

# SaltRock!

CITY



SITE NUMBER

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**CONTRACT OF SALE**

**SALT ROCK CITY - LIFESTYLE VILLAGE**

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**CONTRACT OF SALE:**

Entered into by:

**NEW SALT ROCK CITY PROPRIETARY LIMITED**

Registration number: **2007/005000/07**

Physical address: **1 NEW SALT ROCK ROAD  
SALT ROCK**

Postal address: **POSTNET SUITE 257  
PRIVATE BAG X0001  
BALLITO  
4420**

(hereinafter referred to as the "SELLER"/"DEVELOPER" and duly represented herein by **SCHALK THEUNISSEN** and authorised by resolution).

**and**

Name:

Identity/Registration No.

Marital status\*:

In / Out of Community of Property

\*(if the PURCHASER is an individual)

Physical address:

Postal address:

Contact Details :

Home:

Business:

Cell No:

Fax:

Email:

(hereinafter referred to as the "PURCHASER")

**1 SCHEDULE**

1.1 Property Description : **Proposed Portion**  **of Erf 1470 Salt Rock, Registration Division FU, Province of KwaZulu Natal. (being a portion of the PARENT PROPERTY described as Erf 987 and Erf 989 Salt Rock).**  
**Also known as Site No.**  **and as set out in the Layout plan as Annexure "D" hereto**

1.2 Approximate Total Extent (m<sup>2</sup>) :

1.3 PROPERTY Purchase Price (including VAT) :

1.4 Deposit(s) to be paid as follows:

1.4.1 Non-Refundable Pre-Emptive Fee paid in terms of the Pre-Emption Agreement :

1.4.2 Balance of Deposit to be paid within **7 DAYS OF DELIVERY OF THIS CONTRACT TO THE PURCHASER** :

1.5 Balance of PROPERTY Purchase Price (to be paid in accordance with the Provisions of 3.2 and 3.3 of the CONTRACT OF SALE) :

1.6 \*Amount of Loan required by the PURCHASER in respect of the PURCHASE PRICE :

1.7 Date by which Loan is to be Approved in Principle : **30 DAYS FROM DATE OF SIGNATURE HEREOF**

**\*Delete if not applicable**

1.8 Estimated monthly levy payable to the ASSOCIATION (to be adjusted from time to time in accordance with the MEMORANDUM OF INCORPORATION) : **R 1 400.00 for 12 months from DATE OF TRANSFER thereafter R 1 920.00 per month (see clause 6.4 of the CONDITIONS OF SALE)**

1.9 Amount Payable by the PURCHASER to the ASSOCIATION'S Levy Stabilisation Fund : **R 5 750.00**

1.10 Estimated monthly levy payable to the SUB-ASSOCIATION (to be adjusted from time to time in accordance with the SUB-ASSOCIATION'S MEMORANDUM OF INCORPORATION) : **TO BE ADVISED**

1.11 Estate Agent :

1.12 Amount of commission payable (incl. VAT) :

1.13 Income Tax Number of PURCHASER :

- 1.14 DEVELOPMENT PRECINCT description : **1. ERF 987 SALT ROCK,  
REGISTRATION DIVISION FU  
PROVINCE OF KWAZULU-NATAL**
- 2. A SUBDIVIDED PORTION OF ERF 989 SALT  
ROCK  
REGISTRATION DIVISION FU  
PROVINCE OF KWAZULU-NATAL**
- 1.15 Period from the DATE OF TRANSFER within which the  
Construction of a DWELLING UNIT is to have commenced  
(as set out in Clause 9.9 of the CONDITIONS OF SALE) : **24 (TWENTY-FOUR) MONTHS**
- 1.16 Period from which the Date of Commencement of  
Construction that the DWELLING UNIT is to have been  
completed (as per Clause 9.9 of the CONDITIONS OF SALE) : **18 (EIGHTEEN) MONTHS**
- 1.17 Connection Fees:
- 1.17.1 Electrical Connection Fee : Single Phase: R 26 331.50 (incl. VAT)  
Three Phase: R 52 700.00 (incl. VAT)
- 1.17.2 Water Connection Fee : R 46 235.91 (incl. VAT)
- 1.18 Electrical & Water Meter Connection Fees
- 1.18.1 Electrical Meter Connection Fee : R 4 335.00
- 1.18.2 Water Meter Connection Fee : R 2 865.00
- 1.19 Conveyancers : **ANTHONY WHATMORE & COMPANY INC.  
[byron@anthonywhatmore.co.za](mailto:byron@anthonywhatmore.co.za)**
- 1.20 Conveyancer's Trust Account Details:
- Account Holder : **ANTHONY WHATMORE & COMPANY INC.**
- Bank : **ABSA BANK**
- Branch Code : **632 005**
- Account Number : **407 7922 661**
- Reference : **SITE NO. & SURNAME**

**NB: PLEASE NOTE THE CONVEYANCERS WILL NEVER SEND YOU AN EMAIL, OR ANY OTHER NOTIFICATION CHANGING THESE BANK ACCOUNT DETAILS THE PURCHASER UNDERTANDS THAT DUE TO THE INCREASED RISK OF CYBER-FRAUD AND/OR SCAM THEFT, HE IS RESPONSIBLE AND ACCEPTS FULL LIABILITY TO TELEPHONICALLY VERIFY THE CONVEYANCERS BANK ACCOUNT DETAILS PRIOR TO MAKING ANY PAYMENTS.**

**INTRODUCTION**

- A. The SELLER is the owner of the properties described as **ERF 987 and ERF 989 SALT ROCK**.
- B. The SELLER intends subdividing the DEVELOPMENT PRECINCT, the PROPERTY described in 1.1 of the SCHEDULE above being a portion thereof. The SELLER intends selling the PROPERTY to the PURCHASER, being a portion of the proposed SUBDIVISION/TOWNSHIP DEVELOPMENT on the property described in A above. The PURCHASER acknowledges that the SELLER will only be able to pass transfer of the PROPERTY once the subdivisions have been registered, the Township established, and the relevant certificates issued, and consents obtained from the LOCAL AUTHORITY. It is recorded that the PROPERTY is an unapproved and unregistered subdivision as contemplated in relevant legislation. It is further recorded that:
- the SELLER has not yet complied with the conditions of approval to be issued by the Municipality when approving the PROPERTY as a separate subdivision and the PROPERTY is not registrable as contemplated in Section 1 of the Alienation of Land Act 1981 (Act No. 68 of 1981).
  - the SELLER shall be responsible for procuring as quickly as is reasonably practical (subject to what is provided below) the framing of the requisite subdivisional diagram/General Plan for the PROPERTY and the granting of all such consents as may be requisite in order to render the PROPERTY registrable as a separate subdivision.
- C. Subject to the provisions on this CONTRACT, the SELLER intends to install municipal services to the boundary of the PROPERTY as required in terms of the subdivision conditions.
- D. The SELLER wishes to sell the PROPERTY subject to the condition that the PURCHASER will be obliged to improve the PROPERTY in accordance with the provisions of this CONTRACT.

**IMPORTANT NOTICE**

In terms of Section 49 of Consumer Protection Act No. 68 of 2008, the PURCHASER'S attention is drawn to the following clauses in this Contract of Sale that contain limitation of the risk or liability of the SELLER; or constitute an assumption of risk or liability by the PURCHASER; or an indemnification of the SELLER or an acknowledgement of any fact.

- Joint PURCHASERS shall jointly and severally be liable in terms of Clause 1.42 of the Conditions of Sale.
- The PURCHASER acknowledges that a penalty may be imposed if the PURCHASER delays the transfer as set out in Clause 16 of the Conditions of Sale and fails to commence and complete building works within the time period set out in Clause 9 of the CONDITIONS OF SALE.
- The limitation of the PURCHASER'S right to claim damages in terms Clauses 3,4, 3.6, 6.7, 10.3, 12, and 14.3 of the CONDITIONS OF SALE.
- The limitation of the PURCHASER'S right to make improvements to the property in terms of Clause 12.2 of the CONDITIONS OF SALE.
- The appointment of CONVEYANCERS in terms of Clause 1.19 of the SCHEDULE, 2,4, 8.4 and 10.2 of the Conditions of Sale
- The acknowledgement by the PURCHASER that he/she/it has complied with his/her/its tax obligations to SARS, in terms of Clause 10.7 and furthermore that the PURCHASER was introduced to the property by the agent in terms of Clause 14.1 of the Conditions of Sale.
- The non-variation clause requiring all amendments of the CONTRACT to be in writing and the PURCHASER has not been induced to enter into the CONTRACT in terms of Clause 18 of the CONDITIONS OF SALE

- The PURCHASER'S liability for damages/penalty on breach and cancellation in terms of Clause 15 of the CONDITIONS OF SALE
- Indemnity by PURCHASER regarding information given by the SELLER in terms of Clause 19 of the CONDITIONS OF SALE

## 2. SALE

Subject to and in accordance with the provisions hereof and the CONDITIONS OF SALE annexed hereto as Annexure "B", the SELLER sells, and the PURCHASER purchases the PROPERTY.

## 3. PREPAYMENTS AND GUARANTEES

3.1 The amount referred to in 1.4.2 of the SCHEDULE shall be paid to the CONVEYANCERS, the bank account details of which are set out in Clause 1.20 of the SCHEDULE above.

3.1.1 Such payments (specifically excluding the Pre-Emptive fee paid in terms of the signed PRE-EMPTION AGREEMENT) shall be invested by the CONVEYANCERS Investment Account, interest to accrue for the benefit of the PURCHASER until the DATE OF TRANSFER whereupon the CONVEYANCERS shall release the capital to the SELLER and all accrued interest, less their usual fee, to the PURCHASER (the PURCHASER acknowledges that the CONVEYANCERS are not able to invest the amounts referred to in 1.4.2, or any other amount paid into trust with the CONVEYANCERS, on the PURCHASER'S behalf until such time as the PURCHASER has complied with all the requirements of the Financial Intelligence Centre Act No. 28 of 2001 and has signed the necessary investment mandate, both of which the PURCHASER undertakes to do so as soon as reasonably possible in the circumstances). The PURCHASER acknowledges as required by the Legal Practice Act 28 of 2014, that while the funds are so invested, the funds are not protected against a possible liquidation of the Bank.

3.2 Subject to 3.3 below, the PURCHASER shall secure the due payment of the amount referred to in 1.5 of the CONTRACT OF SALE by furnishing the CONVEYANCERS with a guarantee from a registered South African commercial bank, in a form and on terms acceptable to the CONVEYANCERS for such amount. The guarantee will be expressed payable on the DATE OF TRANSFER.

3.3 The guarantee referred to in 3.2 of the CONTRACT OF SALE shall be furnished by the PURCHASER by no later than **30 DAYS FROM DATE OF SIGNATURE HEREOF**, unless the PURCHASER requires a loan for the amount stated in 1.6 of the CONTRACT OF SALE, in which event the aforesaid guarantee shall be furnished within 14 (FOURTEEN) days of request being made therefore by the CONVEYANCERS which request shall not be made before the grant of loan in terms of clause 2.1 of the CONDITIONS OF SALE.

3.4 Alternatively, the PURCHASER shall be entitled to pay the amount referred to in 3.2 above to the CONVEYANCERS in cash, by no later than **30 DAYS FROM DATE OF SIGNATURE HEREOF**, which amount the CONVEYANCERS are irrevocably authorised to invest in an investment account as contemplated in Section 86 (4) of the Legal Practice Act No. 28 of 2014, with interest accruing for the benefit of the PURCHASER until DATE OF TRANSFER whereupon the CONVEYANCERS shall pay the balance of the Purchase Price to the SELLER. The PURCHASER acknowledges that the CONVEYANCERS and Legal Practise Council are entitled to charge an administration fee in respect of the abovementioned investment account.

3.5 It is recorded that the PROPERTY PURCHASE PRICE, referred to in paragraph 1.3 of the CONTRACT OF SALE, is inclusive of Value Added Tax at the current rate of 15%. The parties agree that, should there be any change in the rate of Value Added Tax applicable at the time of supply, as determined in accordance with the Value Added Tax Act 89 of 1991, the Total Consideration shall be amended to take into account the adjustment in the Value Added Tax rate.

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

**\*4. CONSUMER PROTECTION ACT**

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

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

4.3 The PURCHASER undertakes, within 7 (SEVEN) days of being requested to do so by the SELLER, to furnish the SELLER with its last audited financial accounts, and such other financial information in respect of the PURCHASER as the SELLER may reasonably require, in order to confirm that the PURCHASER'S asset value and/or turnover is as warranted in paragraph 4.1 above.

*\*Delete if not applicable*

**5. CONDITIONS PRECEDENT**

5.1 This CONTRACT shall be subject to and conditional upon:

5.1.1 the SELLER being able to subdivide the LAND and establish a Township thereon; and

5.1.2 the granting of Development Finance from a registered South African bank; and

5.1.2 **150 INDIVIDUAL PORTIONS** in the DEVELOPMENT PRECINCT being sold (for the purposes of this clause a Portion in the DEVELOPMENT shall be deemed to be sold once the contract of sale has been signed by both parties and is unconditional and the purchaser has paid the relevant deposit to the CONVEYANCERS)

5.1.3 the DEVELOPMENT PRECINCT remaining financially and economically viable and feasible for the SELLER. Should any unforeseen, unavoidable, or extraneous circumstances arise which render the continuation of the DEVELOPMENT PRECINCT financially and economically unviable then in such event the SELLER shall be entitled to resile from this CONTRACT and the PURCHASER shall have no further claim against the SELLER whatsoever and this CONTRACT shall be of no further force and effect.

By no later than 1 July 2026.

5.2 Should all the aforesaid conditions not be met timeously, then in that event, this entire CONTRACT shall lapse and be of no further force and effect between the parties.

5.3 Notwithstanding the aforesaid, it is recorded that the aforesaid conditions have been inserted solely for the benefit of the SELLER who may waive compliance with one or more of the aforesaid conditions, prior to this CONTRACT lapsing as a consequence of their non-fulfillment. In the event that a formal written waiver is not provided to the PURCHASER upon the expiry of the period stipulated above, it shall be deemed that the SELLER has elected to exercise its rights to waive these conditions, and consequently, the contract shall not lapse.

**6. MEMBERSHIP OF MOUNT RICHMORE HOMEOWNERS' ASSOCIATION NPC & MOUNT RICHMORE RESIDENTIAL SUB ASSOCIATION**

6.1 By virtue of the purchase of the PROPERTY, the PURCHASER shall be obliged to become, and remain for the duration of his ownership of the PROPERTY, a member of the ASSOCIATION within the meaning of and subject to

the conditions set out in the ASSOCIATION'S Memorandum of Incorporation, and undertakes that he and all persons deriving use and occupation of the PROPERTY or any part thereof through him will duly comply with all the obligations imposed upon the members under the ASSOCIATION'S Memorandum of Incorporation (which will include but in no way be limited to the payment of a monthly levy to the ASSOCIATION). In no way detracting from the generality of the aforesaid, the PURCHASER undertakes to sign a copy of the ASSOCIATION'S membership form (which is annexed hereto marked "R"), the Memorandum of Incorporation and RULES immediately on being requested to do so by the SELLER or the CONVEYANCERS.

- 6.2 Further, it is recorded that the SELLER is in the process of establishing a SUB-HOA namely MOUNT RICHMORE RESIDENTIAL SUB ASSOCIATION ("SUB-HOA") wherein this DEVELOPMENT PRECINCT will be administered as directed and determined by the SUB-HOA. The Purchaser is obliged by virtue of being a Member of the ASSOCIATION to become a Member of the SUB-HOA and to comply with its Rules and Memorandum of Incorporation (which will include but in no way be limited to the payment of a monthly levy to the SUB-HOA). In this instance, the PURCHASER undertakes to sign a copy of the SUB-HOA membership form, the Memorandum of Incorporation and RULES immediately on being requested to do so by the SELLER or the CONVEYANCERS.
- 6.3 The provisions of the SUB-HOA's Memorandum of Incorporation and any rules made in terms thereof, shall be subject to the provisions of the ASSOCIATION's Memorandum of Incorporation, Rules and Regulations.
- 6.4 The PURCHASER undertakes that he and all persons deriving use of the PROPERTY or any part thereof through him will duly comply with all obligations imposed upon occupiers of properties within the DEVELOPMENT PRECINCT by the ASSOCIATION and/or SUB-HOA.

**7. OFFER AND ACCEPTANCE**

By its signature hereto, the SELLER accepts the benefits conferred upon them in terms of this CONTRACT.



SIGNED by the PURCHASER at  on this  day of  20

**AS WITNESS :**

1.

**PURCHASER(S)**

I acknowledge that I am acquainted with and understand the contents of this CONTRACT.

\*On behalf of

(insert name of PURCHASER here)

duly authorized by virtue of a Resolution of Directors/Members/Trustees

\* Delete if not applicable

SIGNED by the SELLER at  on this  day of  20

**AS WITNESS :**

1.

**SELLER**

Who hereby warrants that (s)he is duly authorised to sign this CONTRACT of behalf of:

**NEW SALT ROCK CITY PROPRIETARY LIMITED**

**ANNEXURE "B"****CONDITIONS OF SALE****1. DEFINITIONS AND INTERPRETATION**

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

- 1.1 **"APPROVAL DATE"** means the date that the PROPERTY is approved as a separate, registrable subdivision in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 (as amended), and regulations in force thereunder;
- 1.2 **"ASSOCIATION"** means the Mount Richmore Homeowners Association NPC Registration Number: 2010/014478/08;
- 1.3 **"LEGAL PRACTICE ACT"** means the Legal Practice Act No. 28 of 2014;
- 1.4 **"BASIC SERVICES"** means the supply of water, sewerage, stormwater drainage and road access, in accordance with the requirements of the LOCAL AUTHORITY;
- 1.5 **"CONDITIONS OF SALE"** means these conditions of sale;
- 1.6 **"MEMORANDUM OF INCORPORATION"** means the Memorandum of Incorporation of the ASSOCIATION from time to time and it includes without limitation all annexures thereto and rules promulgated thereunder from time to time;
- 1.7 **"CONTRACT"** means the CONTRACT OF SALE and all Annexures thereto;
- 1.8 **"CONTRACT OF SALE"** means the contract of sale to which these conditions of sale are Annexure "B";
- 1.9 **"CONTRACTOR"** means a building contractor approved by the SELLER (or nominee) or the ASSOCIATION in terms of the MEMORANDUM OF INCORPORATION in terms of criteria determined by the SELLER or the ASSOCIATION and employed by the PURCHASER for the construction of improvements;
- 1.10 **"CONVEYANCERS"** means Anthony Whatmore & Company Incorporated, Marine Walk, 1 Salta Boulevard, Jabu Ngcobo Drive, Umdloti, 4320 (Telephone No: 031 563 7111, [byron@athonywhatmore.co.za](mailto:byron@athonywhatmore.co.za));
- 1.11 **"CPA"** means the Consumer Protection Act, Act No. 68 of 2008;
- 1.12 **"DATE OF SIGNATURE"** means the date of signature of this CONTRACT by the last signing of the SELLER or the PURCHASER;
- 1.13 **"DATE OF TRANSFER"** means the date of registration of transfer of the PROPERTY into the name of the PURCHASER in the Deeds Registry in Pietermaritzburg;
- 1.14 **"DESIGN REVIEW COMMITTEE"** means the Design Review Committee of the ASSOCIATION and/or SUB-HOA as provided for and as defined in the ASSOCIATION'S Memorandum of Incorporation;
- 1.15 **"DEVELOPMENT APPROVAL"** means the final written approval by the DESIGN REVIEW COMMITTEE of the completed development of the PROPERTY. It is recorded that such approval will only be given once, inter alia, in the opinion of the DESIGN REVIEW COMMITTEE:
- 1.15.1 all buildings and other structures on the PROPERTY have been constructed and completed in accordance with plans approved by the DESIGN REVIEW COMMITTEE and
- 1.15.2 all exterior aesthetics, including but in no way limited to, all exterior signage, lighting and landscaping on the PROPERTY has been completed in accordance with the DESIGN REVIEW COMMITTEE requirements.

- 1.16 **"DEVELOPMENT SERVICE PROVIDER"** means the service providers approved by the SELLER and/or ASSOCIATION from time-to-time.
- 1.17 **"DEVELOPMENT MANUAL"** means the New Salt Rock City-Lifestyle Village Architectural Guidelines as amended from time to time annexed hereto marked Annexure "C".
- 1.18 **"DEVELOPMENT PERIOD"** means the period from incorporation of the DEVELOPER until the DEVELOPER has sold and transferred all properties in the DEVELOPMENT as defined below.
- 1.19 **"DEVELOPMENT PRECINCT"** means the property development which is to be known as NEW SALT ROCK CITY – LIFESTYLE VILLAGE, which incorporates the following immovable property:
1. **ERF 987 SALT ROCK,  
REGISTRATION DIVISION FU, PROVINCE OF KWAZULU-NATAL  
IN EXTENT 14,0725 HECTARES**
  2. **ERF 989 SALT ROCK,  
REGISTRATION DIVISION FU, PROVINCE OF KWAZULU-NATAL  
IN EXTENT 14,4817 HECATRES**
- 1.20 **"DWELLING UNIT"** means "Dwelling Unit" as defined in the TOWN PLANNING SCHEME including any Sectional Title Schemes;
- 1.21 **"ENVIRONMENTAL MANAGEMENT PLAN"** means the approved Environmental Management Plan of the DEVELOPMENT PRECINCT.
- 1.22 **"IMPROVEMENTS"** means any structure of whatever nature constructed or erected or to be constructed or erected on the PROPERTY;
- 1.23 **"JURISTIC PERSON"** means a partnership, association, trust, body corporate, company, close corporation, or other legal or juristic person;
- 1.24 **"DEVELOPMENT"** means the development known as Mount Richmore on Erf 923 Salt Rock to be further subdivided. The Development shall include any subdivision, consolidation or sectional title developmetn within the Development Area.
- 1.25 **"LOCAL AUTHORITY"** means the KwaDukuza Municipality and its successors-in-title or assigns;
- 1.26 **"BY-LAWS"** means the KwaDukuza Municipality Planning and Land Use Management By-Laws;
- 1.27 **"PRE-EMPTION AGREEMENT"** means the Pre-Emption Agreement entered into between the SELLER and the PURCHASER, in terms of which the SELLER granted the PURCHASER a pre-emptive right to purchase the PROPERTY;
- 1.28 **"PROPERTY"** means the property described in 1.1 of the SCHEDULE which forms part of the DEVELOPMENT PRECINCT;
- 1.29 **"PURCHASER"** means the purchaser in terms of this CONTRACT;
- 1.30 **"SITE PLAN"** means the plan which is Annexure "P" hereto;
- 1.31 **"SPLUMA"** means the Spatial Land Use Management Act No. 16 of 2013 as amended;
- 1.32 **"SUB-HOA"** means the Mount Richmore Residential Sub-Association, a non-profit company to be formed by the SELLER or such other name as may be assigned by the SELLER.
- 1.33 **"SUB-HOA MOI"** means the memorandum of incorporation of the Mount Richmore Residential Sub-Association.
- 1.34 **"TOWN PLANNING SCHEME"** means the scheme of the KwaDukuza Municipality (or any successor thereto);
- 1.35 **"REGISTRATION CERTIFICATE"** means the certificate issued by the KwaDukuza Municipality or any other LOCAL AUTHORITY in respect of the PROPERTY confirming that the conditions imposed by the Municipality in approving,

inter alia, the PROPERTY as a separate subdivision have been complied with and the PROPERTY is separately registrable as contemplated in SPLUMA or any other laws or bylaws.

- 1.36 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;
- 1.37 words importing a gender shall include all genders and the singular shall include the plural and vice versa;
- 1.38 words or expressions defined in the CPA shall have the same meanings in this CONTRACT;
- 1.39 if the PURCHASER consists of more than one person, such persons shall be jointly and severally liable in solidum for all their obligations in terms of this CONTRACT (*i.e., any such person may be called on to fulfill the obligations of the PURCHASER in terms of this Contract of Sale*);
- 1.40 no indulgence or relaxation which the SELLER/ASSOCIATION/HOA may allow to the PURCHASER in regard to the carrying out of the PURCHASER'S obligations in terms of or pursuant to this CONTRACT shall prejudice the SELLER/ASSOCIATION/HOA rights under this CONTRACT in any manner whatsoever, or be regarded as a waiver of the SELLER'S rights in terms of this CONTRACT, or be construed to act as an estoppel against the SELLER/ASSOCIATION/HOA to otherwise strictly enforce compliance of the PURCHASER'S obligations in terms of this CONTRACT;
- 1.41 if any provision of this CONTRACT is unenforceable for any reason whatever, such provision shall be deemed to be separate and severable from this CONTRACT, without in any way affecting the validity of the remaining provisions of this CONTRACT;
- 1.42 in interpreting this CONTRACT, no provision shall be construed in a limiting fashion or in accordance with the *Eiusdem Generis* rule (*i.e. a specific provision of this CONTRACT on any particular issue, shall not be deemed in any way to detract from any general provision in respect of the same issue*);
- \*1.43 the provisions of this CONTRACT shall be read in conjunction with the provisions of the CPA and insofar as the provisions of this CONTRACT are inconsistent with the provisions of the CPA, the provisions of the CPA shall prevail;
- 1.44 any reference to any statute, legislation, or regulations shall be deemed to include any lawful amendments thereto or reenactments thereof;
- 1.45 this CONTRACT shall be governed by and construed according to the Laws of the Republic of South Africa;
- 1.46 the expiration or termination of this CONTRACT shall not affect those provisions of this CONTRACT which expressly provide that they will operate after any such expiration or termination or, which out of necessity must continue to have effect after such expiration, notwithstanding the fact that the paragraphs do not expressly provide this;
- 1.47 to the extent that the CONTRACT is signed on a date which results in the use of any tense being inappropriate, the CONTRACT shall be read in the appropriate tense;
- 1.48 if there is any conflict between the provisions or the information in the CONTRACT and the plans and schedules which constitute annexures to the CONTRACT, the provisions of the CONTRACT shall prevail and be regarded as correct and binding;
- 1.49 any reference to a natural person shall include the legal person and/or an association of persons and vice versa;
- 1.50 where an expression has been defined, and such definition contains a provision conferring rights or imposing obligations on any part, effect shall be given to the provision as if it were a substantive provision contained in the body of this CONTRACT;
- 1.51 if a number is reflected in numerals and words, the words shall prevail in the event of any conflict between the two;
- 1.52 where a number of days are prescribed, they shall consist of all days (*i.e. including Saturday, Sunday, and Public Holidays*) and shall exclude the first day and include the last day.
- 1.53 nothing in this Contract shall be construed as binding by the SELLER and the PURCHASER to the provisions of the CPA in instances where the CPA would not otherwise be binding on them by virtue of the provisions. All

explanatory notes in italics are intended for guidelines for the purpose of the CPA only and are not to be taken as an exhaustive explanation on the correct legal meaning of any term or concept.

- 1.54 a fully executed copy of this CONTRACT shall be accepted as an original and this CONTRACT may be signed in counterparts and will be effective as such, each of which will be deemed an original and all of which together shall constitute one and the same CONTRACT as at the date of signature of the party last signing one of the counterparts;
- 1.55 this CONTRACT shall be binding on and enforceable by the administrators, trustees, successors in title in office, assigns or liquidators of the parties as fully and effectually as if they had signed this CONTRACT in the first instance and reference to any party shall be deemed to include such party's administrators, trustees, successors in title in office, assigns or liquidators, as the case may be.
- 1.56 this CONTRACT incorporates the annexures (if any), which annexures shall have the same force and effect as the provisions set out in the body of this CONTRACT. The various documents forming part of this CONTRACT are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the CONTRACT will prevail.

*\*Delete if paragraph 6 of the CONTRACT OF SALE is applicable*

## **2. LOAN FROM FINANCIAL INSTITUTION**

- 2.1 If this CONTRACT is subject to the PURCHASER obtaining a loan of not less than the amount stated in 1.6 of the SCHEDULE, the PURCHASER undertakes forthwith to apply for the said loan and if such loan is not granted in principal, by the date stated in 1.7 of the SCHEDULE or by such later date as the SELLER may agree to in writing, then in that event this CONTRACT shall lapse and be of no further force and effect between the parties. If this CONTRACT is so terminated, the SELLER shall forthwith repay or procure the repayment of all amounts paid by the PURCHASER in respect of the purchase consideration of the PROPERTY, less any administration fee charged by the CONVEYANCERS, and less any non-refundable consideration paid to the SELLER. It is recorded that this clause has been inserted for the benefit of both the SELLER and the PURCHASER.
- 2.2 The PURCHASER acknowledges and undertakes to ensure that the conditions set by the relevant commercial bank in respect of the mortgage loan shall not in any way result in any delays in transfer of the PROPERTY and shall accordingly for all things necessary to ensure that such conditions shall be on the normal terms and conditions pertaining to a loan for vacant land only and shall under no circumstance contain any conditions related to building finance.
- 2.3 The PURCHASER shall make application to a South African commercial bank for the aforesaid loan as soon as possible after the DATE OF SIGNATURE and undertakes, in good faith, to do whatever else may be reasonably required in order to ensure the aforesaid loan is granted timeously.
- 2.4 In order to expedite the transfer of the PROPERTY to the PURCHASER, it is the intention of the SELLER and the PURCHASER that the CONVEYANCERS be appointed by the bank granting the loan referred to in paragraph 2.1 above to attend to the registration of the mortgage bond over the PROPERTY in favour of the aforesaid bank, on the DATE OF TRANSFER. The PURCHASER undertakes to utilize its best endeavors to prevail upon the aforesaid bank to appoint the CONVEYANCERS in this regard.

## **3. OCCUPATION, POSSESSION AND RISK**

- 3.1 Occupation and possession of the PROPERTY will be given and taken up by the PURCHASER on the DATE OF TRANSFER, from which date the PURCHASER shall be entitled to every benefit and income arising from the PROPERTY and from which date the PROPERTY shall be held by the PURCHASER at his sole risk.
- 3.2 The PURCHASER shall, from DATE OF TRANSFER, be liable for the payment of the PROPERTY'S rates, electricity, water, refuse and sewerage costs, connection fees, municipal deposits, all other related charges in respect of the PROPERTY and all amounts due to the ASSOCIATION in terms of clause 6 below, the MEMORANDUM OF INCORPORATION and otherwise in terms of this CONTRACT.
- 3.3 Any payments made by the SELLER towards the amounts referred to in 3.2 above for the period after the DATE OF TRANSFER shall be refunded by the PURCHASER against the SELLER'S demand for such payment or the DATE OF TRANSFER, whichever occurs first.

- 3.4 The PURCHASER acknowledges that after the DATE OF TRANSFER, development operations will be in progress on the DEVELOPMENT PRECINCT and that it may suffer inconvenience, noise, and dust as a result thereof. The PURCHASER waives all claims which it may acquire against the SELLER or the ASSOCIATION arising from such inconvenience, noise, or dust.
- 3.5 Under no circumstances whatsoever shall the SELLER be liable to the PURCHASER for any loss, damage, liability, and expense suffered by the PURCHASER pursuant to the PURCHASER'S occupation of the PROPERTY prior to the DATE OF TRANSFER.
- 3.6 The PURCHASER shall indemnify and hold harmless the SELLER and its employees, agents, contractors, successors and assigned from and against any loss, damage, liability, and expense arising from any claim brought against such indemnified party by a third party as a result of the PURCHASER'S occupation of the PROPERTY prior to DATE OF TRANSFER.

#### 4. CONDITION OF PROPERTY, SERVITUDES AND REZONING

- 4.1 Provided that the CPA does not apply to this Agreement, the PROPERTY is sold voetstoots to the PURCHASER.
- 4.2 The Parties acknowledge that they have not made any representations or warranties not expressly contained herein and they have not been influenced by any representations made by or on behalf of a Party to enter into this CONTRACT, save as expressly set out in this CONTRACT. No representations or agreements or warranties shall be binding unless expressly contained herein.
- 4.3 If upon the measurement of the PROPERTY the extent of the PROPERTY is found to be greater than the extent as set out in clause 1.2 of the SCHEDULE, the PURCHASER shall not be liable for any excess. Conversely, if the extent thereof is found to be less than the extent as set out clause 1.2 of the SCHEDULE, the SELLER shall not be liable for any shortfall.
- 4.4 The SELLER shall indicate to the PURCHASER the beacons or boundary pegs of the PROPERTY prior to DATE OF TRANSFER and the SELLER shall not be obliged again to indicate to the PURCHASER or to locate the beacons or boundary pegs of the PROPERTY after the DATE OF TRANSFER. The PURCHASER furthermore acknowledges that he will satisfy himself as to the location of the boundary pegs or beacons and that same are an accurate reflection of the PLAN attached hereto as ANNEXURE P before DATE OF TRANSFER.
- 4.5 If the PROPERTY has been erroneously described herein, such mistake or error shall not be binding upon the Parties but the correct description, as agreed by the Parties, shall apply, and they shall affect rectification of this CONTRACT accordingly.
- 4.6 The PROPERTY is sold subject to the provisions of the MEMORANDUM OF INCORPORATION of the ASSOCIATION and SUB-HOA MOI, all such conditions as are mentioned and/or referred to in the title deed/s relating to the PROPERTY, all rights and encumbrances set out in the conditions of establishment and/or contained in the relevant township plan, such conditions as are or may hereafter be imposed by any local authority, including the conditions imposed in respect of the rezoning and/or subdivision of the LAND and subject to the provisions of the MEMORANDUM OF INCORPORATION and rules of the ASSOCIATION and SUB-HOA.

#### 5. SERVITUDES AND RESTRICTIONS

- 5.1 The PROPERTY is sold subject to such restrictions as may be imposed by any local authority in respect of the rezoning and/or subdivision of the PROPERTY and the DEVELOPMENT PRECINCT, including restrictions having regard to height, coverage or set back.
- 5.2 The SELLER shall be entitled to register such servitudes across the PROPERTY and DEVELOPMENT PRECINCT as may be necessary for the purposes of the installation of services, including, *inter alia*, gas, electricity, telephone, television, sewerage, storm water drainage, solid waste removal and water supply.
- 5.3 The PURCHASER hereby acknowledges that he is aware of the building restrictions applicable to the PROPERTY in that the building guidelines pertaining to height, boundary restrictions, distance from the access road and the like, which will be binding on the PURCHASER and his successors- in-title.
- 5.4 The PURCHASER acknowledges that the restrictions as set out in Clause 5.3 above are imposed by the SELLER, ASSOCIATION and/or DESIGN REVIEW COMMITTEE in order to benefit and maintain the aesthetics of the

DEVELOPMENT PRECINCT. It is specifically recorded that these restrictions will take precedent over any restrictions imposed by the LOCAL AUTHORITY or any other governing authority.

**6. ASSOCIATION, LEVIES AND LEVY STABILISATION PAYMENT**

- 6.1 The ASSOCIATION and SUB-HOA has/will be established for the benefit of, *inter alia*, all owners of Properties in the DEVELOPMENT PRECINCT and to control and maintain roads, services, and amenities within the DEVELOPMENT PRECINCT.
- 6.2 The PURCHASER shall become a member of the ASSOCIATION and SUB-HOA on the DATE OF TRANSFER.
- 6.3 The PURCHASER shall be entitled to request the SELLER to furnish him/her with copies of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI, and the PURCHASER agrees to be bound thereby.
- 6.4 The ASSOCIATION and SUB-HOA shall be responsible for the duties imposed by the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and for which all members of the ASSOCIATION and SUB-HOA will contribute a levy to be determined by the ASSOCIATION and SUB-HOA from time to time.
- 6.5 The PURCHASER shall be and remain a member of the ASSOCIATION and SUB-HOA for as long as he is the registered owner of the PROPERTY and—
- 6.5.1 undertakes to familiarise himself with the contents of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and Rules of the ASSOCIATION and SUB-HOA;
- 6.5.2 shall comply with (and ensure that all occupants of the PROPERTY and his employees, agents, contractors, and guests comply with) the provisions of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and rules of the ASSOCIATION and SUB-HOA;
- 6.5.3 shall be responsible for and pay promptly on due date all levies (including those imposed by the SELLER and the ASSOCIATION and SUB-HOA) and other charges as may be payable to the ASSOCIATION and SUB-HOA in accordance with its MEMORANDUM OF INCORPORATION and SUB-HOA MOI.
- 6.6 The PURCHASER acknowledges and agrees that no improvements may be affected by the PURCHASER other than by a CONTRACTOR, it being recorded that in terms of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI, the SELLER or the ASSOCIATION or SUB-HOA shall designate a list of Contractors who will be allowed to do building work of whatever nature and effect Improvements in the DEVELOPMENT PRECINCT.
- 6.7 The PURCHASER further acknowledges that he will have no claim for damages or loss against the SELLER or the ASSOCIATION or the SUB-HOA, arising from whatever cause as a result of any acts or omissions of a CONTRACTOR and hereby indemnifies the SELLER and the ASSOCIATION and the SUB-HOA against any claim from any third party arising from the construction of such improvements.
- 6.8 The amount payable to the ASSOCIATION and SUB-HOA in terms of clause 6.4 can be adjusted annually by the ASSOCIATION and SUB-HOA in accordance with the provisions of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI, and which is deemed appropriate and necessary by the Directors from time to time.
- 6.9 The PURCHASER agrees that the ASSOCIATION and SUB-HOA shall be entitled to make rules with regard to the use and enjoyment of facilities forming part of the DEVELOPMENT PRECINCT, including in particular and without limiting the generality of the foregoing, with regard to –
- 6.9.1 the preservation of the natural environment.
- 6.9.2 vegetation and flora and fauna in the DEVELOPMENT PRECINCT.
- 6.9.3 the use and allocation of private parking areas for owners of immovable property in the DEVELOPMENT PRECINCT and guests.
- 6.9.4 the right to keep any animal, reptile, or bird.
- 6.9.5 the use of recreation and entertainment areas and amenities and facilities and the right to make a reasonable charge for such use.
- 6.9.6 the use and control of business, commercial and retail premises in the DEVELOPMENT PRECINCT.

- 6.9.7 the placing of movable objects upon or outside the building included in the DEVELOPMENT PRECINCT, including the power to remove any such object.
- 6.9.8 the storing of flammable and other harmful substances.
- 6.9.9 the conduct of any persons within the DEVELOPMENT PRECINCT and the prevention of nuisance of any nature to any owner of immovable property in the DEVELOPMENT PRECINCT.
- 6.9.10 the use of land within the DEVELOPMENT PRECINCT.
- 6.9.11 the use of roads, pathways, canals, and open spaces.
- 6.9.12 the imposition of fines and other penalties to be paid by members of the ASSOCIATION and SUB-HOA.
- 6.9.13 the management, administration and control of the common areas and open spaces.
- 6.9.14 the Design Guidelines for the establishment, installation and maintenance of buildings, gardens, both public and private.
- 6.9.15 generally in regard to any other matter which the ASSOCIATION and SUB-HOA from time to time considers appropriate.
- 6.9.16 the introduction of traffic calming measures.
- 6.9.17 the introduction and maintenance of security facilities.
- 6.9.18 the appointment of estate agents authorised to sell property within the DEVELOPMENT PRECINCT.
- 6.9.19 the accreditation of managing agents authorised to manage the DEVELOPMENT PRECINCT and including sectional title schemes.
- 6.9.20 the management and administration of the letting and selling of properties within the DEVELOPMENT PRECINCT.
- 6.9.21 the formation of Sub-Associations within the Development as defined in the ASSOCIATION MEMORANDUM OF INCORPORATION.
- 6.9.22 The guidelines, fees and processes when letting, short-term letting and/or selling properties but and not limited to the prescribed documentation to be used. **It being recorded that the minimum period for letting of property within the DEVELOPMENT PRECINCT shall be 6 months.**
- 6.9.23 The power to make the rules of and clubhouse or related Facilities and the payment of any Clubhouse levy together with its facilities fees.
- 6.10 The PURCHASER accepts liability with the effect from DATE OF TRANSFER for a payment of a monthly levy to the ASSOCIATION and SUB-HOA in respect of those items and amounts payable in terms of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI (see clause 1.8 of the SCHEDULE above). It being recorded that the levy for the SUB-HOA shall be collected by the ASSOCIATION or as may be directed by the SUB-HOA and reflected on the monthly levy account of the PURCHASER.
- 6.11 The PURCHASER acknowledges that Levy Stabilisation Fund has been set up which is managed by the ASSOCIATION. The PURCHASER hereby agrees to make a payment of the sums set out in clause 1.9 of the SCHEDULE in addition to the PURCHASE PRICE to such Levy Stabilisation Funds upon DATE OF TRANSFER of such PROPRERTY into the name of the PURCHASER. Upon the transfer of the PROPERTY from the PURCHASER to a successor in title, a payment shall be made by the successor in title to the Levy Stabilisation Funds of the amount required upon that date and which amount the ASSOCIATION will be able to adjust from time to time.
- 6.12 The PURCHASER further acknowledges that the amount set out in Clauses 1.17 and 1.18 of the SCHEDULE is payable to the CONVEYANCERS within 7 days of being requested to do so.
- 6.13 The PURCHASER further acknowledges that in order for the SELLER to successfully complete the DEVELOPMENT PRECINCT, it is deemed necessary by the SELLER to have complete control of the ASSOCIATION and SUB-HOA for



so long as it remains a registered owner within the DEVELOPMENT PRECINCT. The SELLER shall accordingly be entitled to:

- 6.13.1 nominate the directors of the board of the ASSOCIATION and SUB-HOA as per the respective ASSOCIATION/SUB-HOA Memorandum of Incorporation;
  - 6.13.2 to attend any meeting of the ASSOCIATION and SUB-HOA in the PURCHASER'S stead, and there and then to speak and vote on the PURCHASER'S behalf;
  - 6.13.3 to carry or veto any proposed ordinary or special resolution of the ASSOCIATION and SUB-HOA by voting in favour or against such resolution.
- 6.14 The PURCHASER, for so long as the SELLER remains the registered owner within the DEVELOPMENT PRECINCT, by his signature hereto irrevocably and *in rem suam* appoints the SELLER or its nominee, to specifically exercise any of his rights which he might have in regard thereto.
- 6.15 The SELLER'S right to act in terms of this clause 6 shall no longer be of any force and effect immediately upon the SELLER having no ownership in the DEVELOPMENT PRECINCT.
- 6.16 All owners of properties situate within the DEVELOPMENT PRECINCT are required to insure their properties through the insurers determined by the SELLER and/or ASSOCIATION and/or SUB-HOA from time to time.

## **7. ADVERTISING ON THE COMMON PROPERTY**

- 7.1 The SELLER shall be entitled at any time to erect such signage, flagpoles, messages or any other form of notices or advertising on the DEVELOPMENT PRECINCT for the purposes of selling and/or letting of properties in the DEVELOPMENT PRECINCT.
- 7.2 The PURCHASER shall not be entitled to display any "For Sale" and/or "To Let" signs on the PROPERTY or the DEVELOPMENT PRECINCT.

## **8. RESTRICTION AGAINST ALIENATION**

- 8.1 Until the PURCHASER has complied with all of its obligations in terms of this CONTRACT , the PURCHASER shall not be entitled to sell the PROPERTY to any third party, without the prior written consent of the SELLER and its successors-in-title and/or the ASSOCIATION or SUB-HOA, as the case may be and unless the PURCHASER and/or transferee of the PROPERTY agrees in writing to observe the terms and conditions of this CONTRACT and in which event the SELLER or ASSOCIATION or SUB-HOA may charge a fee in respect of such resale for documentation, vetting of purchaser, obtaining legal advice, administration fee, etc.
- 8.2 It is further recorded and agreed that should the Purchaser be a–
- 8.2.1 company, the alienation by a shareholder of any of his shares in the Purchaser, including his beneficial ownership thereof; or
  - 8.2.2 close corporation, the alienation by a member of any percentage of his member's interest in the Purchaser; or
  - 8.2.3 trust, the alienation by a beneficiary of any of his beneficial interest in the Purchaser,
- shall be deemed to be an alienation of the Property for purposes of clause 8.
- 8.3 The PROPERTY may not be sold, transferred, leased, or otherwise alienated or disposed of to any person other than in accordance with the provisions of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and without the written approval of the ASSOCIATION and SUB-HOA.
- 8.4 All transfers of unimproved PROPERTY or partially improved PROPERTY shall be attended to by the CONVEYANCERS.

## **9. IMPROVEMENTS TO THE PROPERTY**

- 9.1 The PROPERTY shall be maintained, and all Improvements thereon shall be erected and maintained in accordance with the requirements of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and to the satisfaction of the ASSOCIATION and SUB-HOA and the DESIGN REVIEW COMMITTEE.

- 9.2 All Improvements to the PROPERTY, including any alterations to existing Improvements, shall be carried out in accordance with the building plans approved by the ASSOCIATION and SUB-HOA and the DESIGN REVIEW COMMITTEE.
- 9.3 The plans of all buildings, boundary walls or other structures to be erected on the PROPERTY shall comply with any architectural guidelines prescribed by the ASSOCIATION and SUB-HOA and the DESIGN REVIEW COMMITTEE, as amended by the ASSOCIATION and SUB-HOA, from time to time and as set out in the MEMORANDUM OF INCORPORATION.
- 9.4 All plans must be submitted to the ASSOCIATION, SUB-HOA and the DESIGN REVIEW COMMITTEE for its approval prior to submission to the local Municipality for its approval. A fee for the scrutinising and approval of such plans by the ASSOCIATION and SUB-HOA will be payable by the PURCHASER. Such fees for scrutinising work done by the ASSOCIATION and SUB-HOA will be determined by them from time to time.
- 9.5 Building operations on the PROPERTY, including any alterations to existing improvements on the PROPERTY, may not commence before the written consents of the ASSOCIATION and SUB-HOA and local authority have been endorsed on the PURCHASER'S building plan.
- 9.6 Any amendments and/or variations to the building plans may only be undertaken by the PURCHASER with the ASSOCIATION and SUB-HOA and local authority's prior written consent.
- 9.7 It is agreed that the foregoing and any architectural guidelines prescribed by the ASSOCIATION and SUB-HOA may be included in the title deed of the PROPERTY.
- 9.8 The PURCHASER acknowledges and agrees that it shall ensure that all of its visitors, invitees, employees, representatives and/or contractors comply with the provisions of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI.
- 9.9 the PURCHASER shall within a period of 24 (twenty-four) months from DATE OF TRANSFER have commenced the construction of the building works to erect a DWELLING UNIT on the PROPERTY and outbuildings and shall have completed the construction of the said DWELLING UNIT and outbuildings within a period of 18 (eighteen) months from date of commencement, failing which the PURCHASER shall pay to the ASSOCIATION and SUB-HOA such penalties as are prescribed in terms of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and rules, and the PURCHASER accepts that such penalties are reasonable and necessary in order to ensure that building work on the DEVELOPMENT PRECINCT is completed within a reasonable time.
- 9.9.1 It is recorded that should the PURCHASER sell the PROPERTY to a third party prior to commencement and/or completion of the building works, the already lapsed time periods stipulated in Clause 9.9 above will apply to the third-party purchaser and the new Purchaser will be required to commence and/or completed building works within the time period that remains.
- 9.10 If –
- 9.10.1 the PURCHASER fails to comply with the provisions of clause 9.9, the SELLER and/or ASSOCIATION and/or SUB-HOA will provide the PURCHASER with written notice in terms of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and/or Building Regulations prescribed by the ASSOCIATION and SUB-HOA from time to time, in terms of which the PURCHASER will have to commence building works within 30 days from the date of such notice.
- 9.10.2 If the PURCHASER fails to comply with the notice set out above, the PURCHASER shall be liable for payment of any penalties and/or levies as stipulated in the MEMORANDUM OF INCORPORATION and SUB-HOA MOI and rules of the ASSOCIATION and SUB-HOA.
- 9.11 The PURCHASER accepts that clause 9.10 is reasonable and necessary in order to ensure that building work on the DEVELOPMENT PRECINCT is completed within a reasonable time and is brought to the attention of any purchaser of the PROPERTY, should he alienate this PROPERTY.
- 9.12 The PROPERTY may never be sold, transferred, leased, or otherwise alienated or disposed of to any person other than in accordance with the provisions contained in this clause 9.
- 9.13 The PURCHASER shall grant the SELLER and/or the ASSOCIATION'S and SUB-HOA representatives' access to the PROPERTY to ensure compliance with the provisions of this clause 9.

9.14 The PURCHASER shall not be entitled to alienate or transfer the PROPERTY or any portion thereof prior to the completion of the building works referred to above without the prior written consent of the SELLER or its successor in title.

## 10. TRANSFER

10.1 The PURCHASER shall, within 7 (seven) days of being called upon to do so by the CONVEYANCERS –

10.1.1 pay to the CONVEYANCERS all costs of and incidental to the passing of transfer of the PROPERTY to the PURCHASER, including costs of this agreement, any addendum to this agreement, bond costs, bank charges and all conveyancing fees and disbursements and

10.1.2 furnish all such information, sign all such documents, and pay all such amounts that may be necessary or required to enable the CONVEYANCERS to pass transfer of the PROPERTY;

10.2 The CONVEYANCERS shall pass transfer of the PROPERTY to the PURCHASER as soon as is reasonably practicable in the circumstances, provided the PURCHASER has complied with all his/her obligations under this CONTRACT.

10.3 Except to the extent permissible 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, or the ASSOCIATION arising out of any delays in effecting transfer of the PROPERTY to the PURCHASER.

10.4 The PURCHASER shall be obliged to accept transfer of the PROPERTY, *inter alia*, subject to –

10.4.1 the conditions, reservations and servitudes which burden the LAND and/or the PROPERTY;

10.4.2 any change in the description of the PROPERTY;

10.4.3 a condition registered against the title deed to the PROPERTY to the effect that, the PROPERTY or any portion thereof, or interest therein, shall not be alienated or transferred without the written consent of the ASSOCIATION first being had and obtained (it be being recorded however that the transfer of the PROPERTY to the PURCHASER in terms of this CONTRACT and the registration of a mortgage bond by the PURCHASER simultaneously herewith shall specifically not require the consent of the ASSOCIATION);

10.4.4 a condition registered against the title deed to the PROPERTY to the effect that, the PROPERTY or any portion thereof, or interest therein, shall not be alienated or transferred without the written consent of the SUB-HOA first being had and obtained (it be being recorded however that the transfer of the PROPERTY to the PURCHASER in terms of this CONTRACT and the registration of a mortgage bond by the PURCHASER simultaneously herewith shall specifically not require the consent of the SUB-HOA);

10.4.5 a condition registered against the title deed to the PROPERTY to the effect that, the PROPERTY or any portion thereof, or interest therein, shall not be alienated or transferred without the written consent of the SELLER first being had and obtained (it be being recorded however that the transfer of the PROPERTY to the PURCHASER in terms of this CONTRACT and the registration of a mortgage bond by the PURCHASER simultaneously herewith shall specifically not require the consent of the SELLER);

10.5 The PURCHASER acknowledges that the SELLER has commenced with the preliminary planning for additional facilities and amenities such as commercial, retail, and recreational components and others, that will result in the overall enrichment and benefit of the DEVELOPMENT. In order to achieve the above, various applications, consents and approvals must be obtained by the SELLER from certain bodies of government which can take a long period of time, as well as the incurrance of expensive professional fees. The PURCHASER acknowledges and accepts that due to the SELLER having a continuing and permanent Interest in the DEVELOPMENT and in order to maintain the integrity of the DEVELOPMENT as a whole, the SELLER has reserved the right that in the event of the PURCHASER disposing of the PROPERTY, either by private treaty or an appointed estate agent or in the event of the PURCHASER being an artificial person, such as a close corporation, company or trust, and the member's interest, shares or beneficial interest (as the case may be) being disposed of, then in that event, the PURCHASER acknowledges that it shall be responsible for payment of a fee charged by the SELLER in consideration for attending to the matters referred to above including all Administration requirements connected therewith the aforesaid consideration shall be calculated at the rate of 1% (ONE PER CENT) plus VAT of the purchase price of the PROPERTY, member's interest, shares or beneficial interest (as the case may be) or the market value of the PROPERTY, whichever is the greater. If there is a dispute as to the market value of the PROPERTY, the member's interest, shares or beneficial interest (as the case may be) at the date of transfer or cession, then the market value shall be determined by a registered

independent valuer, whose decision shall be final and binding. If agreement cannot be reached on the appointment of the independent valuer, a valuer shall be appointed by the chairman of the KwaZulu Natal branch of the South African Institute of Valuers, or his deputy. The costs of the valuer in valuing the PROPERTY shall be paid in equal shares between the PURCHASER and SELLER. The PURCHASER herein and all successors in title shall be further obliged to accept transfer of the PROPERTY subject to this condition being registered against the title deed of the PROPERTY and/or imposed by the SELLER to this effect.

- 10.6 The PURCHASER and any successor in title shall not be entitled to sell, transfer, or otherwise dispose of the PROPERTY unless it includes in the relevant agreement similar clauses to those stipulated in 10.3, 10.4 and 10.5 above, requiring compliance with all the provisions hereof, including without limiting the foregoing, the obligation to reimpose the provisions of this clause 10.6.
- 10.7 It is recorded that in order to effect transfer of the PROPERTY, the CONVEYANCERS shall be required to lodge, inter alia, a transfer duty exemption certificate, issued by the South African Revenue Services (hereinafter 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 believe is due to it or otherwise not being in compliance with Tax Laws. Should SARS refuse to issue a Transfer Duty Exemption Certificate in respect of the sale of the PROPERTY, in terms of this CONTRACT, due to the fact that the PURCHASER is in arrears with any payments to SARS or otherwise has not complied with any Tax Law, then in that event, the PURCHASER shall be deemed to be in breach of this CONTRACT OF SALE and the SELLER shall be entitled to cancel this CONTRACT should the PURCHASER not rectify such breach within 7 (SEVEN) days of receipt of a notice from the SELLER calling upon him to remedy such breach (as contemplated in paragraph 15.1 of the CONDITIONS OF SALE). Further should there be any delay in the issue of the aforesaid Transfer Duty Exemption Certificate by SARS for either of the aforesaid reasons, then in that event, the PURCHASER shall be deemed to be delaying the registration of transfer which shall entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 16 of the CONDITIONS OF SALE.
- 10.8 The PURCHASER hereby confirms that it is aware that the PROPERTY may only be sold by the SELLER'S nominated agency, or estate agents appointed by either the SELLER, during the DEVELOPMENT PERIOD or the ASSOCIATION and SUB-HOA after the expiry of the DEVELOPMENT PERIOD (hereinafter referred to as "appointed agents").
- 10.9 Should the PROPERTY be sold privately (meaning a sale by the owner without the assistance of an appointed agent) the owner shall use the sale documentation as approved by the SELLER during the DEVELOPMENT PERIOD and thereafter by the ASSOCIATION and SUB-HOA, from time to time, and submit the completed sale documentation to the SELLER or the ASSOCIATION or SUB-HOA, as the case may be, for approval prior to proceeding with the transfer of the PROPERTY.
- 10.10 The SELLER and/or ASSOCIATION or SUB-HOA may charge a fee as determined from time to time by the SELLER and/or ASSOCIATION or SUB-HOA for issuing the approved sale agreement documentation.
- 10.11 It is recorded that the PROPERTY is not registrable in terms of the Alienation of Land Act 68 of 1981 and the PROPERTY is at present an unregistered subdivision. The PURCHASER acknowledges that it is not possible for the SELLER to give transfer of the PROPERTY to the PURCHASER until such time as the Municipality has issued the REGISTRATION CERTIFICATE as contemplated in Section 53 of SPLUMA and the PROPERTY is registrable. Accordingly, the SELLER undertakes, subject to the provisions of Clause 10.12 and Clause 13 below, in a reasonable time and at its own expense, to take such steps as may be reasonably necessary to procure the installation of the aforementioned services. It is further recorded that in the event of the CONVEYANCERS not being in a position to effect transfer of the PROPERTY to the PURCHASER for any reason other than the fact that the certificate in terms of Section 53 of SPLUMA has not been issued, the SELLER may, at the SELLER's election, delay the issue of the certificate in terms of Section 53 of SPLUMA in respect of the PROPERTY, to avoid the payment of additional rates and other financial prejudice, which may occur should the aforesaid certificate be issued before the CONVEYANCERS are otherwise in a position to effect transfer of the PROPERTY.
- 10.12 Notwithstanding anything to the contract contained herein, this CONTRACT in its entirety is subject to the SELLER obtaining the REGISTRATION CERTIFICATE from the Municipality contemplated in Section 53 of SPLUMA by the Municipality within a period of 36 (Thirty-Six) months from DATE OF SIGNATURE of this CONTRACT. Should the SELLER fail to do so, then either party shall be entitled to resile from this CONTRACT by giving the other party written notice to that effect, in which event –
- 10.12.1 this CONTRACT shall be deemed to be null and void and void ab initio and of no further force or effect between the parties;

10.12.2 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);

10.12.3 save as provided herein, neither party shall in such event have any further claims whatsoever against the other.

## **11. RIGHTS AND OBLIGATIONS**

11.1 The SELLER is entitled to utilise any one or more of its unsold houses/buildings on the DEVELOPMENT PRECINCT until all the erven in the DEVELOPMENT PRECINCT have been sold as a sales office and/or a show house and/or temporary functional clubhouse.

11.2 The SELLER shall develop and market the DEVELOPMENT PRECINCT in phases (as the SELLER deems fit) and, for as long as the SELLER is a member of the ASSOCIATION, the SELLER shall enjoy unrestricted rights with regard to the marketing of the DEVELOPMENT PRECINCT and, in particular, the right to erect signage within and outside of the DEVELOPMENT PRECINCT.

11.3 The SELLER has reserved the right and is entitled to build and establish on the DEVELOPMENT PRECINCT other amenities and facilities as it in its sole discretion deems fit. The SELLER shall in its sole discretion, be entitled to establish such aforementioned amenities and facilities on any portion of the DEVELOPMENT PRECINCT with the approval of the local or relevant authority and operate same for its own benefit, separate and independent from the remainder of the DEVELOPMENT PRECINCT.

11.4 With regards to facilities situated on the DEVELOPMENT, the PURCHASER shall be entitled to access to the facilities and land forming part of the DEVELOPMENT subject to conditions of membership or other rules laid down by the SELLER or the ASSOCIATION or SUB-HOA or any other relevant home-owners association or Sub-Association. The PURCHASER acknowledges that he will be obliged to pay a fee for such membership and in order to utilise the facilities.

11.5 The SELLER, or its successors in title shall, be entitled to apply for, and subject to the necessary approval being granted by the LOCAL AUTHORITY, vary the layout and/or zoning and/or size and/or boundaries of individual portions and/or the extent and position of streets comprising the DEVELOPMENT PRECINCT, provided that the SELLER shall do so in consultation with the PURCHASER if any such variation shall materially adversely affect the rights of the PURCHASER and shall be bound thereby and shall have no claim of whatsoever nature against the SELLER or its successors in title arising therefrom.

## **12. PURCHASER'S ACKNOWLEDGMENTS**

12.1 The PURCHASER acknowledges that he is aware of the intended future development of the DEVELOPMENT by the SELLER, which development will consist of the establishment of resorts, high quality business and commercial premises and residential dwellings on various portions of the DEVELOPMENT. It is intended for the development to be aesthetically pleasing and to have a harmonious style, which blends with the environments. The PURCHASER hereby undertakes that he will, at all times, co-operate with the SELLER in an endeavor to facilitate the success of the said developments. Also in this respect, the PURCHASER undertakes that he shall not unreasonably interfere with any such proposed development nor lodge an objection with any competent authority in respect of any such development. In particular, but without derogating from the generality of the foregoing, the PURCHASER agrees that he will not object to any application made by or on behalf of the SELLER, its nominee or agent for special usage consent, licenses for shopping, commercial, filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of an application to Court to any local or other competent authority in respect of any property within the DEVELOPMENT. Again, in no way detracting from the generality of the aforesaid, the PURCHASER specifically acknowledges that owners of land surrounding the PROPERTY will be erecting buildings and other structures on surrounding land, which may block or otherwise interfere with the views from the PROPERTY. The PURCHASER agrees he shall have no right to object to the construction of any building or other structure on any land within the DEVELOPMENT on the basis that such building or other structure blocks or otherwise interferes with the views from the PROPERTY, nor will he have any claim for any alleged diminution in value of the PROPERTY arising out of any interference with the views from the PROPERTY by reason of the construction of any such building or structure.

12.2 The PURCHASER acknowledges that no buildings or other structure may be erected on the PROPERTY and further, no alteration or extension may be made to any existing building or other structure, save in accordance with building plans that have been approved by the ASSOCIATION and SUB-HOA, acting through the DESIGN REVIEW

- COMMITTEE, and the LOCAL AUTHORITY. Furthermore the PURCHASER agrees that he will have no claim whatsoever, arising out of whatever cause, against the ASSOCIATION or SUB-HOA, any members of the DESIGN REVIEW COMMITTEE or the SELLER for any loss suffered by reason the DESIGN REVIEW COMMITTEE refusing to approve or delay the approval of any plans submitted by the PURCHASER save where the PURCHASER can prove mala fides on the part of the DESIGN REVIEW COMMITTEE.
- 12.3 The PURCHASER shall not be entitled to sell or otherwise transfer ownership of the PROPERTY unless it is a suspensive condition of such sale or other transfer that the transferee, in a manner acceptable to the ASSOCIATION and SUB-HOA, signs and agreed to become a member and is admitted as a member of the ASSOCIATION and SUB-HOA. In no way detracting from the generality of the aforesaid, it is specifically recorded that the ASSOCIATION and SUB-HOA shall not give its consent in this regard if, inter alia, any levies, or any other amounts payable to the ASSOCIATION and SUB-HOA by the PURCHASER are outstanding or any requirements of the MEMORANDUM OF INCORPORATION and SUB-HOA MOI have not been met or in the event of the final approval certificate not have been issued by the LOCAL AUTHORITY or the DESIGN REVIEW COMMITTEE not having given the DEVELOPMENT APPROVAL in respect of the development on the PROPERTY.
- 12.4 Notwithstanding the provisions of Clause 15, in the event of a breach of this Clause 12, the ASSOCIATION and SUB-HOA shall be entitled in their absolute discretion to refuse their written approval as required to the sale and transfer of the PROPERTY until the provisions of this Clause 12 are complied with and no party to this CONTRACT OF SALE shall have any claim for damages arising out of the ASSOCIATION'S and SUB-HOA'S refusal to give such written approval.
- 12.5 In order to protect the ASSOCIATION'S and SUB-HOA'S rights in this regard, the PROPERTY shall be transferred to the PURCHASER subject to a condition in the Title Deed to the PROPERTY to the effect that PROPERTY, or any portion thereof or interest therein shall not be alienated or otherwise transferred without the prior written consent of the ASSOCIATION, the SUB-HOA and SELLER first having been obtained, which consent the ASSOCIATION, the SUB-HOA and the SELLER shall grant provided the PURCHASER has complied with all its obligations in terms of this CONTRACT and the MEMORANDUM OF INCORPORATION and SUB-HOA MOI, and in particular, and in no way detracting from the generality of the aforesaid, has complied with its obligations in terms of this Clause 12.
- 12.6 The PURCHASER acknowledges he/it understands, and considers himself/itself fluent in, the English Language
- 12.7 The PURCHASER acknowledges that he has had an opportunity to carefully read and consider the provisions of this CONTRACT OF SALE and that he has been free to obtain independent legal advice in regard to these provisions. The PURCHASER acknowledges that the SELLER undertook that the SELLER or the CONVEYANCERS would explain any provision of the CONTRACT OF SALE which the PURCHASER may not have fully understood and, to the extent that the PURCHASER made the SELLER aware of any provision of this CONTRACT OF SALE it did not understand, such provisions were fully explained to the PURCHASER.
- 12.8 It is recorded that the SELLER shall be entitled to cede any of its rights in terms of this CONTRACT to the ASSOCIATION and SUB-HOA in the sole discretion of the SELLER.
- 12.9 The PURCHASER acknowledges that it is incumbent upon him, at his cost, to make application to the Municipality and to the water and sewerage service provider for the supply of electricity and water and sewer services to the PROPERTY and to pay all deposits in connection therewith as well as the cost of the electrical, water and sewer connections on the PROPERTY to the relevant service provider. The PURCHASER shall be obliged to provide his own generator and/or water to facilitate construction during the period of construction of the DWELLING UNIT on the PROPERTY. The PURCHASER acknowledges that it is the intention of the SELLER to make application to the Municipality for the ASSOCIATION and SUB-HOA to maintain the internal electrical reticulation in the DEVELOPMENT PRECINCT and in addition, for the ASSOCIATION and SUB-HOA to bill the owners of properties in the DEVELOPMENT PRECINCT in respect of electricity consumed by them and that in such event the ASSOCIATION and SUB-HOA may assume certain of the rights and obligations of the Municipality. The PURCHASER hereby consents to the SELLER and/or ASSOCIATION or SUB-HOA making the aforementioned application and acknowledges and agrees that in the event of the Municipality approving such application then, in addition to any other rights that it may be granted by the Municipality, the ASSOCIATION and SUB-HOA shall be entitled to bill the PURCHASER in respect of electricity consumed and the PURCHASER shall be liable to pay the ASSOCIATION and SUB-HOA all amounts due in respect thereof as well as the cost of the electrical connection on the PROPERTY upon presentation to the PURCHASER if an invoice reflecting the amount due.
- 12.10 It is recorded that the maximum electricity supply that the PURCHASER shall be entitled to apply to the Municipality for in respect of the PROPERTY shall be determined by the ASSOCIATION and/or SUB-HOA and the SELLER upon submission of the PURCHASER'S building plans for approval so as to ensure that the electricity supplied by the Municipality to the DEVELOPMENT PRECINCT is distributed evenly amongst the owners of the properties in the

DEVELOPMENT PRECINCT. It is further recorded that the PURCHASER shall not be entitled to make application to the Municipality for the supply of electricity without the prior written consent of the SELLER and the ASSOCIATION and/or SUB-HOA and neither shall the PURCHASER be entitled to exceed the electricity supply approved by the SELLER and the ASSOCIATION and/or SUB-HOA without their prior written consent, which they may in their sole and absolute discretion grant or refuse.

**13. SERVICING OF THE PROPERTY**

- 13.1 The PURCHASER acknowledges that it is not possible to transfer the PROPERTY into the name of the PURCHASER until such time as the REGISTRATION CERTIFICATE has been issued in respect of the PROPERTY. In this regard the SELLER may elect to provide the relevant authorities with guarantees to ensure the installation of BASIC SERVICES to the DEVELOPMENT PRECINCT.
- 13.2 Should the SELLER elect to provide the aforesaid guarantees, to enable the issue of the REGISTRATION CERTIFICATE in respect of the PROPERTY, then, in that event, the PURCHASER agrees to take transfer of the PROPERTY notwithstanding that the BASIC SERVICES have not been installed. In the event of transfer of the PROPERTY being passed to the PURCHASER prior to the installation of the said services, the SELLER warrants that the BASIC SERVICES shall be installed to the PROPERTY by no later than the date on which the PURCHASER takes occupation of the DWELLING UNIT erected on the PROPERTY. The PURCHASER acknowledges that they are required to provide the SELLER with at least 6 (SIX) months written notice of occupation date as set out above.
- 13.3 It is recorded that it is the obligation of the LOCAL AUTHORITY to lay the relevant electrical cable to the boundary of the DEVELOPMENT PRECINCT. The SELLER shall extend the aforesaid cable from this point to the boundary of the PROPERTY. It shall be incumbent upon the PURCHASER, entirely at the PURCHASER'S cost, to extend the aforesaid electrical cable from the meter on the PROPERTY boundary to the DWELLING UNIT erected on the PROPERTY. The obligation shall be on the PURCHASER to make application for the relevant electricity connection to the LOCAL AUTHORITY, when submitting its buildings plans in respect of the PROPERTY to the LOCAL AUTHORITY for approval.
- 13.4 In no way detracting from the generality of the aforesaid, it is specifically recorded that the SELLER makes no warranty that any temporary services to the PROPERTY shall be in place during the period of construction of the development thereon.

**14. AGENT'S COMMISSION**

- 14.1 The PURCHASER warrants that it was introduced to the PROPERTY by the estate agent referred to in 1.11 of the schedule to the CONTRACT OF SALE who was the effective cause of the sale of the PROPERTY in terms of this CONTRACT. The SELLER shall pay a selling commission at the rate stipulated in 1.12 of the schedule to the CONTRACT OF SALE to the aforesaid agent referred to in 1.11 of the schedule to the CONTRACT OF SALE. The aforesaid commission shall be deemed to have been earned upon fulfillment of all suspensive conditions and shall be payable on the DATE OF TRANSFER.
- 14.2 The PURCHASER warrants that no agent or agency, other than the agent referred to in clause 1.11 of the CONTRACT OF SALE, was responsible for introducing him to the PROPERTY and further warrants that no other agent or agency will have any claim against the SELLER for agent's commission arising out of this transaction.
- 14.3 The PURCHASER indemnifies and holds harmless the SELLER against any loss, damage or expense sustained, suffered, or incurred by the SELLER arising out of any breach of the foregoing warranty.
- 14.4 The PURCHASER shall be responsible for payment of the Agents Commission in the event that the PURCHASER breaches the terms of this CONTRACT and this CONTRACT is subsequently cancelled.

**15. DEFAULT**

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

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

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

(a) cancel this CONTRACT and retake possession of the PROPERTY, and should the SELLER so elect, recover any damages however incurred as a result of such cancellation including any loss and expenses on a resale. (whether by public auction or private treaty), in which case the amount or amounts paid to the SELLER or the CONVEYANCERS (including any amount held in trust by the CONVEYANCERS and the interest thereon) may be retained by the SELLER by way of set off or partial set off against the damages claimed by the SELLER (it being recorded that damages that the SELLER may suffer in this regard may include, inter alia, lost interest, agents commission and other professional fees incurred, holding costs incurred in respect of the PROPERTY, and should the PROPERTY be subsequently resold for a lower purchase price than that referred to in this CONTRACT, the difference in such purchase prices) or

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

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

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

15.4 Should the SELLER commit a breach of any of the provisions of this CONTRACT, then the PURCHASER shall be entitled to give the SELLER written notice to remedy the breach. If the SELLER fails to comply with that notice within 7 (SEVEN) days of receipt thereof, subject to any other provisions of this CONTRACT to the contrary, the PURCHASER shall be entitled to cancel this CONTRACT or to claim specific performance, in either event without prejudice to the PURCHASERS right to claim damages. The foregoing is without prejudice to any other rights the PURCHASER may have in terms of this CONTRACT, common law, or statute.

## 16. MORA INTEREST

16.1 In the event of there being any delay in connection with the registration of transfer for which the PURCHASER is responsible, the PURCHASER agrees, in addition to all other payments due in terms of this CONTRACT, to pay interest on the full purchase price (VAT Inclusive) at the prime interest rate charged by **ABSA BANK LIMITED**, from time to time, calculated from the date the PURCHASER is notified in writing by the SELLER, or the SELLER'S agent as being in mora, to the date upon which the PURCHASER has ceased to be in mora, both days inclusive.

16.2 A certificate by any branch manager of the said Bank as to such prime interest rate shall be prima facie proof of such rate.

## 17. JURISDICTION AND COSTS

17.1 In the event of any action or application arising out of this CONTRACT, the parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of the Magistrate's Court Act of 1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said court's jurisdiction, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.

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

17.3 All legal costs incurred by either party in consequence of any default of the provisions of this CONTRACT by the other shall be payable by the defaulting party on demand on an attorney and own client scale to the maximum



amount permitted by Law and shall include collection charges, the costs incurred by the aggrieved party in endeavoring to enforce such rights prior to the institution of legal proceedings and the costs incurred in the connection with the satisfaction or enforcement of any judgment awarded in favour of the aggrieved party in relation to, in terms of or arising out of this CONTRACT

## 18. SOLE CONTRACT

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

## 19. INDEMNITY

19.1 The SELLER does not warrant any information given in respect of the PROPERTY, whether this information is given prior to or subsequent to the signing of this CONTRACT, save for the information in respect of the PROPERTY specifically warranted in this CONTRACT. 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 PROPERTY and the PURCHASER hereby indemnifies the SELLER and holds it harmless against and in respect of any injury, loss or damage howsoever caused which the PURCHASER may suffer as a result of any inaccuracies in any information given by the SELLER (save for the information specifically warranted in this CONTRACT).

19.2 In no way detracting from the generality of the above, it is specifically recorded that the SELLER does not warrant the accuracy of any geotechnic reports or any other information given on sub soil conditions on the DEVELOPMENT PRECINCT by the SELLER to the PURCHASER, whether such information is given prior to or subsequent to the signing of this CONTRACT. The PURCHASER hereby indemnifies the SELLER and holds it harmless against and in respect of any injury, loss or damage however caused to the PURCHASER as a result of any inaccuracies in any geotechnic reports or any information in respect of sub soil conditions that the SELLER may at any time give to the PURCHASER.

## 20. DOMICILIUM

20.1 The PURCHASER chooses as his domicilium citandi et executandi (the address for delivery of notices and court documents) and as the address at which notices may be delivered to him, the addresses set out in the heading to the CONTRACT OF SALE.

20.2 Any notice to the PURCHASER:

20.2.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to the PURCHASER'S postal address set out in the heading to this CONTRACT shall be deemed to have been received on the 7th day after posting (unless the contrary is proved); or

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

20.2.3 sent by email to its chosen email address shall be deemed to have been received on the date of delivery (unless the contrary is proved).

20.3 Notwithstanding anything to the contrary contained herein, a written notice or communication actually received by the PURCHASER (including any notice facsimiled or emailed to the PURCHASER) shall be an adequate written notice or communication to it, notwithstanding that it was not sent or delivered to its chosen domicilium citandi et executandi.

## 21. COSTS

The PURCHASER shall bear the costs in connection with the preparation and execution of this CONTRACT, and any variations thereto and this shall be paid notwithstanding that the transaction does not proceed for any reason whatsoever and which amount the PURCHASER authorises the CONVEYANCERS to deduct from any fund paid in terms of this CONTRACT.

**22. CESSION AND RESALE**

The PURCHASER shall not sell, assign, cede, or dispose of the PURCHASER'S rights under this CONTRACT without the prior written consent of the SELLER and it is further recorded that the PURCHASER shall be obliged to make use of the resale documentation prescribed by the SELLER or the ASSOCIATION or the SUB-HOA and the CONVEYANCERS nominated by the SELLER.

**23. CONSOLIDATION OR SUB-DIVISON**

The PROPERTY shall not be subdivided nor consolidated with any adjoining property without the prior written consent of the SELLER and/or ASSOCIATION and/or SUB-HOA, which consents the SELLER and/or ASSOCIATION and/or SUB-HOA may in its sole discretion grant or refuse and further subject to levies being calculated and assigned equally between the residential erven and provided that in the case of consolidated erven, each constituent erf forming the consolidation shall be taken into account for levy determination as if the Erf had not been consolidated. It being recorded that any and all costs associated to any subdivision or consolidation of the PROPERTY shall be payable by the PURCHASER.

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

24.1 In the event of the signatory to this CONTRACT on behalf of the PURCHASER having concluded this CONTRACT in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in paragraphs 24.1, 24.2 and 24.3 referred to as the "SIGNATORY"), then:

24.1.1 the SIGNATORY by his signature hereto warrants that the said company:

24.1.1.1 will be formed;

24.1.1.2 will ratify and adopt the terms and conditions of the CONTRACT, and

24.1.1.3 will provide the SELLER with written proof thereof;

all within a period of 30 days from the date of signature of this CONTRACT by the SIGNATORY;

24.2 The SIGNATORY, in his personal capacity hereby under renunciation of the benefits of excussion and division with the full meaning and effect of which he declares himself to be fully acquainted, binds himself and agrees to bind himself as surety and co-principal debtor in solidum with the company to be formed by him in favour of the SELLER for the due and punctual performance of such company's obligations to the SELLER in terms of this CONTRACT OF SALE; (*i.e. any such person may be called on to fulfill the obligations of the PURCHASER in terms of this CONTRACT*);

24.3 If the terms and conditions of Clause 24.1 above are not fulfilled then the SIGNATORY will by his signature to this CONTRACT OF SALE be deemed to have concluded the CONTRACT in his personal capacity as PURCHASER;

**25. CAPACITY OF PURCHASER**

If this CONTRACT is signed as PURCHASER by a person purporting to act for and on behalf of a Company, Close Corporation or Trust (other than a Company/Close Corporation not yet formed) he shall be deemed to warrant that he is duly authorized so to sign this Agreement and shall by his signature hereto bind himself in favour of the SELLER as surety and co-principal debtor in solidum with such Company, Close Corporation or Trust under renunciation of the benefits of division, of excussion, division, de duobus vel pluribus reis debendi, (*benefit by a co-debtor or surety that entitles the Creditor to recover the Principal Debt from the co-debtor's surety, before requiring the Debtor to pay*) exception non adempti contractus (*the defence that the other party to the contract has not performed*); the exceptio erroris calculi (*the defence of a wrong calculation*), the exceptio non numeratae pecuniae (*the defence that money was not paid over*) and the exceptio non causa debiti (*the defence that no cause of action exists*); and cession of action and declares that he/she/it fully understand the meaning and effect thereof.

**26. THE CONSUMER PROTECTION ACT 68 OF 2008**

26.1 The SELLER has made every effort to incorporate the PURCHASER'S consumer rights, as provided for in the CPA, into this CONTRACT. In the event that any provision in this CONTRACT is found to contravene the CPA, the parties agree that such provision shall be severed from this CONTRACT and be treated as if it were not part of this CONTRACT.

26.2 The PURCHASER confirms that it has considered all the clauses in terms whereof he, amongst other things, limits the liability of the SELLER or any other person and acknowledges any fact, in detail. The parties further acknowledge that none of the terms of this CONTRACT should be construed as an acknowledgment that the CPA applies to this transaction in circumstances where the CPA would not have been applicable to the transaction.

**27. ARREARS**

27.1 Any amounts in arrears in terms of this CONTRACT shall bear interest at the rate equal to 2 (TWO) percentage points above the prime overdraft rate from time to time charged by the Absa Bank Limited, which interest shall be calculated from the date that such amount becomes due until the date of payments, both days inclusive.

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

**28. SPECIAL CONDITIONS**

28.1 For the purposes of obtaining the loan (if any) in respect of the balance of the purchase price referred to in clause 1.5 of the schedule, the PURCHASER hereby authorizes such person appointed by the SELLER as mortgage originator to submit a loan application on the PURCHASER'S behalf to any financial institution, and agrees and undertakes to furnish the mortgage originator with any such documents, which is/are required or necessary for the purposes of such loan application forthwith.

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**29. ANNEXURES**

29.1 The PURCHASER acknowledges that the following annexures which are annexed hereto form an integral part of the CONTRACT and need to be completed and initialed together with each page of this CONTRACT:

- |              |   |
|--------------|---|
| ANNEXURE "B" | CONDITIONS OF SALE  |
| ANNEXURE "D" | LAYOUT PLAN OF THE PROPERTY   |
| ANNEXURE "E" | INSTRUCTION TO INVEST   |
| ANNEXURE "F" | FICA REQUIREMENTS   |
| ANNEXURE "P" | SITE PLAN OF THE DEVELOPMENT PRECINCT   |
| ANNEXURE "R" | MOUNT RICHMORE HOMEOWNERS' ASSOCIATION NPC<br>MEMBERSHIP REGISTRATION FORM          |
| ANNEXURE "S" | MOUNT RICHMORE RESIDENTIAL SUB ASSOCIATION (RF) NPC<br>MEMBERSHIP REGISTRATION FORM |

**ACKNOWLEDGMENT OF RECEIPT OF ANNEXURES**

I, the undersigned, hereby acknowledge receipt of the following annexures and confirm that I have read and understand the contents thereof. I hereby agree to abide by all the rules and regulations contained in the following documents and confirm I have no objections thereto.

- |              |   |
|--------------|---|
| ANNEXURE "C" | ARCHITECTURAL GUIDELINES  |
| ANNEXURE "G" | MEMORANDUM OF INCORPORATION OF THE MOUNT RICHMORE HOMEOWNERS<br>ASSOCIATION NPC           |
| ANNEXURE "H" | MEMORANDUM OF INCORPORATION OF THE MOUNT RICHMORE RESIDENTIAL SUB<br>ASSOCIATION (RF) NPC |
| ANNEXURE "I" | ESTATE RULES  |
| ANNEXURE "J" | CONTRACTORS PROTOCOL  |

**Date:** \_\_\_\_\_

**Purchaser(s) Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_