**AS WITNESS:**

1. ....

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SPECIFIED (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 "ASSOCIATION" means the Cotswold Fenns Management Association (RF) NPC (a non-profit company to be incorporated by the SELLER, at the SELLER'S cost, in terms of the Companies Act 71 of 2008);
- 1.4 "BODY CORPORATE" means the future Body Corporate of the SCHEME as contemplated in the ACT;
- 1.5 "this CONTRACT" means the CONTRACT OF SALE and all **Annexures** thereto;
- 1.6 "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 specified in 1.9 of the CONTRACT OF SALE subject to the provisions of paragraph 4 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 "ENVIRONMENTAL MANAGEMENT PLAN" means the Environmental Management Plan applicable to the ESTATE, a copy of which is available from the offices of the ASSOCIATION or, which may be viewed on the ESTATE'S website, and with which the PURCHASER acknowledges it is familiar;
- 1.14 "ESTATE" means Cotswold Fenns Estate, which is to be laid out on that portion of the immovable property outlined on the plan attached hereto marked Annexure "E", and the physical address of which is 117 Inanda Road, Hillcrest, it being recorded that the ESTATE may, at the election of the SELLER, be expanded (as outlined in the ASSOCIATION'S Memorandum of Incorporation);
- 1.15 "EXCLUSIVE USE AREA" means those portions of the common property of the SCHEME referred to in
- 1.15.1 1.3.1, 1.3.2 and 1.3.4 of the CONTRACT OF SALE, which Exclusive Use Area(s) shall be allocated to the SECTION in terms of the RULES (as contemplated in Section 10(7) of the Sectional Titles Schemes Management Act No. 8 of 2011), by the SELLER prior to the DATE OF TRANSFER and
- 1.15.2 1.3.3 of the CONTRACT OF SALE (lock up garage), which shall be ceded to the PURCHASER by the CONVEYANCERS on the DATE OF TRANSFER, at the PURCHASER'S cost (see paragraph 5.8 of the CONDITIONS OF SALE);
- 1.16 "JURISTIC PERSON, means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;
- 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;
- 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 and the ASSOCIATION;
- 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 Specifield (Pty) Ltd, Registration Number 2014/251236/07;
- 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;
- 1.46 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;

1.47 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 1.5.2 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 being specifically recorded that the PURCHASER shall not be entitled to a refund of the amount referred to in 1.5.1 of the CONTRACT OF SALE, or any other amount paid by the PURCHASER, in these circumstances). 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 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 20 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. 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 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 30 (THIRTY) 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 dwellings, 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 hereby undertakes to use its best endeavours to give to the PURCHASER beneficial occupation of the SECTION by the date stipulated in 1.9 of the CONTRACT OF SALE, provided the PURCHASER has secured the Total Consideration referred to in 1.4 of the CONTRACT OF SALE (as contemplated in paragraph 3 of the CONTRACT OF SALE).
- 4.2 If, however, the SELLER is of the opinion that, for whatever reason, the SECTION will not be sufficiently complete for beneficial occupation by the date specified in 1.9 of the CONTRACT OF SALE, then -
- 4.2.1 the SELLER shall notify the PURCHASER of such fact at least 30 (THIRTY) days before such date. In such event the PURCHASER shall accept possession, occupation and use of the SECTION on the date the SELLER notifies him in writing that the SECTION will be sufficiently complete for beneficial occupation, and such subsequent date shall (subject to the provisions of paragraph 4.5 below) be deemed for all purposes to be the DATE OF POSSESSION; and
- 4.2.2 if the SECTION is not sufficiently complete for beneficial occupation within 8 (EIGHT) calendar months after the date specified in 1.9 of the CONTRACT OF SALE, the PURCHASER shall have the right on notice to the SELLER to resile from this CONTRACT. In such event the PURCHASER shall be entitled to receive a refund of an amount

equal to the aggregate of all payments made by the PURCHASER in respect of the Total Consideration referred to in 1.4 of the CONTRACT OF SALE and the PURCHASER shall have no claim of whatsoever nature or howsoever arising against the SELLER for failing for any reason to give possession, occupation and use of the SECTION to the PURCHASER on or before the DATE OF POSSESSION.

4.3 The SELLER shall be entitled to anticipate the DATE OF POSSESSION on 30 (THIRTY) days written notice to the PURCHASER provided that such anticipated date shall not be more than 120 (ONE HUNDRED AND TWENTY) days earlier than the date stated in 1.9 of the CONTRACT OF SALE. Should the SELLER bring the date of possession forward by giving the PURCHASER the written notice as aforesaid, such date shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT (subject to the provisions of paragraph 4.5 below).

4.4 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.

4.5 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.

4.6 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 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 tenantable 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 and the ASSOCIATION for any loss or damage to property or any injury to person which the PURCHASER may sustain in or about the PARENT PROPERTY or the ESTATE and indemnifies the SELLER and the ASSOCIATION against any claim that may be made against the SELLER or the ASSOCIATION by an employee of the PURCHASER'S or any tenant, nominee, invitee or any other person who goes upon the PARENT PROPERTY or the ESTATE 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 or the ESTATE 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 or the ASSOCIATION);
- 5.2.8 shall not, without the prior written consent of the SELLER and the ASSOCIATION 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 (see clauses 11.20 and 11.21 of the CONDITIONS OF SALE) 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 2<sup>nd</sup> (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 the position of the EXCLUSIVE USE AREA(S) referred to in 1.3.1, 1.3.2 and 1.3.3 of the CONTRACT OF SALE, shall be allocated by the SELLER, in its sole and absolute discretion, prior to the DATE OF TRANSFER. It is further recorded that the position of the EXCLUSIVE USE AREA(S) referred to in 1.3.4 is shown on the PLAN.

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 amounts 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 4.5 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 4.4 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 stated in such notice to the SELLER provided that such date shall not be 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 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.
- 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 a condition registered in favour of the SELLER against the title deeds of the PROPERTY to the effect that the PROPERTY, or any portion thereof, or any interest therein, shall not be alienated, leased or transferred without the prior written consent of the SELLER first being had and obtained. (It is recorded that the SELLER shall agree to the cancellation of this condition once the "Development Period", as defined in the ASSOCIATION'S Memorandum of Incorporation, has expired).
- 7.6.6 a condition registered against the title deed to the PROPERTY to the effect that the PROPERTY or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the ASSOCIATION first being had and obtained and
- 7.6.7 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 20 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 agency or agent, other than the agency 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, 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 The BODY CORPORATE shall not do anything which shall be in contravention of the ASSOCIATION'S Memorandum of Incorporation or its rules and the BODY CORPORATE, once formed, shall be required to give the ASSOCIATION an undertaking to this effect.

11.2 The PURCHASER shall not be entitled to sell or otherwise transfer ownership of the PROPERTY unless it is a suspensive condition of such sale or other transfer that –

11.2.1 the ASSOCIATION grants its written consent to such sale or other transfer (which consent it shall be entitled to withhold, *inter alia*, in the event of any monies being due and owing to the ASSOCIATION or the PURCHASER

being in breach of the Memorandum of Incorporation of the ASSOCIATION or any Rules made by the ASSOCIATION, from time to time, and failing to remedy such breach);

- 11.3 In order to maintain high standards and with a view to ensuring an attractive and harmonious development within the ESTATE, any building or other structure to be erected on the PARENT PROPERTY or any alterations or extensions to be effected to any building or structure on the PARENT PROPERTY, shall be done strictly in accordance with building plans which have been submitted to and approved of in writing by, inter alia, the ASSOCIATION and the local and/or any other competent authority and no work whatsoever shall commence until such time as the relevant approvals have been obtained. The PURCHASER acknowledges that it is aware of the ASSOCIATION'S various requirements in this regard. It is recorded that the aforesaid permission shall be required in addition to the permission of the BODY CORPORATE, in terms of the ACT.
- 11.4 In no way detracting from the generality of any other provision in this CONTRACT, it is specifically recorded that the PURCHASER shall at all times comply with the provisions of the ENVIRONMENTAL MANAGEMENT PLAN. In the event of the PURCHASER breaching the provisions of this clause 11.4, then in that event, the SELLER shall be entitled, (without prejudice to any rights the SELLER may have in terms of this CONTRACT or at Law), claim from the PURCHASER all damages, including consequential damages, the SELLEER may suffer as a result of the PURCHASER's breach of the provisions of this clause. In addition, should the PURCHASER breach the conditions of the ENVIRONMENTAL MANAGEMENT PLAN, it shall be liable for a fine imposed by the ASSOCIATION, in its sole and absolute discretion, in an amount not exceeding R10 000,00 (TEN THOUSAND RAND).
- 11.5 The PURCHASER acknowledges that the common property of the SCHEME may not be landscaped save in accordance with the ASSOCIATION's Rules and Requirements.
- 11.6 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.
- 11.7 The PURCHASER acknowledges that the ASSOCIATION may require some (or all) functions and powers of the BODY CORPORATE to be assigned to the ASSOCIATION and by his signature hereto, appoints the Chairman of the ASSOCIATION from time to time, irrevocably and in rem suam, as his attorney and agent to call and attend any meeting of the Body Corporate of the SCHEME required to vote in favour of such assignment.
- 11.8 The PURCHASER acknowledges that he is aware of the intended future development on the ESTATE by the SELLER. Such development is intended to involve the establishment of high quality residential units and community facilities (which may include, inter alia, shops, offices, creche and sports facilities) on various portions of the ESTATE so designed as to facilitate an aesthetic and harmonious style blending with the



environment. The PURCHASER hereby undertakes that he will, at all times, co-operate with the SELLER in an endeavour to facilitate the success of the said developments. Also in this respect, the PURCHASER undertakes that he shall not unreasonably interfere with any such proposed development nor lodge an objection with any competent authority in respect of any such development. The PURCHASER agrees he will not object to any application made by or on behalf of the SELLER, its nominee or agent for any change of use or additional use in respect of any property within the ESTATE. The PURCHASER agrees that he shall have no right to object to the construction of any building or other structure on land in the ESTATE, or any neighbouring property, on the basis that such building or other structure blocks or otherwise interferes with the views from the PROPERTY, nor will he have any claim for alleged diminishment in the value of the PROPERTY arising out of any interference with the views from the PROPERTY by reason of the construction of any building or other structure.

- 11.9 In addition, the PURCHASER acknowledges and agrees to the SELLER'S proposed development of proposed neighbouring Erf 2762 Hillcrest (which is situated immediately to the South of the ESTATE and the position of which is shown on the plan attached hereto marked Annexure "E") for Mixed Use purposes (which shall include, inter alia, the various subdivisions of Erf 2762 being utilised for the purposes of retail, medical offices, residential, car dealership, vehicle fitment centres, hospital, clinic, however, specifically excluding the use of same for the purposes of a night club or any use which involves the discharge of noxious gases into the air). In the event of any subdivision on Erf 2762 being utilised for the purposes of a place of worship, the SELLER undertakes to impose a condition that there shall be no ringing of Church bells, call to prayer, slaughtering of animals or discharge of fireworks from such place of worship. Also in this respect, the PURCHASER undertakes that he shall not unreasonably interfere with any such proposed development nor lodge an objection with any competent authority in respect of any such development. The PURCHASER agrees he will not object to any application made by or on behalf of the SELLER, its nominee or agent for any change of use or additional use in respect of Erf 2762 or any subdivision thereof.
- 11.10 The PURCHASER acknowledges that :
- 11.10.1 for reasons of security on the ESTATE and due to the nature of the proposed development of the ESTATE and the various matters about which any purchaser should become aware when buying into the ESTATE, if the PURCHASER wishes to dispose of the PROPERTY, or any share therein or any subdivision thereof, he shall, to the extent that he requires the services of an estate agent in regard to such disposal, do so in accordance with this clause;
- 11.10.2 this clause is inserted for the benefit of the SELLER, who shall be entitled to enforce its terms by law;
- 11.10.3 any owner who acquires the PROPERTY and who thereafter wishes to dispose of the PROPERTY, shall –
- (a) to extent that he requires the services of an estate agent, do so exclusively through an estate agent accredited by the SELLER. In consideration for its rights herein, the SELLER shall procure that the commission payable to the accredited agent does not exceed 7% (plus Value Added Tax thereon) of the purchase price of the PROPERTY and

- (b) whether or not he utilises the services of an estate agent, include a clause in any document pursuant by which he disposes of the PROPERTY on the same terms precisely as this clause so that any future owner of the PROPERTY shall, to the extent that such owner requires the services of an estate agent in regard to the disposal of the PROPERTY, be required to appoint only an estate agent accredited by the SELLER.
- 11.11 The PURCHASER further acknowledges that in the event of the PURCHASER being an artificial person, such as a close corporation, company or trust, and in the event of the member, director, shareholder, trustee or beneficiary of the PURCHASER (as the case may be) wishing to dispose of the member's interest, shares or beneficial interest in the PURCHASER (as the case may be) he shall to the extent that he requires the services of an estate agent in regard to such disposal, comply with the provisions of paragraph 11.10 of the CONDITIONS OF SALE *mutatis mutandis*.
- 11.12 The PURCHASER acknowledges that in the event of the PURCHASER disposing of the PROPERTY or in the event of the PURCHASER being an artificial person, such as a close corporation, company or trust and the member's interest, shares or beneficial interest (as the case may be), being disposed, of privately, (i.e. without the assistance of an estate agent), then in that event, the PURCHASER acknowledges that it shall be responsible for payment of an administration fee charged by the ASSOCIATION in consideration for attending to its formalities in this regard. The aforesaid administration fee charged by the ASSOCIATION shall be in the sole discretion of the ASSOCIATION, but shall not exceed one (1%) percent of the purchase price (plus Value Added Tax thereon) of the PROPERTY, member's interest, shares or beneficial interest (as the case may be) or in the event of the PROPERTY, member's interest, shares or beneficial interest (as the case may be) not being sold, shall not exceed 1% (ONE PERCENT) of the market value of the PROPERTY, member's interest, shares or beneficial interest (as the case may be) at the date of transfer or cession of same (plus Value Added Tax thereon).
- 11.13 When selling the PROPERTY, the PURCHASER shall utilise such documentation (including the standard Sale Agreement), prescribed by the ASSOCIATION.
- 11.14 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.
- 11.15 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.
- 11.16 It is recorded that the estate agent, referred to in 11.10 above, shall be required to pay the ASSOCIATION the ASSOCIATION'S prescribed fee in this regard in consideration, inter alia, for attending to its formalities in this regard.

- 11.17 All the SELLER'S rights and obligations in terms of paragraph 11.10, 11.11, 11.15, 11.16 and 11.17 hereof shall be ceded and assigned to the ASSOCIATION when the "Development Period" (as defined in the ASSOCIATION'S Memorandum of Incorporation) ends, which cession and assignment the PURCHASER agrees to, as far as needs be.
- 11.18 In no way detracting from the generality of any other provision of this CONTRACT it is recorded that the design and layout of the ESTATE may vary as the ESTATE is developed and the SELLER shall in no way be bound to its current plans for the design and layout of the ESTATE.
- 11.19 It is recorded that the BODY CORPORATE shall be obliged to insure the units in the SCHEME with an insurance company nominated by the ASSOCIATION (with whom the ASSOCIATION has negotiated favourable terms for the insurance of properties within the ESTATE).
- 11.20 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.
- 11.21 It is recorded that the Ethekwini Municipality requires the discharge and treatment of sewerage and effluent emanating from the ESTATE to be dealt with privately. In this regard, the ASSOCIATION shall enter into an agreement with the Ethekwini Municipality and Fisher Road Water Service Provider (Pty) Ltd, in order to deal with the efficient discharge and treatment of sewerage and effluent. The costs of discharging and treating the sewerage and effluent emanating from the ESTATE in terms of the agreement contemplated above, shall be met by the ASSOCIATION from the monthly levy payable to it by its members (which includes the BODY CORPORATE). The SELLER however warrants that the aforesaid Fisher Road Waste Water Services Provider (Pty) Ltd owns the property on Fisher Road on which a fully operational sewer works has been constructed (which sewer works is capable of dealing with the treatment of all sewerage and effluent emanating from the ESTATE when fully developed).
- 11.22 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 ESTATE (which will include the laying of a fibre optic cable on the ESTATE). The ASSOCIATION, 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.
- 11.23 The PURCHASER further acknowledges that the ASSOCIATION 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 ESTATE. 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 use of electricity, shall not exceed that 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.

- 11.24 The PURCHASER acknowledges that it understands the English language and considers itself fluent therein.
- 11.25 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.
12. **RULES**
- 12.1 The PURCHASER acknowledges that the directors of the ASSOCIATION shall be entitled at all times to lay down rules in regard to -
- 12.1.1 the preservation of the natural environment,
- 12.1.2 vegetation and flora and fauna in the ESTATE (including, but in no way limited to, the use of exotic and indigenous plants),
- 12.1.3 the right to keep any animal, reptile or bird. In no way detracting from the generality of the aforesaid, it is recorded that the PURCHASER shall be entitled, on application to the ASSOCIATION, to keep either :
- 12.1.3.1 a maximum of 2 (TWO) small dogs or
- 12.1.3.2 2 (TWO) small apartment dwelling cats or
- 12.1.3.3 1 (ONE) small dog and 1 (ONE) small apartment dwelling cat;
- in the PROPERTY, provided that each such aforesaid small dog or cat does not weigh more than 10kg's each, and provided further that, such pet(s) is kept in accordance with the rules and conditions laid down by the ASSOCIATION, from time to time (which shall include noise control and cleanliness provisions)
- 12.1.4 the storing of flammable and other harmful substances,
- 12.1.5 the conduct of any persons within the ESTATE and the prevention of nuisance of any nature to any owner of immovable property in the ESTATE,
- 12.1.6 the imposition of fines and other penalties to be paid by members of the ASSOCIATION and persons accredited to work on the ESTATE,
- 12.1.7 the management, and administration and control of the common areas and open spaces,

- 12.1.8 the erection of all buildings and other structures, including but in no way limited to, service connections to the buildings,
- 12.1.9 the establishment, installation and maintenance of gardens, both public and private (including the accreditation of landscape architects, landscape contractors and garden maintenance personnel),
- 12.1.10 the use by owners or their tenants of buildings and all other structures and the upkeep, aesthetics and maintenance of such buildings,
- 12.1.11 the accreditation of estate agents and letting agents (insofar as this does not conflict with the rights of the SELLER) in respect of property on the ESTATE,
- 12.1.12 the management of sectional title schemes on the ESTATE,
- 12.1.13 the use of roads, pathways and open spaces,
- 12.1.14 accreditation of contractors and architects for the ESTATE and
- 12.1.15 the letting of property on the ESTATE and
- 12.1.16 generally, in regard to any other matter which the directors of the ASSOCIATION from time to time consider appropriate.

and the PURCHASER undertakes and shall be obliged, with effect from the DATE OF POSSESSION, to abide by such rules as if he was the owner of the PROPERTY and to ensure that all tenants, nominees, invitees and other persons who occupy the PROPERTY and/or go upon the ESTATE by virtue of the PURCHASER'S rights thereto, do likewise.

- 12.2 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 in the Deeds Registry at Pietermaritzburg as 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 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.
- 12.3 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: -
  - 12.3.1 the PURCHASER irrevocably and *in rem suam* appoints the SELLER 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 its nominee may apply and be appointed as Managing Agents of the SCHEME and

12.3.2 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.

13. **COTSWOLD FENNS MANAGEMENT ASSOCIATION (RF) NPC**

13.1 The PURCHASER acknowledges that the BODY CORPORATE shall be obliged to become, and remain, a member of the ASSOCIATION and shall comply with all the requirements of the ASSOCIATION'S Memorandum of Incorporation, including, but in no way limited to, the obligation to pay the ASSOCIATION a monthly levy. The PURCHASER, in turn, undertakes at all times to comply with the ASSOCIATION'S Memorandum of Incorporation and all the rules made in terms thereof.

13.2 In no way detracting from the generality of the aforesaid, it is specifically recorded that the ASSOCIATION'S Memorandum of Incorporation shall provide :

13.2.1 for the SELLER'S right to appoint the majority of directors to the Board of Directors of the ASSOCIATION during the "DEVELOPMENT PERIOD" (as contemplated in the ASSOCIATION'S Memorandum of Incorporation),

13.2.2 that during the DEVELOPMENT PERIOD, for purposes of voting on any proposed resolution at a meeting of the members of the ASSOCIATION, the SELLER shall be deemed to have the higher of the actual number of votes vested in the SELLER or the number of votes as are held, in aggregate, by all other members present in proxy or person at such meeting; and

13.2.3 that the SELLER shall not be required to pay levies to the ASSOCIATION in respect of unsold property  
  
and unequivocally and unconditionally agrees to the aforesaid.

14. **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.

15. **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).

16. **DOMICILIUM**

16.1 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.

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

16.3 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 7<sup>th</sup> business day from the deemed receipt of the notice by the addressee.

16.4 Any notice to a party:-

16.4.1 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 7<sup>th</sup> business day after posting (unless the contrary is proved); or

16.4.2 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.

16.5 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.

17. **COSTS OF THE CONTRACT**

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

18. **CESSION**

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

19. **ARREARS**

19.1 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.

19.2 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.

20. **MORA INTEREST**

20.1 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.

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



21. **ELECTRICAL CERTIFICATE**

21.1 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.

21.2 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.

\*22. **TRUSTEE FOR A COMPANY TO BE FORMED**

22.1 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 22 referred to as the "SIGNATORY"), then the SIGNATORY by his signature hereto warrants that the said company:

22.1.1 will be formed;

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

22.1.3 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.

22.2 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.

22.3 If the terms and conditions of Clause 22.1 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***

23. **LETTING**

In order to ensure that any tenant of any dwelling on the ESTATE 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 ASSOCIATION from time to time. The PURCHASER shall ensure that any such tenant and their invitees shall at all times comply with the ASSOCIATION's Memorandum of Incorporation and the RULES.

**LIST OF ANNEXURES**

ANNEXURE "A"	CONDITIONS OF SALE
ANNEXURE "B"	SUMMARY OF ASSOCIATION'S AIMS AND OBJECTIVES
ANNEXURE "C"	SITE PLAN
ANNEXURE "D"	PLAN (OF THE PROPERTY AND SCHEDULE OF FINISHES IN RESPECT THEREOF)
ANNEXURE "E"	ESTATE PLAN
ANNEXURE "F"	LIST OF FICA DOCUMENTATION
ANNEXURE "G"	INVESTMENT MANDATE
ANNEXURE "PQ"	DRAFT PARTICIPATION QUOTA

## **ANNEXURE “B”**

### **AIMS AND OBJECTIVES OF COTSWOLD FENNS ESTATE MANAGEMENT ASSOCIATION (RF) NPC**

1. To promote the development and maintenance of all properties within the ESTATE and to ensure that all such properties are developed and maintained in such a way as to derive maximum benefit therefrom for the whole community of the ESTATE.
2. To enforce the provision of the development and architectural controls for the ESTATE. In particular, and in no way detracting from the generality of the aforesaid, to ensure that all buildings and other structures erected within the ESTATE, as well as any external fixtures or fitting attached thereto, comply with the aforesaid controls and generally to ensure that the external appearance of all buildings and other structures and all gardens and other areas in the ESTATE, comply with the standards set out in the aforesaid document.
3. To promote, advance and protect the interest of members generally and to co-operate with the local authority, provincial government and all other appropriate authorities for the benefit of the ASSOCIATION and its members.
4. To represent the interest of members and to provide a united voice by which such interests may be expressed.
5. To collect levies and other contributions towards funds of the ASSOCIATION for the attainment of the objectives of the ASSOCIATION or any one of them.
6. To maintain open spaces, the conservation area, internal roads and other common areas within the ESTATE, which the ASSOCIATION may own or may otherwise

be responsible for, and to make and enforce regulations governing the use thereof by the Members.

7. To provide security to the ESTATE and control ingress and egress to the ESTATE.
8. To preserve the natural environment, vegetation and fauna on the ESTATE.
9. To regulate the right to keep animals, reptiles and birds within the ESTATE.
10. To regulate the placing of movable objects outside buildings within the ESTATE and the storing of flammable and other harmful substances within the ESTATE.
11. To regulate the conduct of any person within the ESTATE and to prevent any nuisance of any nature to any member.
12. To provide and regulate the supply of services to the ESTATE (including, however not limited to, electronic communication services).
13. To impose fines and other penalties upon members disobeying the Memorandum of Incorporation or the Rules made in terms thereof.