



SALE AGREEMENT

between

FIREWINGS PROPERTIES 11 PROPRIETARY LIMITED

Registration Number 2003/030452/07

represented herein by IVAN HENRY MORRIS and/or DAVID EDWIN PERKS

they being duly authorised thereto

("Seller")

and

("Purchaser")

SECTION NO:

Initials

SCHEDULE

A.	SELLER	FIREWINGS PROPERTIES 11 PROPRIETARY LIMITED REGISTRATION NUMBER 2009/015004/07 VAT REGISTRATION NUMBER: 4540252683	
B.	SELLER'S ADDRESS & CONTACT DETAILS (DOMICILIUM)	Physical address: 73 Richefond Circle, Ridgeside Office Park, Umhlanga Ridge, 4319 Postal address: Postnet Suite 153, Private Bag X02 Glenashley 4319 Telephone number: 031 2652824 Telefax Number: 086 652 0025 Email address: dave@coalitionproperties.net	
C.	PURCHASER	1. _____ ID No. _____ 2. _____ Reg. No. _____ represented herein by _____ in his/her capacity as a member of the close corporation / director of the company he/she being duly authorised thereto 3. _____ Reg No. IT _____ herein represented by _____ in his/her capacity as a trustee of the Trust he/she being duly authorised thereto	
D.	PURCHASER'S ADDRESS & CONTACT DETAILS (DOMICILIUM)	Physical address: _____ _____ Postal address: _____ _____ Telephone numbers: Home: _____ Business: _____ Cellular: _____ Others: _____ Facsimilie: _____ Email address: _____	
E.	DESCRIPTION OF LAND ON WHICH SECTIONAL TITLE SCHEME IS TO BE ESTABLISHED	Erf 1037 Sheffield Beach, Registration Division FU, Province of Kwazulu-Natal, in extent 7085 (SEVEN THOUSAND EIGHT HUNDRED AND FIFTY SEVEN) square metres	
F.	NAME OF SECTIONAL TITLE SCHEME	LUSH	
G.	SECTION NUMBER(S) AND EXTENT	No: _____ (Unit) No.: _____ (Garage) No: _____ (Store Room)	Extent: Extent: Extent:
H.	EXCLUSIVE USE AREA(S)	Parking Bay	No:

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		Garden Area	No:
I.	PERMITTED USE OF SECTION	Residential	
J.	PURCHASE PRICE	R_____ (_____ RAND) Inclusive of Value Added Tax	
K.	PAYMENT	a) Deposit	R
		b) Further deposit	R
		c) Guarantee	R
L.	LOAN	R_____ (_____ RAND)	
M.	DATE BY WHICH LOAN TO BE GRANTED	30 (THIRTY) business days after the Signature Date	
N.	ANTICIPATED DATE OF OCCUPATION AND POSSESSION	30 June 2020	
O.	OCCUPATIONAL INTEREST	0,75% plus Value Added Tax of the Purchase price reflected in paragraph J above.	
P.	ESTIMATED MONTHLY LEVY TO BODY CORPORATE	R_____ (_____) plus Value Added Tax thereon if applicable	
Q.	ESTIMATED MONTHLY AMOUNTS PAYABLE TO THE BODY CORPORATE AND HOA AND CONTRIBUTION PAYABLE TO THE LEVY STABILISATION FUND OF THE HOME OWNERS ASSOCIATION	<p>i) R_____ (_____ RAND) plus Value Added Tax thereon, if applicable, to the levy stabilisation fund of the Body Corporate calculated at the rate of 0.5% of the Value Added Tax inclusive purchase price;</p> <p>ii) R15000.00 (FIFTEEN THOUSAND RAND) plus value added tax thereon, if applicable, being the amount payable by the Purchaser to the Levy Stabilisation Fund of the Association established in terms of the Association's Memorandum of Incorporation. This amount is payable by the Purchaser within 7 (SEVEN) days of request for such payment by the Seller's Conveyancers and shall be held in an interest bearing account, all interest to accrue for the benefit of the Purchaser until the Date of Transfer, whereupon the Seller's Conveyancers shall pay the capital to the Association and all accrued interest, less their usual fee, to the Purchaser.</p> <p>iii) R2450.00 (TWO THOUSAND FOUR HUNDRED AND FIFTY RAND) plus Value Added Tax thereon if applicable being the estimated monthly levy payable by the Purchaser to the Association;</p> <p>iv) The compulsory levy in the amount prescribed from time to time (and presently subject to a maximum of R40.00 (FORTY RAND) per Unit) which is due under the provisions of the Community Schemes Ombud Services Act No. 9 of 2011, which levy the Association is obliged to collect and pay over to the Community</p>	

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		Schemes Ombud Service on behalf of every owner of a Unit or on Erf in the Estate on a monthly basis.
R.	SELLER'S CONVEYANCERS	<p>Cox Yeats Attorneys 2nd Floor 21 Richefond Circle Ridgeside Office Park Umhlanga Ridge</p> <p>Telephone Number: 031 536 8500</p> <p>Email: thalstead@coxyeats.co.za / lpaula@coxyeats.co.za</p> <p>TRUST ACCOUNT DETAILS: Account Name: Cox Yeats Bank: Standard Bank of South Africa Limited Branch: Kingsmead Branch Code: 04 00 26 Account Number: 05 011 36 82 Reference: LUSH (Unit No. _____)</p>
S.	THE PARTY LIABLE FOR THE COSTS OF TRANSFER	The Purchaser
T.	NAME OF ARCHITECT AND ENGINEER NOMINATED BY SELLER	<p>Architect: Bloc Architects Engineer: BPH Engineers Pty Limited</p>
U.	NAME OF LAND SURVEYOR NOMINATED BY SELLER	C.J. Fourie Land Surveyors
V.	NAME OF MANAGING AGENT	Property Management Ignite or such Managing Agent determined by the Association from time to time
W.	ESTATE AGENT	<p>Agency: _____ Name of Agent: _____ Office telephone number: _____ Cellular telephone number: _____</p>
X.	LIST OF ANNEXURES	<p>Annexure "A": Terms and Conditions of Sale Annexure "B": Layout Plan Annexure "C": Site Layout Plan Annexure "D": Cross Section Annexure "E": Floor Plan Annexure "F": Specification and Schedule of Finishes</p>
Y.	SPECIAL CONDITIONS	

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ANNEXURE 'A'

TERMS AND CONDITIONS OF SALE:

IT IS AGREED:

1.

Definitions and Interpretation

In this Agreement, unless inconsistent with the context, the following expressions shall have the meanings set forth against them:

- 1.1. "Agreement" means the Schedule, the Terms and Conditions of Sale and all annexures hereto;
- 1.2. "Anticipated Completion Date" means the date referred to in N of the Schedule;
- 1.3. "Architect" means the architect nominated by the Seller as specified in paragraph T of the Schedule or such other architect as the Seller may in the future nominate;
- 1.4. "Association" means the Elaleni Coastal Forest Estate Homeowners Association (RF) NPC Registration Number 2017/457424/08, a non-profit company incorporated in terms of the Companies Act No. 71 of 2008, as amended;
- 1.5. "Association Rules" means the Rules of the Association as amended from time to time;
- 1.6. "Body Corporate" means the controlling body of the **LUSH** Scheme to be established in terms of the STA;
- 1.7. "Buildings" means the buildings to be erected on the Land reflected in paragraph E of the Schedule;
- 1.8. "CPA" means the Consumer Protection Act No. 68 of 2008 and the regulations thereunder as amended from time to time;
- 1.9. "CSOSA" means the Community Schemes Ombud Service Act No. 9 of 2011, and the regulations thereunder as amended from time to time;
- 1.10. "Date of Occupation and Possession" means the date specified in paragraph N of the Schedule subject to the provisions of clauses 8, 9 and 10 of the Terms and Conditions of Sale;
- 1.11. "Date of Signature" means the date of signature of this Agreement by the last signing of

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the Seller or the Purchaser;

- 1.12. "Date of Transfer" means the date of registration of transfer of the Section into the name of the Purchaser in the Pietermaritzburg Deeds Registry;
- 1.13. "Developer" means the developer of the Estate being Northglobal Properties Proprietary Limited Registration Number 2004/012822/07;
- 1.14. "Electrical Installation Regulations" means the Electrical Installation Regulations, 2009 promulgated in terms of the Occupational Health & Safety Act No. 85 of 1993;
- 1.15. "Environmental Impact Assessment and Environmental Management Plan" means the approved Environmental Impact Assessment and the Environmental Management Plan for the Estate which is available for inspection at the offices of the Developer and the Association;
- 1.16. "Estate" means the Elaleni Coastal Forest Estate;
- 1.17. "Exclusive Use Area" means the exclusive use area comprising the parking bay and/or garden area referred to in paragraph H of the Schedule being a portion of the common property of the Scheme as depicted on the Exclusive Use Plan and which will be allocated for the exclusive use of the Purchaser;
- 1.18. "Exclusive Use Plan" means the plan depicting the Exclusive Use Area/s, which is to be annexed to the Management Rules in the event that the Seller elects to allocate exclusive use areas in terms of such Rules;
- 1.19. "FICA" means the Financial Intelligence Centre Act No. 38 of 2001 and the regulations thereunder as amended from time to time;
- 1.20. "Juristic Person" means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;
- 1.21. "Land" means the immovable property described in paragraph E of the Schedule;
- 1.22. "Land Surveyor" means the land surveyor appointed by the Seller to prepare the sectional title plans for the Scheme;
- 1.23. "Layout Plan" means the layout plan of the Estate annexed hereto marked "B";
- 1.24. "Levies" means the estimated levies or contribution referred to in paragraphs P and Q of the Schedule, payable in terms of clause 12 hereof;

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- 1.25. "Loan" means a bank loan for the sum referred to in L of the Schedule required by the Purchaser to purchase the Property;
- 1.26. "Managing Agent" means the Managing Agent appointed by the Seller to manage the Scheme;
- 1.27. "Memorandum of Incorporation" means the Memorandum of Incorporation of the Association as amended from time to time;
- 1.28. "Municipality" means the Kwadukuza Municipality;
- 1.29. "Participation Quota of the Section" means the decimal fraction, correct to four places, arrived at by dividing the floor area, correct to the nearest square metre, of the Section by the floor area, correct to the nearest square metre, of all of the sections in the building or a percentage determined by the Seller in terms of Section 32(4) of the STA;
- 1.30. "Parties" means the Purchaser and the Seller as such referred to in this Agreement;
- 1.31. "Plan" means the plan of the Section being annexures "D" and "E" hereto;
- 1.32. "Purchaser" means the party reflected in paragraph C of the Schedule and includes the Purchaser's successors in title, heirs, executors, trustees, successors in office or assigns and includes a Co-Purchaser;
- 1.33. "PDA" means the Kwadukuza Natal Planning and Development Act No. 6 of 2008 as amended and any regulations thereunder as amended from time to time;
- 1.34. "Record of Decision" means the Record of Decision issued by the Municipality on 17 February 2017 and any amendment thereto;
- 1.35. "Rules" means the Management and Conduct Rules prescribed in the STSMA for the administration and control of the Scheme and any rules substituted therefor, amended or added thereto by the Seller;
- 1.36. "SARS" means the South African Revenue Services;
- 1.37. "Savings Account" means a corporate saver account of Nedbank Limited or the Grindrod Account Manager with Grindrod Bank Limited or an investment account with Investec Bank Limited, the Standard Bank of South Africa Limited or First Rand Bank Limited;
- 1.38. "Scheme Documents" means the Site Layout Plan and the Exclusive Use Plan;
- 1.39. "Scheme" means the sectional title scheme to be registered in accordance with the

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provisions of the STA in respect of the Land reflected in paragraph E of the Schedule and all buildings constructed and to be constructed thereon and to be known as **LUSH**;

- 1.40. "Schedule" means the schedule preceding these Terms and Conditions of Sale and which is deemed to be part of this Agreement;
- 1.41. "Section" means the proposed section in the scheme referred to in paragraph G of the Schedule, which section is shown on the Plan;
- 1.42. "Sectional Plan" means the plan to be prepared by the Land Surveyor and complying with the requirements of the STA showing the land and buildings referred to in the Schedule, a copy of the draft of which will, when prepared, be available for inspection at the offices of the Seller's conveyancers;
- 1.43. "Seller's Conveyancers" means the conveyancers reflected in paragraph R of the Schedule;
- 1.44. "Sectional Plan" means the draft Sectional Plan to be prepared by the Land Surveyor in respect of the Buildings comprised in the Scheme;
- 1.45. "Seller" means the party reflected in paragraph A of the Schedule and includes the Seller's successors in office or assigns;
- 1.46. "Site Layout Plan" means the plan which is annexure "C" hereto;
- 1.47. "Specification and Schedule of Finishes" means the schedule annexed hereto marked "F" specifying the finishes of the Section;
- 1.48. "STA or Act" means the Sectional Titles Act No. 95 of 1986 and the regulations thereunder as amended from time to time;
- 1.49. "STSM Act" means the Sectional Title Schemes Management Act No. 8 of 2011 and the regulations thereunder as amended from time to time;
- 1.50. "SPLUMA" means the Spatial Planning and Land Use Management Act No. 16 of 2013 and the regulations thereunder as amended from time to time;
- 1.51. "Terms and Conditions of Sale" means these terms and conditions of sale;
- 1.52. "Trustees" means the trustees of the Body Corporate;
- 1.53. "Unit" means the property to be established in terms of the STA, consisting of:
 - 1.53.1. the Section; and

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- 1.53.2. 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; and
- 1.53.3. any exclusive use area allocated to the Section;
- 1.54. "VAT" means Value Added Tax in accordance with the provisions of the Value Added Tax Act of 1991 and the regulations thereunder as amended from time to time;
- 1.55. Headings of clauses shall be deemed to have been included for purposes of convenience only and shall not affect the interpretation of this Agreement;
- 1.56. Unless inconsistent with the context, words relating to any gender shall include the other genders, words relating to the singular shall include the plural and vice versa and words relating to natural persons shall include associations of persons having corporate status by statute or common law;
- 1.57. This Agreement shall be governed by and construed according to the laws of the Republic of South Africa. Notwithstanding the place of signature of this Agreement, this Agreement shall be deemed to have been concluded in Durban, Province of KwaZulu-Natal.
- 1.58. For the purposes of this Agreement whenever any number of days is prescribed, they shall consist of all days ie. including Saturdays, Sundays or South African public holidays unless the words "business days" is prescribed in which event they shall consist of all days excluding Saturdays, Sundays and South African Public holidays. In both instances, when calculating the prescribed number of days the first day shall be excluded and the last day shall be included;
- 1.59. Any reference to any statutes or regulations shall be deemed to include any lawful amendments thereto or re-enactments thereof;
- 1.60. A fully executed facsimile or scanned copy of this Agreement shall be accepted as an original and this Agreement 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 agreement as at the date of signature of the party last signing one of the counterparts;
- 1.61. Any reference to "Business Hours" shall be construed as being the hours between 8.30am and 5.00pm on any business day. Any reference to "time" shall be interpreted as South African Standard Time;

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- 1.62. Where figures are referred to in numerals and in words and there is any conflict between the two, the words shall prevail, unless the context clearly indicates the contrary intention;
- 1.63. The terms defined in this Agreement shall be construed as binding provisions and any rights conferred and obligations imposed upon the Parties by such definitions shall be binding upon them;
- 1.64. Where any term is defined within a particular clause, other than the interpretation clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
- 1.65. In this Agreement, the use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.66. No provision herein shall be construed against or interpreted to the disadvantage of a party by reason merely of the fact of such party having or being deemed to have drafted, introduced or structured such provision;
- 1.67. In the event that any of the provisions of this Agreement are found to be invalid, unlawful or unenforceable, such terms shall be severable from the remaining terms which shall continue to be valid and enforceable;
- 1.68. The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination, or which of necessity must continue to have effect after such expiration or termination, notwithstanding the fact that the clauses themselves do not expressly provide this;
- 1.69. To the extent that this Agreement is signed on a date which results in the use of any tense being inappropriate, the Agreement shall be read in the appropriate tense;
- 1.70. If any provision in a definition or in this clause 1 is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive provision in the body of this Agreement;
- 1.71. This Agreement shall be binding on and shall be enforceable by the estates, heirs, executors, administrators, trustees, successors in title, successors in office, assigns or liquidators of the parties as fully and effectively as if they had signed this Agreement in the first instance and reference to any party shall be deemed to indicate such party's

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estate, heirs, executors, administrators, trustees, successors in title, successors in office, assigns or liquidators as the case may be;

- 1.72. This Agreement incorporates the Annexures, which Annexures shall have the same force and effect as if set out in the body of this Agreement. The various documents forming part of this Agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Agreement shall prevail.

2.

Recordal

- 2.1 **The Seller is the registered owner of the Land on which the Buildings will be erected in accordance with building plans prepared by the Architect.**
- 2.2 **The Seller intends applying, in terms of the provisions of the STA, for the opening of a sectional title register in respect of the Buildings to be erected on the Land which is estimated, subject to the provisions of clause 49 hereof, to comprise of a maximum of 45 (forty five) residential sectional title dwelling units (the total number of section title units constructed shall be within the discretion of the Seller).**
- 2.3 **The Purchaser wishes to purchase from the Seller the Unit to be established in terms of the STA and more fully described in paragraphs G and H of the Schedule to this Agreement.**

3.

Sale

- 3.1 **The Seller hereby sells to the Purchaser, who hereby purchases the Unit as depicted on the Site Layout Plan comprising:**
- 3.1.1 **The Section number stated in paragraph G of the Schedule to be shown and more fully described on the Sectional Plan to be known as LUSH situate in Sheffield Beach, in the Kwadukuza Municipality of which section the floor area will be approximately the extent referred to in paragraph G of the Schedule;**
- 3.1.2 **An undivided share in the common property of the land and Buildings to be shown and more fully described on the said plan apportioned to the Section in accordance with the participation quota of the Section as specified on a schedule to be annexed to the Sectional Plan;**

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together with the Exclusive Use Area/s recorded in paragraph H of the Schedule.

3.2 The Purchaser acknowledges that the number of the Section in the Sectional Plan may differ from the number in the Schedule as may the Exclusive Use Areas depicted in the Scheme Documents.

3.3 The Purchaser agrees that the precise extent, boundaries and description of the Unit 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 10% (TEN PERCENT) of the area stipulated in paragraph G of the Schedule.

4.

Purchase Price

4.1 The purchase price of the Unit inclusive of VAT is the sum referred to in paragraph J of the Schedule, which sum shall be payable in cash on the Date of Transfer and which sum shall be secured pending the Date of Transfer in the following manner:

4.1.1 the cash deposit referred to in paragraph K(a) of the Schedule shall be payable to the Seller's Conveyancers Trust Account within a period of 5 (FIVE) business days of the Date of Signature to be held in trust by the Seller's Conveyancers who are authorised to invest the deposit in a Savings Account, the interest to accrue to the Purchaser, less the nominal fee charged by the Seller's Conveyancers;

4.1.2 the further deposit referred to in paragraph K(b) of the Schedule shall be payable to the Seller's Conveyancers Trust Account within a period of 10 (TEN) business days of the Date of Signature, to be held in trust in the same manner as provided for in sub-clause 4.1.1 above.

4.1.3 a Bank guarantee for the sum referred to in paragraph K(c) of the Schedule, drawn in a manner acceptable to the Seller and the Seller's Conveyancers and expressed to be payable on the Date of Transfer, which guarantee shall be delivered to the Seller's Conveyancers within 14 (FOURTEEN) days of request being made therefor provided that in the event that the Purchaser requires a loan in respect of the aforementioned amount then no such request shall be made by the Seller's Conveyancers until the Loan has been approved;

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- 4.2 All payments are to be made in South African currency and free of bank charges and other expenses. The Purchaser acknowledges that the Seller's Conveyancers will not be entitled to invest the deposit until the Purchaser has provided the Seller's Conveyancers with all documents required by the Seller's Conveyancers in terms of FICA, details of which will be set out in the FICA Documents Schedule annexed hereto.
- 4.3 It is recorded that in as much as the purchase price is the Value Added Tax ("VAT") inclusive price determined at the current rate of 15 (FIFTEEN) percent, in the event of the rate at which VAT is chargeable being amended after the date of the signature hereof by the Purchaser, but in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.
- 4.4 All and any bank charges incurred by the Seller's Conveyancers and the Seller in connection with this transaction shall be for the account of the Purchaser.

5.

Investment Instruction

- 5.1 The Purchaser confirms that the Seller's Conveyancers are authorised to invest the deposit and any other moneys paid to the Seller's Conveyancers.
- 5.2 The investment shall be on a temporary basis pending the transfer of the Unit or the earlier termination of this transaction. The Seller's Conveyancers shall have exclusive control of the Savings Account and shall, upon completion or termination of the transaction, account to the Purchaser for the interest earned less their costs of administering the investment which amounts to approximately 5% of the interest earned plus VAT. Any refund of monies to the Purchaser will include the accrued interest thereon.
- 5.3 The Seller's Conveyancers are hereby authorized by the Seller and the Purchaser to invest any monies paid in by the Purchaser in an interest bearing account with a registered bank and all such interest earned thereon less the Conveyancers usual fee until registration of transfer of the Unit to the Purchaser shall accrue for the benefit of the Purchaser and thereafter for the benefit of the Seller. The Purchaser acknowledges that:
- 5.3.1 the Seller's Conveyancers are designated as an "accountable institution" in terms of the Financial Intelligence Centre Act No. 38 of 2001 ("FICA");

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- 5.3.2 certain obligations are placed on the Conveyancers in terms of FICA and the Prevention of Organised Crime Act No. 21 of 1998 (“POCA”) and the Regulations promulgated in terms thereof and the Foreign Account Tax Compliance Act of the United States of America and the inter-government agreement for FACTA compliance concluded between the United States of America and the Republic of South Africa;
- 5.3.3 the Seller’s Conveyancers are not able to invest the amounts referred to in paragraph K(a) and (b) of the Schedule, nor any other amount paid into trust with them on the Purchaser’s behalf until such time as the Purchaser has complied with the requirements of the Financial Intelligence Centre Act No. 28 of 2001, as amended, and has signed the necessary investment mandate, both of which the Purchaser undertakes to do as soon as possible after request therefor by the Seller’s Conveyancers;
- 5.3.4 the investment is subject to the payment or payments made to Seller’s Conveyancers being unconditionally credited to the Seller’s Conveyancers Trust Account and not being reversed;
- 5.3.5 while the funds are so invested, the funds are not protected against a possible liquidation of the Bank;
- 5.3.6 should the funds invested in a Savings Account be required by the Conveyancers to procure the issue of a guarantee by the Bank in favour of a third party, the Purchaser expressly consents to the issue of a guarantee by the Bank against a pledge of the invested funds to secure payment by the Purchaser of the purchase price due to the Seller and to the Seller’s bondholder, payment to be effected on the Date of Transfer. The Purchaser hereby pledges and cedes the Purchaser’s right title and interest in and to the funds to the bank into which the funds have been paid and invested.

5.4 The Purchaser acknowledges, as required by the KwaZulu-Natal Law Society, that while the funds are so invested, the funds are not protected against a possible liquidation of the Bank.

6.

Loan

6.1 Should the Purchaser indicate, by completing paragraph L of the Schedule, that the Purchaser requires a loan to finance the purchase price or any balance thereof, then this Agreement shall be subject to and conditional upon the Purchaser being able to raise a bank or other financial institution loan in principle

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for not less than the amount reflected in paragraph L of the Schedule by no later than the date reflected in paragraph M of the Schedule or by such later date as the Seller may agree to in writing.

6.2 The Purchaser shall forthwith apply for and use his best endeavours to raise the abovementioned loan against the security of the Unit and warrants in favour of the Seller that he is fully aware of and understands the customary requirements of financial institutions regarding eligibility based on income, credit rating and other qualifications, particularly the considerations applied by financial institutions in terms of the provisions of the National Credit Act No. 34 of 2005. The Purchaser further warrants that he is eligible for a loan in an amount not less than the amount reflected in paragraph L of the Schedule and that it is a material term of this agreement that he provides the relevant financial institutions with the necessary documentation and failure to do so will constitute a breach of this Agreement and shall have the effect of this clause being fictionally fulfilled.

6.3 The required loan shall be deemed to have been approved upon:

6.3.1 the issue by the relevant financial institution of an approval in principle in writing; or

6.3.2 the issue by the relevant financial institution of a quotation and statement as defined in the National Credit Act No. 34 of 2005 in the event of the financial institution granting the required loan applying the provisions of that Act.

6.4 Provided that the Purchaser has complied in full with the provisions hereof, this sale shall lapse and be of no force or effect whatsoever if the Purchaser is unable to raise the required loan by the date reflected in paragraph M of the Schedule or such later date as may be agreed to by the Seller in writing. In such event, any amounts paid by the Purchaser on account of the purchase price shall be refunded to him together with all interest thereon. It is recorded that this clause has been inserted for the benefit of both the Seller and the Purchaser.

6.5 Should a loan be granted to the Purchaser for an amount less than the amount reflected in paragraph L of the Schedule then the Purchaser shall be entitled to accept such loan provided that the Purchaser immediately pays an amount equal to the difference between the amount equal to the difference between the amount of the loan granted to the Purchaser by the financial institution concerned and the balance of the purchase price.

6.6 Should a loan be granted to the Purchaser for the full amount of the purchase price notwithstanding the fact that a deposit has been paid by the Purchaser, then

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the Conveyancers shall continue to hold the deposit in trust until the date of registration of transfer of the Unit to the Purchaser.

7.

Acknowledgements by Purchaser

7.1 The Purchaser acknowledges that he:

7.1.1 has acquainted himself with the layout of the proposed Sectional Title Scheme, the building plans for the Unit and the nature, locality and extent thereof;

7.1.2 accepts the Unit subject to the conditions, reservations, servitudes, other real rights burdening or benefiting the Land, the Section and the common property:

7.1.2.1 in terms of the Developer's Title Deeds and/or any prior deed/s;

7.1.2.2 imposed by the Developer and/or the Municipality and/or any other authority;

7.1.2.3 in terms of the Management and Conduct Rules of the Body Corporate;

7.1.2.4 in respect of the rights of the Seller to undertake a phased development in terms of Section 25 of the STA;

7.1.2.5 in terms of the Memorandum of Incorporation and Rules of the Association;

7.1.2.6 in terms of the Environmental Impact Assessment and Environmental Management Plan in respect of the Estate;

7.1.2.7 in terms of the Record of Decision;

7.1.3 is aware that the Seller shall be entitled to change the number of the Section and/or Exclusive Use Area or change the name of the Scheme (it being recorded that the current proposed name of the Scheme is as set out in paragraph F of the Schedule);

7.1.4 is aware that the Seller and the Developer may impose a condition in favour of the Seller and the Developer to the effect that the Unit, or any portion thereof, or any interest therein, shall not be alienated, leased or transferred without the prior written consent of the Seller and the

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Developer first being had and obtained (it being recorded that the Seller shall be obliged to consent to the cancellation of the condition in its favour once the last sectional title unit in the scheme has been sold and transferred to the purchaser thereof);

7.1.5 is aware that the Seller intends applying for and obtaining registration of a Sectional Title Plan to create the Unit hereby sold and that the Purchaser shall not receive transfer of the Unit until such time as such Sectional Title Plan has been approved by the Municipality and/or the Surveyor General and all of the provisions of this Agreement have been complied with;

7.1.6 is aware of the intended future development of the Land by the Seller and the Estate by the Developer. Such development is intended to involve the establishment of additional units and/or dwellings on various portions of the Land and the Estate so designed as to facilitate an aesthetic and harmonious style blending with the environment. In particular, the Purchaser acknowledges being aware of the Developer's intention to incorporate additional land into the Estate at a future point in time and consents to the incorporation thereof into the Estate to the extent that the Purchaser's consent is required and/or may be necessary. The Purchaser hereby undertakes that he will, at all times, co-operate with the Seller and the Developer in an endeavour to facilitate the success of the said development. Also in this respect, the Purchaser undertakes that he shall not interfere with any such proposed development nor lodge an objection with any competent authority in respect of any such development. In no way detracting from the generality of the aforesaid, the Purchaser agrees he will not object to any application made by or on behalf of the Seller, the Developer, their nominee or agent for any change of use or additional use in respect of any property or unit established on the Land or the Estate.

7.2 It is recorded that the Seller shall be entitled to subdivide any section in the Scheme owned by it and/or consolidate any two adjacent sections in the Scheme owned by it, as the Seller in its sole and absolute discretion requires. The Purchaser hereby consents to the aforesaid subdivisions and consolidations, insofar as his consent may be required, and hereby irrevocably and in rem suam, nominates, constitutes and appoints any director of the Seller, with power of substitution, to call and attend any meeting of the Body Corporate or of the trustees of the Body Corporate, on the Purchaser's behalf, and to vote in favour of any such resolution that may be required to give effect to any consolidation or subdivision of the sections in the Scheme that the Seller may require, as aforesaid.

7.3 That portion of the Estate depicted in red on the Layout Plan annexed hereto

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marked "B" and designated as proposed Erf 1040 Sheffield Beach shall, in the sole discretion of the Developer, be excluded from the Estate and shall be developed separately by the Developer.

- 7.4 The offices depicted in blue on the Layout Plan and plan annexed hereto marked "B" (situate within the Scheme) shall be leased by the Developer to the Association from the date of completion thereof at a minimum base rental of R200.00 (TWO HUNDRED RAND) per square metre on the basis that the rental charged by the Developer to the Association shall cover the Developer's costs of establishing and maintaining same.
- 7.5 The Developer may in the future acquire additional land for the purpose of affording the residents in the Estate beach access and in the event of the Developer doing so and incorporating same into the Estate by transferring same to the Association then the Association shall raise a special levy in order to cover the cost of acquisition of such land and the establishment of any facilities thereon and the Purchaser undertakes not to object to and to vote in favour of the acquisition thereof by the Association, the rezoning thereof if required and the incorporation thereof into the Estate.
- 7.6 The Developer shall retain ownership of certain areas within the Estate and whilst it is intended that the Purchaser and other owners shall have access to such areas, such access shall at all times be subject to the control and discretion of the Developer who may impose rules and reasonably allocated and proportioned costs in respect thereof.
- 7.7 It is recorded that all owners of properties within the Estate shall be required to adhere to the Environmental Impact Assessment and Environmental Management Plan. Any alteration or extension of the Unit or other structure in the Scheme, shall be done strictly in accordance with the building plans that have been submitted and approved in writing by the Association and the Municipality or other competent authority and no work whatsoever shall commence until such time as the relevant approvals have been obtained.
- 7.8 The Purchaser acknowledges that in the event of the Purchaser disposing of the Unit or in the event of the Purchaser being a close corporation, company or trust and the members interest, shares or beneficial interest being disposed of then the Purchaser shall be liable for the payment of a fee to the Association as a contribution towards the costs of marketing the Estate as well as the costs of attending to the Association's formalities in respect of a transfer of the Unit. The aforementioned fee shall be equal to 1% of the sale price of the Unit, member's interest, shares or beneficial interest, as the case may be plus value added tax thereon if applicable. The aforementioned fee shall be paid by the Purchaser to

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the Association on the date of registration of transfer of the Unit and the Purchaser shall be obliged to secure the payment of this fee to the Association's satisfaction.

- 7.9 When selling the Unit the Purchaser shall be obliged to utilise such documentation (including a standard sale agreement) prescribed by the Association.
- 7.10 The Purchaser shall not be entitled to sell or otherwise transfer ownership of the Unit unless it is a suspensive condition of such sale or other transfer that the transferee agrees to become and remain a member of the Association for the duration of his ownership and is admitted as a member of the Association.
- 7.11 The Association shall be entitled, in its absolute, discretion, to refuse its written approval as required to the sale and transfer of the Unit until such time as the provisions of this Agreement in favour of the Association, its Memorandum of Incorporation, the Seller and the Developer have been complied with and no party shall have any claim for damages arising out of the Association's refusal to give such written approval.
- 7.12 In order to protect the Association's rights in this regard the Unit shall be transferred to the Purchaser subject to a condition in the title deeds to the Unit to the effect that the Unit, or any portion thereof or interest therein shall not be alienated or otherwise transferred without the prior written consent of the Association first being had and obtained.
- 7.13 It is recorded that the design and layout of the Estate may vary as the Estate is developed and the Developer shall in no way be bound to its current plans for the design and layout of the Estate.
- 7.14 The Purchaser shall be obliged to insure the Unit and the contents thereof with an insurance company and the Seller and the Association shall have no liability whatsoever in respect of any loss and/or damage suffered by the Purchaser in regard to the Unit or the contents thereof notwithstanding the fact that the Seller and/or the Association have agreed to procure the provision of certain security facilities as recorded in clause 26 hereof.
- 7.15 In order to ensure that any tenant of any Unit in the Scheme is made aware of and complies with the Rules of the Association the Purchaser acknowledges and agrees that any lease in respect of any Unit shall be reduced to writing, signed by the parties and shall comply with the Association's requirements.
- 7.16 The Purchaser shall not be entitled to make application to rezone the Unit or to

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change the use as set out in the Record of Decision and/or the Town Planning Scheme without the prior written consent of the Seller, the Developer and the Association.

7.17 The Purchaser shall be bound to observe and abide by the provisions of the CSOSA and the STSMA which shall be applicable to all sectional title schemes, erven and common areas within the Estate and which shall prescribe the manner in which bodies corporate and the Association shall operate, the manner of the application of rules promulgated by such entities and the establishment of dispute resolution mechanisms.

7.18 in the event of the Seller electing to rezone any erf within the Estate or being directed to do so by any competent authority then the Purchaser grants his consent to any application for rezoning provided that such application conforms with any Town Planning Scheme in the course of preparation or any other scheme applicable from time to time and undertakes not to object to any such application;

7.19 in the event of it becoming necessary for an owner of any erf in the Estate to apply to the Municipality for the relaxation of any building lines in respect of such erf then the Purchaser:

7.19.1 irrevocably consents to the relaxation of any building line in respect of any erf in the Estate;

7.19.2 irrevocably authorises a representative of the Seller during the Development Period and the Association thereafter, *in rem suam*, and in his name, place and stead to sign all and any documents and to do all such things as may be necessary in connection with any application by an owner or the Seller for the relaxation of any building lines as provided for herein and any consent to any relaxation required from the Purchaser.

8.

Completion of the Section

8.1 The Seller hereby undertakes to procure that the Section is erected substantially in accordance with the Cross Section and Floor Plan annexed hereto marked "D" and "E" respectively and the Seller's building plans and finished by the Seller in accordance with the Specification and Schedule of Finishes annexed hereto marked "F" and is sufficiently complete for beneficial occupation by the Date of Occupation and Possession recorded in paragraph N of the Schedule, provided the Purchaser has duly secured the total purchase price reflected in paragraph J of the Schedule (as contemplated in clause 4 of these Terms and Conditions of Sale).

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- 8.2 **Should the Seller agree to any deviation from the plans annexed hereto marked “D” and “E” or the Specification and Schedule of Finishes annexed hereto marked “F”, such deviation shall be reduced to writing and any amounts payable in terms of such deviation shall be payable by the Purchaser to the Seller on demand.**
- 8.3 **Within 30 (THIRTY) days of the date of occupation and possession, the Purchaser shall 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 Seller’s engineer (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.**
- 8.4 **If there is any dispute between the Purchaser and the Seller as to whether the Section has been constructed substantially in accordance with the plans annexed hereto marked “D” and “E” and the Specification and Schedule of Finishes annexed hereto marked “F” and/or has been erected in substantially the position as reflected in the Site Layout Plan annexed hereto marked “C” 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 dealt with in accordance with the provisions of clause 32 hereof.**
- 8.5 **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 Land and the Purchaser agrees that the Seller and/or its agents, contractors and workmen shall at all times have reasonable access to the Land 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. The Purchaser acknowledges that he shall not be entitled to communicate with, furnish instructions to, interfere with or hinder any of the Seller’s employees, contractors, sub-contractors, architects, engineer, land surveyor or the like and that any queries of whatsoever nature shall be directed to the Seller via email at the email address set out in paragraph B of the Schedule.**

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- 8.6 In no way detracting from the generality of any other provision in this Agreement, it is recorded that the Seller may, at the Seller's discretion, elect not to install any item on the Specification and Schedule of Finishes, 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 Seller's 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.
- 8.7 It is recorded that the Unit shall be completed in accordance with the Specification and Schedule of Finishes of the Section annexed hereto marked "F".
- 8.8 Again, in no way detracting from the Seller's rights in terms of this Agreement 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 Agreement (including, but in no way limited to the payment of the deposit and the furnishing of the guarantees referred to in clause 4 hereof), if he disputes that the Section is sufficiently complete for beneficial occupation or should it believe that the Seller has not complied with its obligations in terms of this Agreement.
- 8.9 Notwithstanding anything contained herein or elsewhere, under no circumstances whatsoever, shall the Seller be liable to make good any damage to any property 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 property in the Scheme by the Purchaser, his contractors, agents, representatives, employees or other persons who come upon the Scheme by virtue of the Purchaser's rights thereto.
- 8.10 Notwithstanding anything contained herein or elsewhere, and in no way detracting from the generality of any other provision of this Agreement, 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, thermal cracking, geotechnical disturbances, normal wear and tear or neglect by the Purchaser.
- 8.11 The Seller does not furnish any explicit or tacit guarantees in respect of the Unit. The Purchaser acknowledges that he was not persuaded into entering into this Agreement by any representations made to him by the Seller or any representative of the Seller, other than what is contained in this Agreement.

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8.12 **The Seller warrants that the Unit will be enrolled with the National Home Builders Registration Council as contemplated in the Housing Consumer Protection Measures Act, No 95 of 1998.**

8.13 **As is required in terms of Section 13(2)(a) of the aforesaid Act, the Seller warrants that:**

8.13.1 the Section shall be constructed in a proper and workmanlike manner;

8.13.2 the Section will be fit for habitation on the date of possession;

8.13.3 the Section shall be constructed in accordance with:

8.13.3.1 the National Home Builders Registration Council's 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

8.13.3.2 the terms, plans and specifications referred to in this Agreement;

8.14 **As provided for in Section 13(2)(b) of the aforesaid Act, the Seller undertakes to:**

8.14.1 rectify any major structural defects in the Section caused by non-compliance with the National Home Builders Registration Council Technical Requirements which occur within a period of 5 (FIVE) years from the date of occupation and possession and of which the Seller is notified of by the Purchaser within that period;

8.14.2 notify non-compliance with or deviation from the terms, plans and specifications referred to in this Agreement or any deficiency related to design, workmanship or material, of which the Seller is notified by the Purchaser within a period of 3 (THREE) months from the date of occupation and possession; and

8.14.3 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 12 (TWELVE) months from the date of occupation and possession.

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9.

Occupation Date

9.1 The Seller hereby undertakes to use its best endeavours to give to the Purchaser beneficial occupation of the Section by the date stipulated in paragraph N of the Schedule, provided the Purchaser has secured payment of the full purchase price reflected in paragraph J of the Schedule as contemplated in clause 4 hereof.

9.2 In the event that it transpires that the Section will not be sufficiently complete for beneficial occupation by the date specified in paragraph N of the Schedule, then:

9.2.1 the Seller shall notify the Purchaser of such fact at least 30 (THIRTY) days before such date. In such event the Purchaser shall be obliged to accept possession and occupation 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 clause 9.4 below) be deemed for all purposes to be the Date of Occupation and Possession; and

9.2.2 if the Section is not sufficiently complete for beneficial occupation within 12 (TWELVE) calendar months after the date specified in paragraph N of the Schedule, the Purchaser shall have the right on notice to the Seller to resile from this Agreement. In such event the Purchaser shall be entitled to receive a refund of all amounts paid by him in terms of this Agreement together with any interest earned thereon and the Purchaser shall have no claim of whatsoever nature or howsoever arising against the Seller for failing for any reason to give possession and occupation of the Section to the Purchaser on or before the date reflected in paragraph N of the Schedule.

9.3 In the event of any dispute as to when or whether the Section is sufficiently complete for beneficial occupation, a certificate by the Seller's 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.

9.4 Notwithstanding anything contained herein, the Purchaser shall not be entitled to occupation of the Section until such time as the total purchase price reflected in paragraph J of the Schedule, has been secured in full, as contemplated in clause 4 of this Agreement. Should the Section be sufficiently complete for beneficial occupation but the amount referred to in paragraph J of the Schedule has not been paid and/or the transfer or bond documents have not been signed and the transfer and/or bond registration costs have not been paid, then in that event (without prejudice to the Seller's rights to claim specific performance or to any

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other rights the Seller may have in terms of this Agreement or at law), possession and occupation of the Section shall only be given to the Purchaser once such amount has been secured and/or such documents have been signed and/or such transfer or bond registration costs have been paid, however, the Purchaser shall remain liable for the payment of occupational rent from the date that the Architect certifies that the Section is sufficiently complete for beneficial occupation.

10.

Rights and Obligations in respect of Occupation

10.1 The Purchaser acknowledges that, on the Date of Occupation and Possession, the Scheme and the Estate 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, its contractors, the Developer, the Municipality, the Association and other service providers and the like by reason of any such inconvenience and the Unit shall be transferred to the Purchaser notwithstanding the aforementioned.

10.2 From the Date of Occupation and Possession the Purchaser:

10.2.1 shall be entitled to beneficial occupation of the Section and the Section shall be used only for the purpose reflected in paragraph I of the Schedule subject to compliance with the Rules of the Body Corporate and the Association, and for no other purpose whatsoever;

10.2.2 shall, at his own expense, maintain the interior of the Section in a good and clean condition, and where necessary repair or refurbish any damaged item and replace any lost item;

10.2.3 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;

10.2.4 shall, at his own expense, maintain adequate public liability insurance against all risks that the Purchaser bears, and without limiting the foregoing, shall include cover for the Purchaser's fixtures and fittings, all vehicles parked on the common property or in any exclusive use area or on the Estate, damages resulting from fire, storm and special perils, explosions, floods, earthquake, tempest, hail, riot and robbery;

10.2.5 shall, if the Section is separately metered for the supply of electricity

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and/or water thereto, make arrangements with the suppliers to obtain the relevant connections and shall pay for any consumption of electricity/water;

10.2.6 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 as well as communal areas within the Estate, subject to the Rules of the Body Corporate and the Association. 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 Estate or other persons lawfully upon the Scheme or the Estate. The Purchaser shall procure that all other occupants of the Section comply with the provisions of this Agreement;

10.2.7 shall at all times comply with the provisions of the STA, the STSMA, the Rules of the Body Corporate and the Association and the Memorandum of Incorporation of the Association and shall ensure that all persons entering the Scheme and the Estate by virtue of the Purchaser's rights thereto do likewise;

10.2.8 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 Scheme or the Estate and indemnifies the Seller and the Developer against any claim that may be made against the Seller and/or the Developer by an employee of the Purchaser's or any tenant, nominee, invitee or any other person who goes upon the Scheme 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 Scheme or the Estate howsoever such loss or damage to property or injury to person may be caused (save for any damage to property or injury to person caused by the intentional or grossly negligent acts of the Seller and/or the Developer);

10.2.9 shall not, 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 whatsoever prior to registration of transfer. If any such changes or improvements are made, with or without the prior written consent of the Seller then, without prejudice to any rights the Seller may have in terms of this Agreement or at law, the Purchaser shall not have any claim against the Seller in respect of any expenditure upon or improvements to the

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Section;

- 10.2.10 shall be liable for the payment of all services (including consumption) provided to the Section and any deposits, fees or contributions payable in connection with the supply of such services. In no way detracting from the aforesaid, it is specifically recorded that it shall be incumbent upon the Purchaser, at the Purchaser's cost, to make application for the connection of water, electricity and telephone services to the Section;**
- 10.2.11 shall be liable for the payment of levies to the Seller prior to registration of transfer, the rates due to the Municipality and all other expenses pertaining to the Unit;**
- 10.2.12 shall not be entitled to let or otherwise part with occupation of the Unit, except on the express condition that any such letting and/or parting with occupation shall in no way release the Purchaser from any of the Purchaser's obligations to the Seller hereunder or in terms of the Rules that may be enforceable from time to time;**
- 10.2.13 shall keep the Unit in good repair and order and shall permit the Seller or it's agent at all reasonable times to enter and inspect the Unit, and if found to be in default of this provision, the Seller shall have the right, at the cost of the Purchaser, to carry out such repairs as are necessary to maintain the Unit in a good state of repair or to comply with any law, by-law, ordinance, regulation or the like. The Purchaser shall refund any such amounts expended by the Seller on demand by the Seller;**
- 10.2.14 shall not be entitled to have access to the Estate or the Scheme at any time prior to the Date of Occupation and Possession without the express written permission of the Developer or the Seller as the case may be.**
- 10.3 All the benefit of and risk in and to the unit shall pass to the Purchaser on the Date of Occupation and Possession.**
- 10.4 The Seller either personally or through its 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.**

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- 10.5 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.
- 10.6 The Purchaser shall have exclusive use of those portions of the common property of the Scheme referred to in paragraph H of the Schedule, which areas are depicted on the Site Layout Plan being annexure "C" hereto. The Purchaser shall only be entitled to utilise such exclusive use areas for the purposes designated by the Seller and in accordance with the Rules. The Purchaser shall maintain such exclusive use areas at his own cost in a good and neat condition at all times. The Purchaser acknowledges that the aforesaid exclusive use areas may be allocated to the Purchaser in terms of the Rules, as contemplated in Section 10 of the STSMA, and may not be formally ceded to the Purchaser by way of notarial deed.

11.

Occupational Interest

- 11.1 The Purchaser shall be liable for and shall pay to the Seller the occupational interest referred to in paragraph O of the Schedule.
- 11.2 The interest shall be payable to the Seller or the Seller's Conveyancers monthly in advance on the first day of each and every month from the Date of Occupation and Possession to the Date of Transfer, both days inclusive at the offices of the Seller or the Seller's Conveyancers alternatively it shall be paid into the Seller's Bank Account, the details of which shall be given to the Purchaser by the Seller and proof of payment shall be given to the Seller by the Purchaser.

12.

Levy Determination, Levies and Reserve Fund

- 12.1 The Purchaser acknowledges that the Body Corporate is obliged to establish and maintain:
- 12.1.1 an administrative fund which is reasonably sufficient to cover the estimated annual operating costs for:
- 12.1.1.1 the repair, maintain, management and administration of the common property (including reasonable provision for future maintenance and repairs);

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12.1.1.2 the payment of rates and taxes and other local municipality charges for the supply of electricity, gas, water, fuel and sanitary and other services to the buildings and Land in the Scheme;

12.1.1.3 the payment of any insurance premiums relating to the buildings or Land in the Scheme;

12.1.1.4 for the discharge of any duty or fulfilment of any other obligation of the body corporate; and

12.1.2 a reserve fund in such amounts as are reasonably sufficient to cover the cost of future maintenance and repair of common property but not less than the amounts prescribed by the Minister of Human Settlements (“the Minister”).

12.2 The owner of each unit has an obligation to contribute towards the expenses of the Land and Buildings in accordance with the participation quota applicable to the Section. The Purchaser acknowledges that the Seller may, when submitting the application for the opening of a sectional title register over the Land, make rules by which a different value is attached to the vote of the owner of any section and to modify the liability of the owners of sections to make the contributions referred to in clause 12.1. above.

12.3 The estimated monthly levies payable by the Purchaser to the Body Corporate from the Date of Occupation and Possession are set out in paragraph P of the Schedule. Before the Date of Occupation and Possession the Seller will be entitled notify the Purchaser in writing of any change to the estimated levies. If the Date of Occupation and Possession is not the first day of a month, the Purchaser shall pay a proportionate share of the levies due for that month. Should the Seller be obliged to pay municipal rates for the remainder of the rate year occurring after the Date of Transfer, the Purchaser shall, on request and prior to the Date of Transfer, refund the Seller a pro rata share of such rates. It is recorded that the amount reflected in paragraph P of the Schedule is an estimation of the monthly levies payable by the Purchaser made in good faith by the Seller and the Seller shall not be liable for any inaccuracy in this estimation. In addition, the Purchaser shall pay the estimated levy as set out in paragraph Q(i) of the Schedule to the Body Corporate for deposit into its levy stabilisation fund.

12.4 The Purchaser shall pay the estimated levy as set out in paragraph Q(ii) of the Schedule to the Association for deposit into its Levy Stabilisation Fund in accordance with the Association’s Memorandum of Incorporation and/or Rules as well as the monthly levy reflected in paragraph Q(iii) of the Schedule.

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- 12.5 **Until the Date of Transfer, the monthly levies due to the Body Corporate will be determined by and will be payable to the Seller at the offices of the Seller or into the Seller's Bank account, the details of which will be provided by the Seller to the Purchaser, monthly in advance on the first day of each and every month. After the Date of Transfer, the monthly levies due to the Body Corporate will be payable to the Body Corporate or Managing Agent. The Purchaser acknowledges that the Body Corporate shall require the Purchaser to sign a debit order with a South African registered commercial bank in its favour to ensure the timeous payment of the levy referred to herein.**
- 12.6 **In the event of Value Added Tax being levied in respect of the levies payable by the Purchaser in terms of this clause, such amount shall be added to the levies payable and shall be borne by the Purchaser.**

13.

Latent and Patent Defects Liability, Guarantees and Conditions

- 13.1 The Seller shall be liable to remedy any latent or patent defects which occur in the Section within a period of 3 (THREE) months of the Anticipated Completion Date, provided that notice thereof is given in writing by the Purchaser to the Seller within the aforementioned 3 (THREE) month period.
- 13.2 The Seller shall not be liable to the Purchaser for any patent or latent defects which are found in the Section after the 3 (THREE) month period referred to in clause 13.1 above if such defects were not disclosed and brought to the attention of the Seller during the aforementioned period.
- 13.3 Any dispute between the Purchaser and the Seller regarding:
- 13.3.1 whether or not any of the defects contemplated in this clause are latent or patent defects for which the Seller is liable;**
 - 13.3.2 the nature of the remedial work to be undertaken;**
 - 13.3.3 whether or not such remedial work has been properly completed;**
- shall be referred to the Seller's engineer whose decision on the dispute shall be final and binding on the parties.**
- 13.4 **The Seller does not furnish any explicit or tacit guarantees in regard to the Unit. The Purchaser acknowledges that he was not persuaded into entering into this Agreement by any representations made to him by the Seller or any representative of the Seller, other than what is contained in this Agreement.**

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- 13.5 In the event that the Consumer Protection Act does not apply to the transaction between the parties, it is hereby recorded and the Purchaser acknowledges that the Unit is sold and purchased voetstoots (save as provided for in this Agreement) absolutely as it stands, with all its defects whether patent or latent and the Purchaser shall have no claim against the Seller in respect of any defects in the Unit whether patent or latent.
- 13.6 The Seller does not warrant any information given in respect of the Unit, including that it is suitable for the Purchaser's proposed use thereof, whether such information is given prior to or subsequent to the signature of this Agreement save for such information in respect of the Unit specifically warranted in terms of this Agreement, except to the extent impermissible in terms of section 48 of the CPA read with Regulation 44(3) of the Consumer Regulations where applicable. The Seller shall not be liable for any claim of any nature whatsoever that may arise due to any inaccuracies in information given by the Seller to the Purchaser or his agent in respect of the Unit and the Purchaser hereby indemnifies the Seller and holds it 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 (save for information specifically warranted in this Agreement). Notwithstanding the aforementioned, the Purchaser agrees that he has not relied in any way upon any information and/or advice given by the Seller and/or the Agent in the preparation, negotiation and/or implementation of this Agreement and has taken all reasonable actions to satisfy himself as to the consequences of entering into this Agreement. The Purchaser acknowledges that he has been free to secure independent legal and other advice as to the nature and effect of all of the provisions of this Agreement and that he has either taken such independent and other advice or dispensed with the necessity of doing so.

14.

Transfer

- 14.1 The Purchaser acknowledges that owing to the complexities and interrelated steps involved in the approval of the Scheme, the opening of the sectional title register over the Land and the transfer of the sectional title units to the various purchasers thereof it is beneficial and in the best interests of the Purchaser that the Seller's Conveyancers attend to the registration of transfer of the Unit to the Purchaser.
- 14.2 The Purchaser acknowledges that it is not possible for the Seller to give transfer of the Unit to the Purchaser until such time as the sectional title register in respect of the Scheme of which the Unit forms a part is opened in terms of the STA. Accordingly the Seller undertakes, subject to the provisions of sub-clause 14.3 hereof, in a reasonable time and at its own expense, to take such steps as may

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be reasonably necessary to procure the opening of the said sectional title register.

14.3 Notwithstanding anything to the contrary herein contained, this Agreement in its entirety is subject to the Sectional Plan being approved and registered within a period of 36 (THIRTY SIX) months of the Date of Signature. If the said Sectional Plan is not registered by such date, then failing any agreement to the contrary arrived at between the parties and recorded in writing, the Purchaser shall have the right on notice to the Seller to resile from this Agreement, provided that such notice is delivered to the Seller within a period of 7 (SEVEN) days of the expiry of the aforementioned period, and in such event:

14.3.1 this Agreement shall be deemed to be null and void ab initio and of no further force and effect between the parties;

14.3.2 the Purchaser shall be entitled to be refunded all monies paid on account of the purchase price but not on account of occupational rent, levies and utilities (if applicable);

14.3.3 save as herein provided, neither party shall in such event have 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 Unit;

14.3.4 the Purchaser, and every person claiming occupation through the Purchaser, shall vacate the Unit 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 Unit to the Seller in the same good order and condition as at the date of possession, fair wear and tear excepted.

14.4 All expenses incidental to the preparation and registration of transfer of the Unit to the Purchaser, including Value Added Tax, bank charges, disbursements, levies, proportionate share of rates and taxes and the costs of registration of any mortgage bond shall be borne by the Purchaser. It is recorded that in the event of the Seller being obliged to pay rates to the Municipality for the remainder of the rate year after the date of registration of transfer of the Unit to the Purchaser, the Purchaser shall be obliged to refund the Seller its pro-rata share of such rates upon demand by the Seller. The Purchaser shall, within 7 (SEVEN) days of being called upon to do so by the Seller's Conveyancers:

14.4.1 pay to the Conveyancers all costs of and incidental to the passing of transfer of the Unit to the Purchaser, including bond costs, bank charges and all conveyancing fees and disbursements, levies and rates for which

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the Purchaser is liable in terms hereof and electricity and water deposits and connection fees; and

14.4.2 furnish all such information, sign all such documents and pay all such amounts that may be necessary or required to enable the Seller's Conveyancers and/or the conveyancers attending to the registration of any mortgage bond to pass transfer of the Unit and register any mortgage bond thereover.

14.5 The Seller's Conveyancers shall pass transfer of the Unit to the Purchaser as soon as is reasonably practicable in the circumstances, provided the Purchaser has complied with all his obligations under this Agreement.

14.6 Except to the extent impermissible in terms of Section 48 of the CPA read with Regulation 44 of the Consumer Regulations, where applicable no liability of any nature whatsoever shall attach to the Seller arising out of any delays in effecting transfer of the Unit to the Purchaser.

14.7 It is recorded that in order to effect transfer of the Unit, the Seller's Conveyancers shall be required to lodge, inter alia, a transfer duty exemption certificate, issued by the South African Revenue Services (hereinafter 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 Unit, in terms of this Agreement, 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 Agreement and the Seller shall be entitled to cancel this Agreement 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. 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 clause 35 hereof. Notwithstanding the aforementioned, the Purchaser warrants that all taxes due by him to SARS have been paid by him.

14.8 The Purchaser acknowledges that:

14.8.1 the documentation necessary to effect transfer of the Unit to the Purchaser shall be lodged with the Deeds Registry as part of a set

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including the transfer of other units in the Scheme and that no documentation in the set, including the documentation relating to the transfer of the Property, can be withdrawn from the Deeds Registry without the entire set being withdrawn;

14.8.2 if it becomes necessary to withdraw the aforesaid set from the Deeds Registry due to the fact that the Purchaser has not complied with all of his obligations under this Agreement, the Seller will suffer damages including, but in no way limited to, interest payable by the Seller to the mortgagee of the Land from the date of the withdrawal of the set until the date of its re-lodgement and registration;

14.8.3 the Seller shall be entitled to recover from the Purchaser all damages the Seller may have suffered (including the aforesaid interest) as a result of the aforesaid set having to be withdrawn and all transfers in the set having been delayed by virtue of the Purchaser's failure to comply with the provisions of this Agreement.

14.9 It is recorded that the Seller's Conveyancers will use their best endeavours to protect the interests of both the Purchaser and the Seller, however, the Purchaser acknowledges that the Seller's Conveyancers are also the Seller's attorneys. Consequently, should a dispute arise between the Purchaser and the Seller, the Seller's Conveyancers in their capacity as the Seller's attorneys, if instructed by the Seller, will act for the Seller against the Purchaser and in such event the Purchaser acknowledges that he will be obliged to seek independent advice.

14.10 The Purchaser shall be deemed to be responsible for any delay in registration of transfer that is occasioned, inter alia, by:

14.10.1 the Purchaser's failure to provide any documentation or sign bond or transfer documents and pay related costs;

14.10.2 delays in the provisions of guarantees by conveyancers appointed by a financial institution to attend to the registration of the Purchaser's bond;

14.10.3 delays in the VAT registration of the Purchaser, if required;

14.10.4 delays in SARS issuing the transfer duty exemption receipt due to the Purchaser's, or its representatives tax affairs not being in order;

14.10.5 delays caused in the registration of the Purchaser's mortgage bond;

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14.10.6 delays in any other related transactions that the Purchaser requires to be registered prior to or simultaneously with the transfer of the Unit.

15.

Insurance

Until the Body Corporate has been established, the Section shall be insured with an insurance company selected by the Seller. Thereafter it will be insured by the Body Corporate against such risks and perils as the Seller may require and for such sums as the Seller may determine, but substantially in accordance with the provisions of the Rules, the STA and STSMA. With effect from the Date of Occupation and Possession the Purchaser shall be liable for and shall, on request, pay the Purchaser's share of the insurance premium if required by the Seller.

16.

Conditions of Title and Ownership

16.1 The Unit is sold subject to:

16.1.1 and in accordance with the Sectional Plan and the participation quota endorsed thereon and any modifications or alterations which may be made thereto from time to time in accordance with the provisions of this agreement or the STA;

16.1.2 and entitled to the servitudes for support and for essential services referred to in the STA;

16.1.3 the conditions contained in the Schedule referred to in Section 11(3)(b) of the STA;

16.1.4 the conditions, reservations and servitudes which effect the Land;

16.1.5 such conditions of sectional title as are imposed by the Seller, the Developer, the Municipality or any other government authority;

16.1.6 the Rules as amended by the Seller or as subsequently amended by the Body Corporate at the request of the Seller or the members of the body corporate (subject to the provisions of clause 19.1 hereof);

16.1.7 the Memorandum of Incorporation and Rules of the Elaleni Coastal Forest Estate Homeowners Association (RF) NPC;

16.1.8 the Record of Decision issued by the Kwadukuza Municipality on the 17 February 2017 and any amendments thereto;

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- 16.1.9 the Development Manual prepared by the architects of the Association;
 - 16.1.10 the Estate Planting Palette prepared by the Association's landscape architect;
 - 16.1.11 the Environmental Impact Assessment and Environmental Management Plan and report applicable to the Estate;
 - 16.1.12 the Kwadukuza Municipality's Spatial Planning and Land Use Management By-laws in force and as amended from time to time;
 - 16.1.13 the Umhlali Beach Town Planning Scheme/Land Use Scheme of the Kwadukuza Municipality or any successor thereto;
 - 16.1.14 any protocols established by the Association from time to time.
- 16.2 In no way detracting from the generality of any other provision in this Agreement, it is specifically recorded that the Purchaser shall at all times comply with the provisions of the Environmental Impact Assessment and Environmental Management Plan, and, again in no way detracting from the generality of the aforesaid, shall take over the obligations and duties of the Seller, the Developer and the Association in respect of stormwater and sewer management on the Land and other properties within the Estate as contemplated in the Environmental Management Plan. In the event of the Purchaser breaching the provisions of this clause 16.2, then in that event, the Association shall be entitled, without prejudice to any rights the Association may have in terms of this Agreement or at law, to claim from the Purchaser all damages, including consequential damages, the Association 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.

17.

Exclusive Use Areas

- 17.1 The Exclusive Use Areas may be allocated to Purchaser in terms of Section 10 of the STSMA by means of an amendment to the Management Rules or by way of notarial deed. The Seller will use its best endeavours to procure such amendment of the Rules to provide for the exclusive use allocation if it elects to allocate the exclusive use areas in terms of the Management Rules. The Purchaser irrevocably undertakes to vote in favour of the amendment of the Rules to incorporate the Exclusive Use Plan if required.

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- 17.2 **Should it be necessary for the Rules to be amended by the substitution of the Exclusive Use Plan or the addition of further Exclusive Use Plans, the Purchaser irrevocably undertakes to vote in favour of the amendment of the Rules so as to allocate additional exclusive use areas as required by the Seller.**

18.

Registration of the Sectional Plan

The Seller may affect such alterations to the Sectional Plan as are necessary or desirable to obtain registration thereof.

19.

Rules

- 19.1 **The Purchaser acknowledges that the Seller and thereafter trustees of the Body Corporate shall, subject to the approval of the Association, be entitled at all times to lay down Rules (and to amend, repeal or replace same) in regard to, inter alia:**

- 19.1.1 the preservation of the natural environment;
- 19.1.2 vegetation and flora and fauna in the Scheme (including, but in no way limited to, the use of exotic and indigenous plants);
- 19.1.3 the use of recreation areas and amenities and facilities and the right to make a reasonable charge for such use;
- 19.1.4 the storing of flammable and other harmful substances;
- 19.1.5 the conduct of any persons within the Scheme and the prevention of nuisance of any nature;
- 19.1.6 the imposition of fines and other penalties to be paid by members of the Body Corporate and persons accredited to work in the sectional title scheme;
- 19.1.7 the management, administration and control of the common areas and open spaces;
- 19.1.8 the erection of all buildings and other structures, including but in no way limited to, service connections to the buildings;
- 19.1.9 the establishment, installation and maintenance of gardens, both public and private (including the accreditation of landscape architects, landscape contractors and garden maintenance personnel);
- 19.1.10 the use by owners or their tenants of the buildings and all other structures and the upkeep, aesthetics and maintenance of such buildings;

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- 19.1.11 the use of roads, pathways and open spaces;
- 19.1.12 accreditation of contractors and architects for the Scheme;
- 19.1.13 the letting of property in the Scheme;
- 19.1.14 the use and control of business premises in the Scheme; and
- 19.1.15 generally in regard to any other matter which the Body Corporate from time to time considers appropriate;

and the Purchaser undertakes and shall be obliged, with effect from the Date of Occupation and Possession, to abide by such Rules as if he was the owner of the Unit and to ensure that all tenants, nominees, invitees and other persons who occupy the Unit and/or go upon the Scheme by virtue of the Purchaser's rights thereto, do likewise. Such Rules shall not conflict with the Memorandum of Incorporation and Rules of the Association and in the event that any conflict arises then the Memorandum of Incorporation and Rules of the Association shall prevail. It is recorded that the Association shall be entitled to carry out all the functions and assume all powers as provided for in the STA and/or the STSMA as the Association may require to be delegated to it by the Body Corporate from time to time in relation to the Scheme and the Body Corporate shall assign such powers and functions to the Association as may be required of it by the Association.

- 19.2 **The Purchaser hereby irrevocably agrees to vote for and to support any subsequent amendments to the Rules required by the Seller. The Purchaser specifically acknowledges and agrees that the Seller may amend the Rules from time to time in order to allocate exclusive use rights over parking bays and garden areas and the like and the Purchaser hereby irrevocably undertakes to vote in favour of such amendments.**

20.

Power of Attorney

- 20.1 **The Purchaser hereby irrevocably and *in rem suam* appoints the Seller acting through its duly authorised officers as the Purchaser's duly authorised attorney and agent to represent the Purchaser at any meetings of the Body Corporate to vote for and adopt any amendments to the Rules which the Seller in its sole discretion may consider desirable or necessary for the Scheme. This Agreement shall serve as a proxy in favour of the Seller.**
- 20.2 **Wherever, in this Agreement, the Purchaser agrees to vote in favour of a resolution of the Body Corporate proposed by the Seller, this irrevocable Power**

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of Attorney and proxy shall authorise and empower the Seller acting through its duly authorised representatives to vote for and on behalf of the Purchaser and to the exclusion of the Purchaser.

21.

Body Corporate

- 21.1 The Purchaser acknowledges that from the Date of Transfer, the Purchaser will become a member of the Body Corporate. The Purchaser accepts the Unit subject to the provisions of the STA and STSMA and the Rules relating to the duties and powers of the Body Corporate, and in particular assumes liability for contributions to the levies fund to be established for the repair, upkeep, control, management and administration of the common property and to the reserve fund and for other purposes described in the aforementioned Acts.
- 21.2 The Purchaser acknowledges that the Seller shall, subject to the provisions of the Memorandum of Incorporation, be entitled to nominate and appoint a Managing Agent to act for a minimum period of 12 (TWELVE) months with effect from the Date of Occupation and Possession. The Purchaser irrevocably undertakes to vote in favour of a resolution of the Body Corporate to confirm and ratify that appointment.

22.

Sale or Assignment

Until the Date of Transfer, the Purchaser shall not be entitled to sell the Unit or Exclusive Use Areas or to sell, cede or assign the Purchaser's rights under this Agreement to any third party, without the prior written consent of the Seller, which consent will be subject to the Seller approving the terms of the subsequent sale agreement and to the subsequent purchaser agreeing to be bound to the Seller in the same manner as provided for in this Agreement and provided that the subsequent Purchaser gives the Seller the same proxy rights as are granted in clause 20 hereof. If required by the Seller, a clause to this effect shall be inserted in the Title Deeds of the Unit. The Purchaser undertakes to use the standard re-sale agreement prepared by the Seller's Conveyancers.

23.

Electrical Certificate

- 23.1 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 Section in accordance with the requirements of the Electrical Installation Regulations made under the Occupational,

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Health and Safety Act No. 85 of 1993. Such certificate shall be delivered to the Purchaser prior to the Anticipated Completion Date.

- 23.2 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 obliged to have the work done so that the certificate can be furnished timeously.

24.

Gas Compliance Certificate

- 24.1 **The Seller warrants that the gas installations in the Section will be inspected and certified by an accredited person in accordance with the Pressure Equipment Regulations made under the Occupational, Health and Safety Act No. 85 of 1993.**

- 24.2 **The Seller shall, prior to the Date of Occupation and Possession, and at the Seller's expense, furnish the Purchaser with a certificate of conformity, from an accredited person, in respect of all gas installations in the Section and such certificate shall confirm that:**

24.2.1 all gas installations in the Section have been inspected and tested; and

24.2.2 in terms of Regulation 17(3) of the Pressure Equipment Regulations to the Occupational, Health and Safety Act No. 85 of 1993, such installations are safe and free from any leakage.

- 24.3 If an accredited person reports that he is unable to issue such certificate of conformity unless certain works are undertaken to the gas installations in the Section, the Seller shall have the work done, at its own cost, so that the certificate can be issued timeously.**

25.

Trustee for a Company to be Formed

- 25.1 **In the event of the signatory to this Agreement, on behalf of the Purchaser, having concluded this Agreement in his capacity as a Trustee for a company to be formed (which signatory is hereinafter referred to as the "Signatory"), then the Signatory by his signature hereto warrants that the said company:**

25.1.1 will be formed;

25.1.2 will ratify and adopt the terms and conditions of this Agreement; and

25.1.3 will provide the Seller with written proof thereof;

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all within a period of 60 (SIXTY) days from the date of signature of this Agreement by the Signatory;

25.2 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 Agreement;

25.3 If the terms and conditions of this clause 25 are not fulfilled then the Signatory shall by his signature to this Agreement be deemed ipso facto to have concluded this Agreement in his personal capacity as Purchaser and shall take transfer of the Unit and take over the purchase of the Unit and pay the purchase price as if this Agreement was made in his personal capacity.

26.

Security

The Purchaser acknowledges that the Seller and the Developer have procured the provision of certain of the security facilities included in the Estate and the Scheme. The Purchaser agrees that no liability shall rest upon the Seller or the Developer for any failure or insufficiency of any of the security facilities included in the Estate or the Scheme, irrespective of the cause thereof, or for any consequential damage the Purchaser may suffer by reason of such failure.

27.

Letting

The Purchaser acknowledges that any agreement of lease in respect of the Unit shall be concluded in accordance with the provisions of the Memorandum of Incorporation and/or the Rules of the Association.

28.

Managing Agent

The Purchaser acknowledges that the Seller shall, subject to the provisions of the Memorandum of Incorporation, be entitled to nominate and appoint a Managing Agent to manage the Scheme.

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29.

Jurisdiction and Costs

- 29.1 In the event of any action or application arising out of this Agreement, 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.
- 29.2 Notwithstanding anything to the contrary herein contained either party hereto shall have the right at its/his sole option and discretion to institute proceedings in any other court which might otherwise have jurisdiction.
- 29.3 All legal costs incurred by either party in consequence of any default of the provisions of this Agreement 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 Agreement.

30.

Indemnity

The Seller does not warrant any information given in respect of the Unit, whether this information is given prior to or subsequent to the signing of this Agreement, save for the information in respect of the Unit specifically warranted in this Agreement. The Seller shall not 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 to the Purchaser, his agent or his nominee in respect of the Unit and the Purchaser hereby indemnifies the Seller and holds it 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 in good faith (save for the information specifically warranted in this Agreement).

31.

Cession and Resale

The Purchaser shall not:

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- 31.1 **sell, assign, cede or dispose of the Purchaser's rights under this Agreement; or**
- 31.2 **sell, or in any way agree to sell or otherwise alienate the Unit; or**
- 31.3 **in the event of the Purchaser being a juristic person, such as a company, close corporation or trust, agree to sell or otherwise alienate the shares, members' interest or beneficial interest (as the case may be) in such Purchaser**

prior to the Date of Transfer, without the written consent of the Seller, which consent the Seller may, in its sole and absolute discretion grant (on such terms and conditions as the Seller may require) or refuse.

32.

Dispute Resolution

- 32.1 **Should the CPA apply to this sale and any dispute arises between the Seller and the Purchaser, either party may refer the dispute to the National Consumer Commission or to any other tribunal or court as provided for in the CPA or the matter may be referred to an alternative dispute resolution agent for investigation and resolution.**
- 32.2 **Should there be any dispute regarding defects in the construction of the Section which arises as a result of faulty workmanship or materials, or in the event that there is any dispute between the Purchaser and the Seller as to whether the Section has been constructed substantially in accordance with the plans annexed hereto marked "D" and "E" and the Specification and Schedule of Finishes annexed hereto marked "F" and/or whether the Section has been erected in substantially the position as reflected on the Site Layout Plan annexed hereto marked "C" the Seller reserves the right to refuse to pass transfer of the Section or the Exclusive Use Areas into the name of the Purchaser (if transfer has not already been given at the time that the dispute arises) until such time as the dispute is, in the Sellers sole opinion, satisfactorily resolved.**
- 32.3 **In the event of a dispute arising as contemplated in clause 32.2 in regard to whether the Section has been constructed substantially in accordance with the plans annexed hereto marked "D" and "E" and the Specification and Schedule of Finishes annexed hereto marked "F", the matter shall be referred to the Seller's Architect for his decision thereon, which decision shall be final and binding on the Purchaser and the Seller. The said architect shall act as an expert and not as an arbitrator.**
- 32.4 **In the event of a dispute arising in regard to defects in the construction of the Section which arises as a result of faulty workmanship or materials, the matter**

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shall be referred to the Seller's engineer for his decision thereon, which decision shall be final and binding on the Purchaser and the Seller. The said engineer shall act as an expert and not as an arbitrator.

- 32.5 In the event of a dispute arising in regard to whether the Section has been erected in substantially the position reflected on the Site Layout Plan annexed hereto marked "C", the matter shall be referred to the Seller's land surveyor for his decision thereon, which decision shall be final and binding on the Purchaser and the Seller. The said land surveyor shall act as an expert and not as an arbitrator.

33.

Destruction

- 33.1 Should any of the Buildings be destroyed or damaged prior to the Date of Transfer to the extent that, in the sole opinion of the Seller, it is not economically viable to rebuild or repair the Buildings, the Seller shall be entitled, within 30 (THIRTY) days of the occurrence of the damage or destruction, to cancel this sale by giving written notice thereof to the Purchaser.
- 33.2 Should the Seller elect to cancel this sale, any amounts paid by the Purchaser shall be refunded to the Purchaser and thereafter neither party shall have any claim against the other arising from the terms of this Agreement.
- 33.3 Should the Seller elect not to cancel this sale, the Seller shall not be obliged to reinstate the Buildings and the Purchaser shall be obliged to fulfil its obligations in terms of this Agreement by taking transfer of the Unit against payment of the purchase price, save that the purchase price shall be reduced by the difference between the market value of the Unit at the Date of Signature and the market value of the Unit on the day following the date of damage or destruction, as the case may be.
- 33.4 Upon electing not to cancel this sale in accordance with the provisions of sub-clause 33.3 hereof, the Seller shall give written notice to the Purchaser of what the Seller considers the reduction in purchase price to be. Should the parties fail to reach agreement thereon, the parties shall refer the matter to an independent property valuer mutually agreed upon by the parties and such valuer shall determine the reduction in the purchase price. The valuer's decision shall be binding upon the parties.
- 33.5 If the parties cannot agree on the appointment of an independent valuer, each party shall appoint a sworn valuer who has not less than 7 (SEVEN) years experience in commercial real estate in the area in which the Land is situated and

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those two valuers shall endeavour to reach agreement on the reduction in the purchase price of the Property. Should the valuers fail so to agree, they shall refer the matter to a third valuer who will act as an umpire and whose decision shall be final and binding upon the parties. Should the valuers be unable to agree on the appointment of an umpire within 3 (THREE) days of their appointment, either party may request the President of the KwaZulu-Natal Law Society to appoint an umpire. The umpire thereupon shall determine the reduction in purchase price which shall be binding upon the parties.

- 33.6 The valuers and/or the umpire shall act as experts and not as arbitrators and the decision of such valuers and/or the umpire, including a decision concerning the costs incurred in resolving the dispute between the parties, shall be final and binding on the parties.
- 33.7 The valuers or the umpire, as the case may be, shall afford the parties a reasonable opportunity to make representations concerning the market value of the Unit and what the parties consider should be a fair reduction in the purchase price of the Unit.
- 33.8 The proceeds of any insurance policies taken out on the Buildings shall accrue to and be paid to the Seller alone.

34.

Default

34.1 If the Purchaser:

34.1.1 fails to pay any amount in terms of this Agreement; or

34.1.2 commits any breach of the remaining conditions of this Agreement or of the Rules of the body corporate or the Association,

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 upon calling him to remedy such breach, 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 sale, and retake possession of the Unit, in which event all amounts paid to the Seller or to the Seller's Conveyancers on account of the purchase price (including any amount paid in trust and interest that may have accrued thereon) shall be retained by the Seller's Conveyancers in trust pending determination of the amount of any damages recoverable by

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the Seller as a result of such cancellation (including any loss and expenses on a resale, whether by public auction or private treaty), or

- (b) claim immediate performance by the Purchaser of all his obligations in terms of this Agreement whether or not the due date for the performance shall otherwise have arrived.

34.2 If the Seller commits any breach of the terms and conditions of this Agreement and should the Seller 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 upon it to remedy such breach, then the Purchaser shall be entitled, without prejudice to any other rights which he may have at law or in terms hereof at the Purchasers election to:

34.2.1 cancel this sale and return possession of the Unit to the Seller in which event the Seller shall be obliged to repay all amounts paid by the Purchaser to the Seller or the Seller's conveyancers on account of the purchase price together with all interest earned thereon; or

34.2.2 claim immediate performance by the Seller of all of its obligations in terms of this Agreement provided that the Seller is reasonably in a position to perform.

34.3 For the purposes of this Agreement any act or omission on the part of any tenant, nominee or other person who occupies the Unit, or any invitee of the Purchaser (or such tenant, nominee or other person who occupies the Unit) who goes upon the common property, shall be deemed to be an act or omission of the Purchaser.

35.

Late Payment and Mora Interest

35.1 If any amount payable by the Purchaser is not paid on the due date therefor, the Purchaser shall pay interest on the amount outstanding from the due date for payment thereof until it is paid , both days inclusive, at a rate equal to 3 percentage points above the prime overdraft rate charged by Investec Bank Limited Registration Number 1969/004763/06 from time to time;

35.2 In the event of:

35.2.1 the Purchaser failing to make payment of the amounts referred to in paragraph K(a) and (b) of the Schedule timeously;

35.2.2 the Purchaser not furnishing all information, signing all documentation

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required by the Seller's Conveyancers and paying the relevant transfer and/or bond registration costs and all other amounts for which the Purchaser is liable in terms of this Agreement within the time periods envisaged herein;

35.2.3 the Purchaser failing to furnish the guarantee referred to in paragraph K (c) of the Schedule timeously;

35.2.4 the Purchaser, in the opinion of the Seller's Conveyancers, delaying the registration of transfer in any manner whatsoever;

then, in such event, the Purchaser shall be deemed to be immediately in breach of this Agreement and *in mora* and shall then be responsible for the payment of interest on the full purchase price referred to in paragraph J of the Schedule at a rate equal to the prime rate charged by Investec Bank Limited No. 1969/004763/06 from time to time, plus 3 (THREE) percentage points calculated from the date that the Purchaser is deemed to be *in mora* until such time as the Purchaser has remedied his aforesaid breach, both days inclusive.

35.3 In regard to clauses 35.1 and 35.2 above, a certificate by any branch manager of the said bank as to such prime overdraft rate from time to time shall be prima facie proof of such rate.

35.4 The amounts payable by the Purchaser in terms of clauses 35.1 and 35.2 above shall be paid by the Purchaser in addition to any other amounts that may be due by the Purchaser in terms of this Agreement.

36.

Domicilia

36.1 The parties hereby choose their respective *domicilia citandi et executandi*, the addresses, facsimile numbers and email addresses set out in paragraphs B and D of the Schedule.

36.2 Either party shall be entitled to change its/his aforesaid domicilium on giving not less than 30 (thirty) days prior written notice by registered post to the other party of its/his intention to do so provided that the new domicilium is in the Republic of South Africa and consists of or includes a physical address at which process can be served.

36.3 Any notice which is:

36.3.1 delivered by hand at the addressee's street address domicilium shall be

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deemed to have been received by the addressee at the time of delivery; or

36.3.2 posted by prepaid registered post from an address within the Republic of South Africa to the addressee at its/his domicile, shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the fourth day after the date of posting; or

36.3.3 transmitted by telefax to the addressee at the addressee's domicile, shall be deemed to have been received by the addressee on the date of transmission, or, if the transmission is made outside of normal business hours on the first Business Day following the date of transmission;

36.3.4 transmitted by e-mail to the addressee at the domicile shall be deemed to have been received by the addressee on the date of transmission.

37.

Estate Agents Commission

37.1 The Seller shall pay selling commission to the agent referred to in paragraph W of the Schedule in accordance with the mandate entered into between the Seller and the agent. The Purchaser warrants that the agent referred to in paragraph W of the schedule and no other agency or agent whatsoever was responsible for introducing the Purchaser to the Unit and was the effective cause of the sale of the Unit to the Purchaser. The Purchaser indemnifies and holds the Seller harmless against any loss, damage or expense sustained, suffered or incurred by the Seller arising out of any breach of the foregoing warranty.

37.2 The aforementioned commission shall be deemed to have been earned and shall be paid by the Seller to the agent on the date of registration of transfer of the Unit to the Purchaser.

37.3 The agent referred to in paragraph W of the Schedule shall at all times be in possession of a valid Fidelity Fund Certificate.

37.4 In the event of paragraph W of the Schedule not having been completed by inserting the name of an agent, the Purchaser warrants that no agent was responsible for introducing him to the Unit and further warrants that no agent will have any claim against the Seller for agents commission arising out of this transaction. The Purchaser indemnifies and holds the Seller harmless against any loss, damage or expense sustained, suffered or incurred by the Seller arising out of any breach of the foregoing warranty.

37.5 In the event of this sale being cancelled by the Seller as a result of a breach by the Purchaser of the terms and conditions of this Agreement, then the Purchaser shall be

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liable for the payment of all selling commission due to the agent in terms of the mandate concluded between the Seller and the agent and the Seller shall have no liability whatsoever for the payment thereof.

38.

Joint and Several

Should there be more than one purchaser or a co-purchaser, the obligations of the purchasers in terms of this agreement shall be joint and several. The term Purchaser includes a Co-Purchaser.

39.

Language

The Purchaser acknowledges being fluent in and understanding the English language.

40.

Signing Authorities

- 40.1 In the event of this Agreement being signed as Purchaser by a person purporting to act for and on behalf of a company or close corporation (other than a company to be formed) or a trust such person warrants that he is duly authorised to represent the party that he purports to represent and to sign this Agreement and shall by his signature hereto bind himself in favour of the Seller as surety and co-principal debtor under the renunciation of the benefits of excussion, division and cession of actions, for the due performance of all the obligations of the said company, close corporation or trust in terms of or arising out of this Agreement or any cancellation thereof.
- 40.2 If it transpires that the signatory was not so duly authorised then this Agreement shall be deemed to be an agreement of sale with the signatory in his personal capacity and not the represented party.
- 40.3 In the event that any of the persons entering into this Agreement as Purchaser are married in community of property of property, or for any other reason stipulated in law, require spousal permission or any other form of permission or support from a third party to sign and enter into this Agreement, such persons shall, upon signature of this Agreement, obtain such permission or support in writing and append same to this Agreement, failing which such permission or support shall be deemed either to have been obtained or alternatively, to not be a prerequisite to the signing of this Agreement by such persons.

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41.

Representations

The Purchaser acknowledges not having relied upon any representations or warranties given by any person other than those contained in this Agreement.

42.

Severability

Insofar as the CPA may be applicable to this Agreement, this agreement endeavours to incorporate the Purchaser's consumer rights as provided for in the CPA. Should any clause in this Agreement be found to be unenforceable, illegal or void it shall be severed from this agreement as being of no force or effect while the remaining terms of this Agreement shall continue to be of full force and effect.

43.

Cooling Off Period

43.1 If this Agreement is entered into as a result of Direct Marketing, the Purchaser may within 5 (FIVE) Business Days of the Signature Date cancel this Agreement by giving written notice thereof to the Seller. Thereafter neither the Seller nor the Purchaser shall have any further claim against the other.

**43.2 The Purchaser records that the Purchaser was introduced to the Scheme by Direct Marketing
or
The Purchaser records that the Purchaser was not introduced to the Scheme by Direct Marketing but instead learnt of the Scheme through an agent, an advertisement or upon the recommendation of a third party.**

***Delete whichever is not applicable**

44.

Withholding Tax

44.1 It is recorded that in terms of section 35A of the Income tax Act No. 58 of 1962, as amended, any person ("the purchaser") who purchases immovable property from a person who is not a South African resident ("foreign Seller") must withhold from the purchase price an amount equal to:

44.1.1 7,5% (SEVEN COMMA FIVE PERCENT) of the purchase price in the case of the foreign Seller being a natural person;

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44.1.2 10% (TEN PERCENT) of the purchase price in the case of the foreign Seller being a company or close corporation;

44.1.3 15% (FIFTEEN PERCENT) of the purchase price in the case of the foreign Seller being a trust;

which amount is to be paid by the purchaser to the South African Revenue Services (as an advance in respect of the foreign Seller's liability for the tax year during the immovable property in question was sold).

44.2 The Seller warrants that it is a resident as defined in the Income Tax Act, as amended and accordingly the provisions of Section 35A of the Income Tax Act do not apply to this transaction.

44.3 The Seller and the Purchaser hereby indemnify the Seller's Conveyancers from any liability in terms of the provisions of the Income Tax Act, as amended.

45.

National Environmental Biodiversity Act

The Seller warrants that it does not hold any permit in respect of any "alien and invasive species" as contemplated and defined in Chapter 7 of the National Environmental Management Biodiversity Act No. 10 of 2004 and the regulations thereunder ("the NEMBA") on the Land and there may be such alien and invasive species on the Land. Notwithstanding the aforementioned, it is recorded that the Seller is not an expert in this regard and nor has a suitably qualified expert carried out an inspection of the Land in this regard. It is therefore incumbent upon the Purchaser, at the Purchaser's cost, to make any necessary enquiry in this regard with the relevant expert, the Unit having been sold voetstoots and the Seller being entirely free from any obligations or liabilities in respect of any alien and invasive species which may in fact be on the Land or the common property and which the Purchaser, as the registered owner of the Unit, will be obliged to deal with in accordance with the provisions of Section 73 of the NEMBA. The Body Corporate will, however, be liable to comply with the provisions of NEMBA in respect of all common areas and shall be entitled to raise levies for this purpose.

46.

Waiver of Rights

No latitude or extension of time which may be allowed by the Seller in respect of any payment provided for herein, or any matter or thing which the Purchaser is bound to perform or observe in terms hereof, shall under any circumstances be deemed to be a waiver of the Seller's rights at any time and without notice, to require strict and punctual compliance with each and every provision or term of this Agreement.

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47.

Entire Agreement

- 47.1 The Purchaser acknowledges that this Agreement constitutes the sole basis of the Agreement between himself and the Seller and that he has not been induced to enter into such Agreement by any representations or warranties (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 specifically dealt with herein. No agreement to vary the terms and conditions of this Agreement or any consensual cancellation hereof shall be of any force and effect unless reduced to writing and signed by both parties hereto or their agents duly authorized in writing.
- 47.2 The Purchaser acknowledges that he has had an opportunity to carefully read and consider the provisions of this Agreement and that he has been free to obtain independent legal advice in regard to those provisions. The Purchaser acknowledges that the Seller undertook that the Seller or the Seller's Conveyancers would explain any provision of this Agreement which the Purchaser may not have fully understood and, to the extent that the Purchaser made the Seller aware of any provision of this Agreement that he did not understand, such provisions were fully explained to the Purchaser.

48.

Application of the Consumer Protection Act

- 48.1 It is recorded that for the purposes of this Agreement the Seller is acting in the ordinary course of business.
- 48.2 The Purchaser records that he was first introduced to the Property through one of the following:
- 48.2.1 newspaper advertisement;
 - 48.2.2 recommendation by a person other than the Seller or its agent;
 - 48.2.3 the Purchaser first approached the Seller or its agent;
 - 48.2.4 the Seller or its agent first approached the Purchaser via ordinary mail, email, sms or in person;
 - 48.2.5 other, namely: _____

(tick the appropriate box)

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48.3 After due consideration, and by his signature hereto the Purchaser or his representative, as the case might be, hereby acknowledge and record that:

48.3.1 he has entered into this Agreement freely and of his own accord and that no circumstances exists that would entitle him to allege, now or in future, that he was at a disadvantage or unequal bargaining position to the Seller in negotiating and concluding the terms and conditions contained in this Agreement;

48.3.2 he has carried out his own investigations with respect to whether or not to enter into this Agreement and that he has done so without any under influence, pressure, duress, harassment or unfair tactics from the Seller;

48.3.3 he understands the context, significance and import of the terms of this Agreement without undue effort, having regard to:

48.3.3.1 the context, comprehensiveness and consistency of the Agreement;

48.3.3.2 the organization, form and style of the Agreement;

48.3.3.3 the vocabulary, use of language and sentence structure of the Agreement;

48.3.3.4 the use of illustrations, headings, examples or other aids to reading and understand the Agreement.

48.4 If the Purchaser is a natural person or a juristic person with an annual turnover or asset value less than the threshold determined by the Minister as defined in terms of Section 6 of the Consumer Protection Act No. 68 of 2008, as amended (“the CPA”) (currently R2 000 000.00 (TWO MILLION RAND)) at the time of entering into this Agreement, then the CPA applies to this transaction.

48.5 If the Purchaser is a juristic person, it hereby warrants to the Seller that its asset value or annual turnover, at the Date of Signature, shall equal or exceed the threshold determined by the Minister as defined in terms of the CPA and, as a consequence, the sale of the Property to the Purchaser in terms of this Agreement, is exempt from the provisions of that Act (save for the provisions of Sections 60 and 61 thereof).

48.6 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 or its auditors written confirmation and such other financial information in respect to

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the Purchaser as the Seller may reasonably require in order to confirm the Purchasers asset value/turnover as warranted in clause 48.5 above.

- 48.7 If this Agreement has been entered into as a result of direct marketing (meaning that the Seller or the Seller's agents first approached the Purchaser either in person, by ordinary mail or by electronic communication such as via a text message or email with an offer to sell the Property), the Purchaser may, within 5 (FIVE) business days of the Date of Signature cancel this Agreement by giving written notice thereof to the Seller and in such circumstances, neither the Purchaser nor the Seller shall have any claim against each other.
- 48.8 To the extent that the CPA is applicable, the Purchaser acknowledges that he is acquainted with the nature, condition and extent of the Property as reflected on the General Plan and the Purchaser accepts the Property for value having undertaken an independent review of the Scheme and acknowledges the Property to be fit for the purposes of the Purchaser.
- 48.9 It is recorded that the acknowledgements and warranties contained in this clause are material to the Seller entering into this Agreement.
- 48.10 The Seller does not furnish any explicit or tacit guarantees in regard to the Unit. The Purchaser acknowledges that he was not persuaded into entering into this Agreement by any representation made to him by the Seller or any representative of the Seller, other than what is contained in this Agreement.
- 48.11 The Seller has made every effort to incorporate the Purchaser's consumer rights as provided for in the CPA, into this Agreement. In the event that any provision of this Agreement is found to contravene the provisions of the CPA, the parties agree that such provision shall be severed from this Agreement and treated as if it were not part of this Agreement and the remaining terms of this Agreement shall continue to be of full force and effect.
- 48.12 Notwithstanding the aforementioned, the Purchaser records and acknowledges that in view of the fact that the Section is to be erected in accordance with the Cross Section, Floor Plan and Specification and Schedule of Finishes annexed hereto marked "D", "E" and "F" respectively, the Section is a special order good as contemplated and defined in CPA in that the detailed design and specifications of the Section have been formulated and altered to meet the Purchaser's requirements and accordingly the Purchaser will not have the right to cancel his purchase of the Section pursuant to the provisions of that section.

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49.

Extension of Scheme

49.1 The Purchaser acknowledges that:

49.1.1 the Seller has been granted an option to purchase the immovable property described as:

Erf 1038 Sheffield Beach, Registration Division FU, Province of Kwazulu-Natal, in extent 7089 (seven hundred and eighty nine) square metres

(hereinafter referred to as “the Extension Property”);

49.1.2 notwithstanding the provisions of clause 2.2 hereof, in the event of the Seller exercising the option referred to in clause 49.1.1 above then the sectional title scheme shall be extended to incorporate the Extension Property in which event the Scheme shall comprise a maximum of 90 (ninety) residential sectional title dwelling units (the total number of sectional title units constructed shall be within the discretion of the Seller).

50.

Membership of Association

50.1 The Purchaser acknowledges that the Association has been constituted in accordance with the Record of Decision.

50.2 The Purchaser acknowledges having received:

50.2.1 a copy of the Association’s Memorandum of Incorporation and Rules; and

50.2.2 having read and understood same; and

50.2.3 agrees to be bound by the Memorandum of Incorporation and Associations Rules as amended from time to time.

50.3 The Purchaser acknowledges that he shall be obliged to become a member of the Association within the meaning of and subject to the conditions set out in the Association’s Memorandum of Incorporation upon registration of transfer of the Unit into his name and shall remain a member for so long as he owns the Unit.

50.4 The Purchaser hereby agrees to abide by the Association’s Memorandum of Incorporation and Rules as may be imposed from time to time. This clause is a benefit

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given by the Purchaser in favour of the Seller and a third party, namely the Association, and shall be binding by and between the Association and the Purchaser and its and his successors-in-title. The Purchaser undertakes that he and all persons deriving use of the Estate or any part thereof through him will, from the Date of Occupation and Possession, comply with all the obligations imposed upon members in terms of the Association's Memorandum of Incorporation and/or Rules.

- 50.5 Should the Purchaser sell the Unit he shall ensure that his purchaser is made fully aware of the Association's Memorandum of Incorporation and Rules and the obligations as detailed in clause 50.4 above.
- 50.6 The Purchaser shall not be entitled to sell, donate, grant any option or pre-emptive rights in respect of, alienate, transfer or in any way deal with the Unit without the prior written consent of the Association, which shall not be unreasonably withheld provided that the Purchaser has complied with its Memorandum of Incorporation and Rules.
- 50.7 By virtue of his membership of the Association, the Purchaser shall be obliged to make payment of levies to enable the Association to maintain the common roads and areas, private open space and services (if any) and to cover its administrative costs and all other expenses which are incurred by it, and the Association shall not be obliged to give the written consent referred to in clause 50.6 above until all amounts due to it by the Purchaser have been paid in full.
- 50.8 The Purchaser shall be deemed to have agreed to all the terms and conditions as contained in the Memorandum of Incorporation (and any amendment thereto) and to be bound thereby by virtue of his acknowledgement of receipt thereof from the Seller at the relevant time.
- 50.9 The Association shall carry out all the functions and assume all powers as provided for in the STA (in particular sections 37 and 38 thereof) and the STSMA (in particular sections 37 and 38 thereof) and the STSMA (in particular sections 3, 4 and 5 thereof) as the Association may require to be delegated to it by the Body Corporate from time to time. In addition to the foregoing, the Body Corporate shall assign such powers and functions to the Association as may be required of it by the Association with effect from the date of establishment of the Body Corporate.
- 50.10 The Rules of the Scheme shall be aligned with and at all times be subservient to and in no way shall conflict with the Memorandum of Incorporation or Rules and in the event that there is any conflict between the Rules of the Body Corporate and the Association's Memorandum of Incorporation or Rules, then the provisions of the Association's Memorandum of Incorporation and Rules shall apply.

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51.

Reservation of Conditions of Title

51.1. The following conditions shall, to the extent possible, be registered against the title deed of the Unit in the form set out hereunder, or in such other form as may be required by the Registrar of Deeds:

51.1.1. the conditions, reservations and servitudes which affect the Land;

51.1.2. such conditions imposed by the Municipal Planning Tribunal of the Municipality in terms of the Record of Decision;

51.1.3. a condition registered against the title deed of the Unit to the effect that the Unit or any portion thereof or any interest therein shall not be alienated, leased or transferred without the prior written consent of the Association being obtained;

51.1.4. no improvement of any nature may be effected to the Unit, nor may the access to the Unit be altered without the prior written approval of the Association and any building plans in respect of the improvements to be erected on the section shall be subject to the prior written approval of the Association. Such approval will be required without limitation to all external finishes, including materials and colours for all walls, roofs and windows;

51.1.5. the Unit shall not be used for any purpose whatsoever save for residential purposes;

51.1.6. a condition in favour of the Seller and the Association to the effect that the Unit, 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 be entitled to agree to the cancellation of this condition once the last unit in the Scheme has been sold and transferred to the purchaser thereof).

51.1.7. a condition registered against the title deed to the effect that the Unit or any part thereof shall not be used for the purpose of a time share scheme under the provisions of the Property Time Sharing Control Act No. 75 of 1983, or a share block scheme under the Share Blocks Control No 59 of 1980 or any similar such schemes without the prior written consent of the Association.

51.2. The Purchaser shall be bound by such conditions whether or not they are so registered as well as any other conditions imposed by the Seller, the Association and/or any other competent authority.

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- 51.3. The Unit shall be transferred to the Purchaser subject to, inter alia, planting, services, omnibus, security, communication, rights of way, conservation and non-development servitudes in favour of the Municipality and/or the Association and/or any service provider. The aforementioned servitudes shall grant the Municipality and/or the Association and/or other service providers the right, without compensation, to plant any vegetation and to erect, lay and maintain sewers, drains, water supply and piping within such servitudes and electricity mains above or underground. The Municipality and/or the Association and/or other service providers shall have access to the aforementioned servitude areas for the purposes of maintenance, removal or extension. The owner of the Unit shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow within it.
- 51.4. No building or other structures may be erected within the aforesaid servitude areas and no large rooted trees shall be planted within the area of such servitude and the ground level shall not be altered without the written consent of the Municipality or the Association as the case may be.
- 51.5. The Municipality and/or the Association shall be entitled to deposit temporarily on the area of the Unit adjoining the aforesaid servitude, such materials as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said area of the aforesaid purposes, subject to any damage done during the process of construction, maintenance, removal of such sewerage mains and other works, being made good by the local authority or the Association.
- 51.6. The Purchaser shall without compensation, be obliged to permit such deposits of material or excavation on the property as may, in connection with the formation of any street in the township and owing to differences in level between the property and the street, be deemed necessary by the Municipality and the Association, commencing from the boundary of the property unless the Purchaser shall, at his cost, elects to build a retaining wall to the satisfaction of the Municipality and the Association.
- 51.7. Encroachment over the aforementioned servitude shall be allowed at the discretion of the Municipality and the Association.
- 51.8. The Municipality shall have the dominant right over the servitude in the event of any conflict between the Association and the Municipality.

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52.

Phased Development

The Seller has reserved to itself, in terms of Section 25 of the Sectional Titles Act No. 95 of 1986, as amended, the right to extend the Sectional Title Scheme for its personal account, by the erection and completion from time to time but within a period of 20 (TWENTY) years from the date of the opening of the sectional title register on the Land:

52.1 a further building or buildings;

52.2 a horizontal extension of an existing building or buildings; and

52.3 a vertical extension of an existing building

on that part of the common property outlined on the Site Layout Plan which is annexed hereto marked "C" and 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 or any other sections in the Sectional Title Scheme.

53.

General

53.1 In the event of this Agreement being signed by more than one person as Purchaser such persons shall be jointly and severally liable under this Agreement.

53.2 The Seller shall be entitled to cede, assign, sell or part with its rights under this Agreement without the consent of the Purchaser.

53.3 The Purchaser acknowledges being fluent in and understanding the English language.

54.

Conditions Precedent

54.1 This entire Agreement is subject to and conditional upon:

54.1.1 the building plans incorporating the Plan in respect of the proposed Sectional Title Scheme being approved by the Municipality; and

54.1.2 the Seller obtaining the required development finance to enable it to construct

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the buildings comprising the Scheme;

on or before the 30 June 2019 failing which the Seller shall, at its option and in its sole discretion, be entitled to resile from this Agreement by giving the Purchaser written notice to that effect, in which event this Agreement shall be deemed null and void *ab initio* and of no further force of effect between the parties.

- 54.2 In the event of the Seller electing to cancel this Agreement as envisaged in terms of clause 54.1, above, then in event of the Purchaser having paid the deposits in terms of paragraph J of the Schedule hereto, such deposits together with all interest earned thereon shall be refunded to the Purchaser.
- 54.3 It is recorded that the aforesaid conditions have been inserted for the benefit of the Seller only who may waive compliance with one or more of the aforesaid conditions prior to the expiry of the period referred to in clause 54.1 above.

55.

Consent In Terms of Protection of Personal Information Act

55.1 The Purchaser:

55.1.1 acknowledges that the Seller, the Seller's Conveyancers, the Developer and the Association will collect the Purchaser's personal information, including but not limited to name(s), identity numbers, registration numbers, birth dates, email addresses, physical addresses, postal addresses, telephonic numbers, geographic locations and other correspondence which may be private and/or confidential;

55.1.2 acknowledges that the Seller, the Developer and the Association will use the personal information for the purposes of use in all matters pertaining to the Purchaser as a resident in the Estate;

55.1.3 acknowledges that the Seller's Conveyancers will use the Purchaser's personal information for the purposes of effecting transfer of the Unit to the Purchaser;

55.1.4 consents to the Seller, the Seller's Conveyancers, the Developer and the Association processing the Purchaser's personal information, including but not limited to collecting, recording, organising, disseminating and making the personal information available for the uses set out in clauses 55.1.2 and 55.1.3 above;

55.1.5 consents to the Seller, the Seller's Conveyancers, the Developer and the Association collecting the Purchaser's aforementioned personal information

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directly from the Purchaser and from any other source;

55.1.6 consents to the Seller, the Seller's Conveyancers, the Developer and the Association retaining records of the Purchaser's aforementioned personal information for so long as they, in their sole discretion, deem it necessary to do so;

55.1.7 accepts the contents of this consent as adequate notification of the collection and processing of the Purchaser's aforementioned personal information by the Seller, the Seller's Conveyancers, the Developer and the Association consents to the aforementioned parties failing to provide full notification in terms of Section 18 of the Protection of Personal Information Act No. 4 of 2013 which consent is permitted in terms of Section 18(4) of that Act.

56.

Irrevocable Offer

This Agreement shall, when signed by the Purchaser and submitted to the Seller, constitute an offer to purchase the Unit from the Seller, which offer shall be irrevocable for a period of 30 (THIRTY) days from the date of signature hereof by the Purchaser, whereafter, if it has not been accepted by the Seller, the Purchaser may withdraw it on written notice to the Seller. This Agreement shall be deemed to have been concluded upon signature by the Seller within the aforementioned time period and its validity shall not be dependent on the Seller having communicated its signature to the Purchaser.

SIGNED by the **PURCHASER** at _____ on this the _____ day of _____ 2018.

AS WITNESSES:

- 1.
- 2.

PURCHASER

For:

Name of Signatory:

The signatory warrants by his/her signature that he/she is duly authorized hereto and that he/she is acquainted with and understands the contents of this Agreement and that all of the annexures referred to in this Agreement were attached hereto when the Purchaser signed same

CONSENTING SPOUSE

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SIGNED BY THE LEGAL GUARDIAN / MEMBER / DIRECTOR / TRUSTEE OF A PURCHASER WHO IS A MINOR / CLOSE CORPORATION / COMPANY / TRUST ON THIS DAY OF 2018.

AS WITNESSES:

- 1.
- 2.

FULL NAMES OF GUARANTOR

Address:

Telephone No:

By his/her signature hereto the signatory consents to the conclusion of this Agreement 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 fulfillment and discharge of all the obligations undertaken by the Purchaser to the Seller pursuant to this Agreement, under the renunciation of the benefits of excussion and division, the meaning and effect of which benefits and the renunciation thereof he/she acknowledges himself/herself to be acquainted. No variation or amendment or novation of this Agreement shall prejudice the suretyship obligations hereby undertaken by the aforesaid guarantor, the object being that he/she shall remain liable at all times as surety and co-principal debtor, even if this Agreement is varied, amended or novated and even if the aforesaid Purchaser is granted an indulgence by the Seller.

SIGNED by the **SELLER** at _____ on this the _____ day of 2018.

AS WITNESSES:

- 1.
- 2.

SELLER

For: **FIREWINGS PROPERTIES 11 PROPRIETARY LIMITED**

Name of Signatory(ies): **IVAN HENRY MORRIS and/or DAVID EDWIN PERKS**

The signatory(ies) warrants by his/their signature(s) that he/they is/are duly authorized hereto

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