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STBB

SECTION NO. _____

1 OLD OAK

AGREEMENT OF SALE

Between

KANOTECH INVESTMENTS PROPRIETARY LIMITED

(REGISTRATION NUMBER : 2009/011245/07)

(Hereinafter referred to as "the Seller")

and

(Hereinafter referred to as "the Purchaser")

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COVERING SCHEDULE

1. PARTIES	
1.1 SELLER	KANOTECH INVESTMENTS PROPRIETARY LIMITED REGISTRATION NUMBER 2009/011245/07
Contact	c/o STBB ATTORNEYS
Address	2 ND FLOOR 5 HIGH STREET, ROSENPARK, TYGERVALLEY
Telephone Number	021 9433800
E-mail	melanier@stbb.co.za
1.2 FIRST PURCHASER	
Company/Close Corporation/Trust	
Registration No:	
Natural Person (full names)	
Identity Number / Date of Birth	
Marital Status	
Income Tax Number	
Residential/ Registered Address	
Telephone No: (Home)	
(Work)	
(Cell)	
(Fax)	
E-mail Address	

1.2 SECOND PURCHASER	
Company/Close Corporation/Trust	
Registration No:	
Natural Person (full names)	
Identity Number / Date of Birth	
Marital Status	
Income Tax Number	
Residential/ Registered Address	
Telephone No: (Home)	
(Work)	
(Cell)	
(Fax)	
E-mail Address	

2. SUBJECT MATTER	
Building	1 OLD OAK
2.1 Section	Section No: _____
Block	Measuring Approx _____ m ²
Door	Block No _____
	Door No _____
2.2 Parking Bay(s) to be allocated in terms of Section 10 of the Sectional Titles Schemes Management Act	Parking bay no/s. _____
3. PURCHASE PRICE	
Purchase Price (Inclusive of VAT at 15%)	R
Reservation Deposit by Purchaser due on signature hereof by Purchaser	R10 000.00
Bond Amount	R
Balance purchase price due on transfer (excluding bond amount)	R
4.1 ESTIMATED OCCUPATION DATE (Read with clauses 8.2, 8.3 and 8.4)	Date JUNE 2021
4.2 OCCUPATIONAL RENT (payable monthly in advance)	1 BEDROOM = R5500 2 BEDROOM = R6500 (including levies)
4.3 ESTIMATED TRANSFER DATE (Read with clause 7 of the standard conditions)	Date SEPTEMBER 2021
5. ESTIMATED LEVIES	R15-00 (FIFTEEN RAND) PER SQUARE METRE

6. MORTGAGE BOND (indicate if required)	No <input type="checkbox"/>	Yes <input type="checkbox"/>
Amount (or lesser amount agreed by the Purchaser)	R	
Date by which bond must be granted	21 calendar days from date of signature hereof by the Purchaser or such extended date as the Seller may approve in terms of clause 3.1	
7. SELLER'S CONVEYANCERS		
Name of Conveyancers	STBB SMITH TABATA BUCHANAN BOYES 2ND FLOOR, 5 HIGH STREET ROSENPARK TYGERVALLELY 7530 (REF : HENNIE MOUTON/MELANIE REPSOLD) TEL: (021) 9433800, FAX: (021) 914 1080	
Conveyancers' Trust Account Details	STBB SMITH TABATA BUCHANAN BOYES ABSA BANK BELLVILLE BRANCH CODE: 632 005 TRUST ACCOUNT NUMBER : 403 504 2536 REFERENCE: SECTION NO. (insert) _____ 1 OLD OAK	
8. SELLING AGENCY	IGROW WEALTH INVESTMENTS PTY LTD	
Agent's Name		
Telephone Number		
Email Address		

CONDITIONS OF SALE

1. INTERPRETATION

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

1.1.1 Agreement / Agreement of Sale means the Covering Schedule, the Conditions of Sale and Annexures and Plans each forming an integral part of this Agreement;

1.1.2 Act means the Sectional Titles Act No. 95 of 1986 or any amendments thereof, and Regulations promulgated in terms thereof, as well as the Sectional Title Scheme Management Act, Act 8 of 2011;

1.1.3 Body Corporate means the controlling body of the Land and Buildings as contemplated in terms of Section 36 of the Act;

1.1.4 Buildings means the buildings erected on the Land;

1.1.5 Common Property means those portions of land not forming part of any Section, (and/or Exclusive Use Area) in the Development and constituted as Common Property in terms of the Act;

1.1.6 Covering Schedule means the Covering Schedule to this Agreement;

1.1.7	Developer	means the Seller or its nominees completing the Development from time to time and includes its successors-in-title;
1.1.8	Development	means the proposed sectional title development on Erf 32775 Bellville;
1.1.9	Estimated Occupation Date	means the estimated date of occupation of the Unit being the date referred to in clause 4 of the Covering Schedule;
1.1.10	Estimated Transfer Date	means the estimated date of transfer of the Unit being the date referred to in clause 5 of the Covering Schedule;
1.1.11	Exclusive Use Area / Exclusive Use Areas	means such part or parts of the Common Property reserved for the exclusive use and enjoyment of the registered owner for the time being of the Unit, in terms of Section 10(7) of the Sectional Title Scheme Management Act.
1.1.12	Floor Area in relation to a Section	means the floor area to the median line of the boundary walls of the Section;
1.1.13	Independent Property Inspector	means the duly authorised representative of the Seller to act as liason between the Seller and the Purchaser

1.1.14 Land	means Erf 32775 Bellville ;
1.1.15 Occupation Date	means the date upon which the Unit and/or Exclusive Use Area in the opinion of the Principle Agent can be effectively used for residential purposes;
1.1.16 Mortgage Originator	means Igrow Wealth Homeloans;
1.1.17 Participation Quota	means in relation to a Section, the decimal fraction allocated thereto in the Sectional Plan and which is calculated in terms of Section 32(1) of the Act;
1.1.18 Plans	means the Architect's plans;
1.1.19 Prime Rate	means a rate of interest per annum which is equal to Standard Bank's published minimum lending rate of interest per annum, compounded monthly in arrears, charged by the said bank on the unsecured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time;
1.1.20 Principle Agent	means PRODIGIOUS CONSTRUCTION AND PROPERTY DEVELOPMENT CONSULTANTS

1 Bellfour Office Park, cnr
Edmar/Rogers Streets,
Durbanville

1.1.21 Property

means land upon which the Development will take place, and on which property rates may be levied in accordance with any enabling legislation and for the purposes hereof, any sectional title Unit within the Development shall be deemed to be rateable property;

1.1.22 Purchaser means

the purchaser of the Subject Matter, its successors-in-title, heirs, executors, administrators or assigns, described in clause 1.2 of the Covering Schedule;

1.1.23 Regulations

means the regulations promulgated under Section 55 of the Act from time to time;

1.1.24 Rules

means jointly the Conduct Rules and Management Rules which may be viewed at the offices of the Seller and may be amended by the Developer prior to registration of the Sectional Plan and transfer of the first Unit;

1.1.25 Scheme

means the Land and Buildings forming the Sectional Title Scheme to be established on the Land, which is to be known as 1 Old Oak;

1.1.26 Section or Unit	means the meanings defined in the Act, and with particular reference to this Agreement shall mean that Section forming part of that Unit (which Unit includes an undivided share in the Common Property) which is sold and is to be transferred in terms of this Agreement notwithstanding that the Sectional Plan relating thereto may not yet be approved or registered;
1.1.27 Sectional Plan	means a draft sectional plan and/or a sectional plan approved by the Surveyor-General;
1.1.28 Seller	means the Seller described in clause 1.1 of the Covering Schedule or its successor-in-title, or assigns;
1.1.29 Seller's Conveyancers	means the firm of Conveyancers specified in clause 8 of the Covering Schedule;
1.1.30 Signature Date	means the date on which the Agreement was signed by the last party;
1.1.31 STSM Act	means the Sectional Title Scheme Management Act, No. 8 of 2011;
1.1.32 Subject Matter	means:

- 1.1.32.1 the Unit/s; and
- 1.1.32.2 the right of exclusive use of the Exclusive Use Areas;
- as described in clause 2 of the Covering Schedule and finally to be described on the Sectional Plan, read together with the register.
- 1.1.33 Total Floor Area means the total floor area of all units within the Development.
- 1.2 Words and expressions defined in the Act shall have the meanings therein defined and pending the registration of the Sectional Plan in respect of the Seller's property, shall apply mutatis mutandis to the areas of which the Unit comprises.
- 1.3 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other, and words importing the singular shall include the plural and vice versa.
- 1.4 The headings to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.5 The Purchaser confirms that he/she has chosen English as the preferred language of this Agreement.
- 1.6 If any provision of this Agreement is in conflict or inconsistent with law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.7 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 1.8 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the

last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day will be the next succeeding day which is not a Saturday, Sunday or public holiday. Unless the context indicates otherwise, wherever a number of days is indicated, this shall be calendar days.

2. **RECORDAL**

- 2.1 The Seller is the registered owner of the land.
- 2.2 The Seller intends to establish a sectional title scheme on the land.
- 2.3 The Seller has agreed to sell to the Purchaser who has agreed to purchase a sectional title Unit in the Scheme comprising a Unit, together with the rights to the exclusive use of Exclusive Use Area/s, as described in the Covering Schedule ("the Subject Matter"), together with an undivided share in the Common Property, subject to and upon the terms and conditions contained in this Agreement.

3. **CONDITION PRECEDENT**

Mortgage Loan (Bond)

- 3.1 In the event of a Mortgage Loan being required as indicated in clause 7 of the Schedule then this sale shall be subject to and conditional upon the Purchaser procuring a Mortgage Loan approved for the amount specified in clause 7 of the schedule or a lesser amount accepted by the Purchaser, from a bank or other financial institution. Such Mortgage Loan shall be approved in writing by no later than the date provided for in clause 7 of the schedule or such extended period as the Seller in its sole discretion may determine.
- 3.2 **In the event that the Mortgage Loan is approved for an amount less than that stated in clause 7 of the schedule and the Purchaser accepts such lesser amount, the Purchaser undertakes to furnish the Seller's Conveyancers with either payment or a bank guarantee for the shortfall within 7 (seven) days from the date of the granting of the aforesaid loan.**

- 3.3 The Purchaser shall within 7 (seven) days do all such things and to sign all such documents as may be necessary to apply for and procure the approval of the said Mortgage Loan from a bank or other financial institution and to furnish written proof to the Seller of the granting or refusal thereof.
- 3.4 In the event that the Purchaser's Mortgage Loan application is subject to the provisions of the National Credit Act No. 34 of 2005, the suspensive condition pertaining to the Purchaser obtaining the Mortgage Loan shall be deemed to be fulfilled upon signature by the Purchaser of the bank or financial institution's pre-agreement statement and quotation.
- 3.5 In the event that the condition in clause 4.1 is not fulfilled, this Agreement shall be of no force and effect and neither party shall have any claim against the other, except that:
- 3.5.1 the Seller shall refund to the Purchaser the deposit referred to in clause 3 of the Schedule, with accrued interest;
- 3.5.2 the Purchaser shall be obliged to immediately vacate the Unit.
- 3.6 Igrow Wealth Homeloans has been appointed by the Seller as its preferred homeloan consultant to assist the Purchaser with a homeloan application at no cost to the Purchaser. Should the Purchaser prefer to make use of any other homeloan consultant or make application directly to a bank, the Purchaser shall be obliged to ensure that such consultant or banker, or the attorney attending to the registration of the bond, will include Igrow Wealth Homeloans in its weekly progress reports in order to ensure that Igrow Wealth Homeloans' reporting to the Seller is inclusive of all matters herein.

4. **SUBJECT MATTER**

- 4.1 The Seller sells and the Purchaser purchases the Subject Matter in accordance with the terms and conditions set out in:
- 4.1.1 The Covering Schedule;

4.1.2 The Conditions of Sale; and

4.1.3 The Annexures;

all of which:

4.1.4 **form an integral part of the Agreement of Sale between the parties and are deemed to be incorporated herein; and**

4.1.5 **the Purchaser acknowledges having read and understood.**

4.2 The exclusive use and enjoyment of parking bay(s) shall be allocated to the Purchaser in terms of Section 10(7) of the Sectional Title Schemes Management Act.

5. **PURCHASE PRICE AND PAYMENT**

The purchase price reflected in clause 3 of the Schedule is payable as follows:

5.1 The deposit is payable in cash or bank guaranteed cheque or via electronic transfer against signature hereof by the Seller.

5.2 The payment referred to in clause 5.1 above shall be paid to the Seller's Conveyancers and shall be held in trust by the Seller's Conveyancers and shall be paid to the Seller against transfer unless otherwise provided for herein. The said deposit shall be invested in a trust interest bearing account, which interest shall accrue to the Purchaser until registration of transfer. The Purchaser's signature hereto constitutes the Purchaser's written consent in terms of Section 78 (2A) of the Attorneys Act No. 53 of 1979, authorizing the Seller's Conveyancers to invest all amounts paid on account of the purchase price in an interest bearing account. The Purchaser hereby irrevocably authorizes the Seller's Conveyancers to appropriate the interest accrued on monies so invested in reduction of all amounts as may be owing by the Purchaser in terms of this Agreement.

5.3 In respect of the balance of the Purchase Price, the Purchaser shall:

5.3.1 In the event of the Purchaser not requiring a Mortgage Loan, furnish the Seller's Conveyancers with either:

5.3.1.1 an irrevocable guarantee issued by a recognized commercial bank in a form acceptable to the Seller's Conveyancers; or

5.3.1.2 a cash payment into the trust account of the Seller's Conveyancers.

within 14 (fourteen) days after the Signature Date or such extended period as the Seller may in its sole discretion allow.

5.3.2 In the event of the Purchaser requiring a Mortgage Loan in respect of any balance outstanding on the purchase price after having deducted the deposit and the amount of the Mortgage Loan from the purchase price, furnish the Seller's Conveyancers with either:

5.3.2.1 an irrevocable guarantee issued by a recognized commercial bank in a form acceptable to the Seller's Conveyancers; or

5.3.2.2 a cash payment into the trust account of the Seller's Conveyancers.

within 14 (fourteen) days after the Signature Date or such extended period as the Seller may in its sole discretion allow.

5.4 The guarantees referred to in this clause shall be issued by a registered South African Commercial Bank or other financial institution approved by the Seller in its absolute discretion for the balance of the purchase price. Withdrawal by a guarantor as aforesaid, for any reason whatsoever, shall constitute a breach by the Purchaser of his obligations to deliver a guarantee in terms of this clause and in respect of which breach the Seller shall not be required to give notice in terms of clause 22 below. The remedies provided for in clause 22 below shall be applicable if the Purchaser fails to effect payment of the purchase price against a tender

of registration of transfer of the Unit and registration of cession of the Exclusive Use Area rights, if applicable, in his name the Seller shall be entitled to either terminate this Agreement or to require the Purchaser to fulfill his obligations in terms of the Agreement.

5.5 All payments shall be made to the Seller's Conveyancers in Cape Town free of commission, exchange, bank charges or set off.

5.6 All payments shall be made to the Seller's Conveyancers and may be directly deposited into their Trust Account as follows: Smith Tabata Buchanan Boyes, ABSA Bank, Account No. 403 504 2536, Branch Code: 632005, Deposit Reference: Unit Number and Surname. In the event of such a direct deposit, confirmation thereof must be faxed to their offices (021 914 1080, attention: Melanie Repsold). **In the event of the Purchaser failing to notify the Seller's Conveyancers of any deposit made and to supply documentation necessary for FICA (Financial Intelligence Act 38 of 2001 or Prevention of Organised Crime Act 21 of 1998), the Seller's Conveyancers shall not be liable to account for any loss in interest.**

5.7 In the event of the rate at which VAT is chargeable being amended after the date of signature hereof by the Purchaser and in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

6. **INTEREST (ONLY APPLICABLE IN THE EVENT OF A BREACH)**

Any interest payable by the Purchaser in terms of this Agreement shall be at Prime Rate on overdraft facilities being that rate charged by Standard Bank on unsecured loans from time to time. A certificate signed by the manager of any branch of the said bank shall be sufficient proof of the said Prime Rate charged from time to time.

7. **TRANSFER, DELIVERY AND MORTGAGE BOND**

7.1 Until such time as the total purchase price and all other amounts for which the Purchaser may be liable in terms hereof, **including *inter alia*, amounts due and owing in relation to variations required by the Purchaser**, have been

paid, and/or payment thereof has been secured as herein provided, the Seller can elect, in its sole discretion, not to give delivery and pass transfer to the Purchaser.

Initial : _____

- 7.2 Transfer of the Property shall be effected by the Seller's Conveyancers and shall be given as soon as possible after the Occupation Date.
- 7.3 All fees and disbursements, including VAT, where applicable, due and owing to the Seller's Conveyancer in relation to the transfer of the Unit purchased by the Purchaser and in relation to the preparation for and registration of a mortgage bond (if applicable) shall be paid by the Seller, **provided the Seller's Attorney attends to both the transfer of the unit and the bond registration.** Should the financial institution, the Purchaser, elect to appoint another attorney of its choice to register the bond, then the Purchaser shall be liable for the bond registration costs. The Purchaser will, however, be liable to pay the sectional title insurance certificate, initiation fee and/or valuation fee levied by the financial institution. (The valuation fee may be debited from the bond account of the Purchaser.)
- 7.4 It is a material term of this agreement that the Purchaser shall pay such amounts, sign such documents and furnish such information and documentation as may be required by the Seller's Conveyancers for transfer and by the attorneys appointed for the mortgage bond, within 7 (seven) days of being requested to do so. The Purchaser warrants that it/he/she shall co-operate fully with the attorneys appointed for the mortgage bond.
- 7.5 **In the event of registration of transfer to the Purchaser being delayed as a consequence of a default on the part of the Purchaser, then the Purchaser shall in addition to all other amounts payable by the Purchaser in terms of this Agreement, pay to the Seller monthly in advance interest on the full purchase price, less any amount actually paid to the Seller on account thereof, at the rate mentioned in clause 7 above calculated from the date transfer would have been possible had it not been for the default of the Purchaser, until the date of actual transfer, both dates inclusive as certified by the Seller's Conveyancers acting as experts.**

Initial : _____

7.6 The Purchaser acknowledges and accepts that the Purchaser has bought property in a development where a development mortgage bond is likely to have been utilised by the Seller; and thus transfer to the Purchaser will be simultaneous with transfers to other Purchasers necessitated by the Property sold having to be released from the operation of the mortgage bond. Accordingly the Purchaser acknowledges and accepts that lodgement of the Purchaser's transfer documents at the deeds office shall be entirely in the discretion of the Seller's Conveyancers and the Purchaser's obligation to pay occupational rental or interest, as the case may be, shall remain, and be unaffected by any delay occasioned by the above.

8. OCCUPATION AND OCCUPATIONAL RENTAL

8.1 **The Purchaser shall take occupation of the unit on a date to be notified by the Seller and once the unit is ready for occupation, which written notice will be given at least 60 (sixty) calendar days before the occupation date. Should it be disputed that the unit is ready for occupation, a certificate to this effect by the Principle Agent will be the final ruling.**

8.2 The Seller shall use its best endeavours to procure that the Unit is available for occupation as soon as possible after the signature date.

8.3 All risk and benefit in respect of the Unit shall pass to the Purchaser on the Occupation Date.

8.4 From the Occupation Date the Purchaser shall be liable for payment of all electricity and water consumed in or on the Unit until transfer.

8.5 From the Occupation Date until registration of transfer of the unit and allocation of the rights to the Exclusive Use Areas into the name of the purchaser, the Purchaser shall pay occupational rental to the Seller in the amount set out in clause 4.2 of the Covering Schedule, which occupational rental shall be paid monthly in advance to the Seller's Conveyancers, from the Occupation Date to the date of transfer aforesaid and pro-rata in respect of any portion of a month.

8.6 The Seller and/or the Seller's duly authorised agent shall be entitled to inspect the Unit at all reasonable times during the currency of the Agreement.

8.7 Occupation of the Property by the Purchaser or anybody through the Purchaser shall not create a tenancy, and in the event of this Agreement being cancelled all rights to the occupation of the Property shall lapse and the Property shall be vacated forthwith.

8.8 **Should the Purchaser be in occupation of the Property prior to the date of transfer and should the Purchaser:**

8.8.1 **fail to pay any amount in terms of this Agreement or sign any documents which the Purchaser is required to sign in terms of this Agreement; or**

8.8.2 **commit any other breach of the provisions of the Agreement;**

8.8.3 **and fail to remedy such failure and/or breach within 7 (seven) days after being notified in writing to do so by the Seller, then the interest payable to the Purchaser in terms of clause 7 above shall be the rate of 3% above the Prime Rate for as long as such failure and/or breach continues.**

Initial : _____

9. **BUILDINGS NOT YET ERECTED**

9.1 It is recorded that the Buildings have not yet been erected or completed as the case may be;

9.2 **The Seller shall be entitled to vary the Building(s) and/or the designs, to such extent as may be reasonably necessary to:**

9.2.1 **comply with any requirements of any competent authority.**

9.2.2 **comply with any special features of the Property.**

- 9.2.3 **comply with any special impediments such as water, sewer or electrical lines either above or under ground or any rock or other soil condition.**
- 9.2.4 **give effect to any changes in materials, finishes or fittings which the Developer considers to be appropriate or which may not be readily available at the time due to shortage in supply of such materials, finishes or fittings, without however detracting from the quality of the Buildings and/or the Section.**
- 9.2.5 **obtain the approval of the Sectional title development scheme and/or the opening of the Sectional Title Register.**
- 9.3 **The Purchaser acknowledges that, on the Occupation Date, the Common Property forming part of the Land and Buildings, as well as other portions of the Buildings may be incomplete and that occupants of the Section may suffer inconvenience from the Building operations and the Purchaser further acknowledges that it shall have no claim whatsoever against the Seller by reason of any such inconvenience.**

10 VARIATIONS

- 10.1 Should the Purchaser, after signature of this agreement, require that any aspect of the Works be varied and/or any extra work be carried out by the Seller, then such request shall be made in writing whereupon the Seller may (but is not obliged) to submit a written quotation in respect of the cost of such variations/extras. On signature of the quotation by the Purchaser this agreement will be deemed to be accordingly varied. All costs arising from such variations/extras shall be paid by the Purchaser to the Seller prior to the Seller proceeding with such Works.
- 10.2 Notwithstanding the above and in the event of the parties inadvertently failing to follow the procedures prescribed and should the parties in fact have agreed to any extras/variations but have failed to agree on the cost thereof and/or should the parties be unable to agree as to whether any Works do comprise an extra/variation such dispute will be referred to the architect who will determine the dispute and whose determination will be final and binding on the parties.

10.3 The Purchaser shall not under any circumstances be permitted to issue any instructions directly to the building contractors. All matters related to the works shall be directed to the appointed agent of the Seller in writing.

11 RECTIFICATION OF DEFECTS AND GUARANTEES

11.1.1 The Purchaser and/or his duly authorised representative shall, prior to the occupation date, together with the duly authorised representative of the Seller, inspect the property on a date supplied by the Seller. The Purchaser shall within 3 (three) days after inspection furnish the Seller with a list of patent defects, which defects will be rectified by the Seller prior to occupation.

11.1.2 Once the patent Defects have been remedied to a reasonable satisfaction of the Purchaser, the Purchaser or his representative will sign a letter of satisfaction ("happy letter") which, in the event that the Purchaser obtained mortgage finance, has to be acceptable to the mortgagee.

11.1.3 The Purchaser and/or his duly authorised representative, shall furthermore submit a list of Latent Defects to the Seller within a period 90 (ninety) days from the date of occupation and the Seller undertakes to remedy such defects.

11.1.4 The Purchaser accepts the appointment of the Independent Property Inspector to act as the exclusive liaison between the Purchaser and the Seller and undertakes not to contact the Seller directly.

11.1.5 It is recorded that the Purchaser shall not be precluded from exercising his / her rights in terms of Section 56 as read with Section 55 of the Consumer Protection Act in so far as they may be applicable.

11.1.6 The Seller shall only be responsible for such defects provided in the Patent Defect List caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim and indemnifies the Seller in this respect.

11.1.7 The Purchaser undertakes to give access to the Seller and its contractors after the Occupation Date to enable the Seller and its contractors to attend to the remedying of the patent Defects indicated in any of the above defects lists. In the event that the Seller or its contractors are on at least 2 (two) occasions unsuccessful to get access to the Section within a period of 30(thirty) days from date on which the Seller first notifies the Purchaser that access is required for the purposes contemplated in this clause, the parties agree that it will be deemed that the Purchaser does not require any such items to be remedied any longer, that the Purchaser is satisfied with the condition of the Section and that the Purchaser has released the Seller and its contractors from any obligations with regard to the repair of any patent defects.

11.2 A certificate issued by the Principle Agent to the effect that the defects referred to in the Defect Lists have been rectified shall be final and binding on both parties and shall relieve the Seller from any further obligation in respect of such defect.

11.3 The Purchaser acknowledges and agrees that he shall have no claim against the Seller in respect of defects, whether latent, patent or otherwise in the Common Property or the Unit/s save for defects of which the Purchaser shall have notified the Seller pursuant to clause 11.1.1 and 11.1.3

Initial: _____

11.4 The Common Property shall on the establishment of the Body Corporate, be inspected by the Principle Agent and when approved by the Principle Agent the Seller shall be deemed to have fulfilled the Seller's obligations to the owners and the Body Corporate and neither the owners nor the Body Corporate shall have any claim against the Seller in respect of the Common Property.

11.5 Save as specifically set out in this Agreement and those warranties set out in Annexure "D" hereto the Seller has made no representations, and given no warranties in respect of the Unit and/or the common property within the development scheme or in respect of anything relating thereto.

- 11.6 In addition, the Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, his agents and/or invitees may directly or indirectly suffer by reason of any latent or patent defects in the Unit or any part thereof being in a defective condition or state of disrepair or arising out of vis major or casus fortuitus or any other cause either wholly or partly beyond the Seller's control or arising out of any act or omission by any other Purchaser of a Unit in the Development.
- 11.7 All guarantees and undertakings hereby given to the Purchaser in terms of this Agreement are personal to the Purchaser and cannot be alienated or disposed of by the Purchaser in any way.
- 11.8 The Purchaser shall not be entitled to withhold, set-off or retain any amounts owing by the Purchaser to the Seller nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of the Agreement, regardless of whether any defects as identified herein have not yet been rectified.
- 11.9 For the sake of clarity, the Seller will not be responsible for any defects arising from work / variations done to the unit by the Purchaser or his representatives.
- 11.10 The Seller warrants that the development scheme will be formally enrolled as a project with the NHBRC and that the contractor will be duly registered with such entity and that the Purchaser will be provided with the prescribed certificate upon registration of transfer of the unit into its name.

12 **LEVIES / MANAGING AGENT**

- 12.1 Save as is set out hereunder, the Purchaser shall be liable from the date of registration of transfer for levies payable as estimated in the Schedule to the Body Corporate.
- 12.2 Such levies shall be paid monthly in advance on the first day of each and every calendar month.
- 12.3 The liability for levies shall be determined in accordance with the Participation Quota attaching to the Unit.

- 12.4 The Purchaser shall be responsible for payment to the Body Corporate of its proportional share of the electricity consumed in the building based on the Unit owned by the Purchaser.
- 12.5 Rates are payable by Purchaser to the Municipality from the date of registration.
- 12.6 **The Seller shall be entitled to appoint the first managing agent as provided for in the Rules of the Body Corporate which appointment shall be valid and binding upon the Body Corporate and the Purchaser gives the Seller irrevocable power to make this appointment.**

13 SPECIAL PROVISIONS PRIOR TO THE ESTABLISHMENT OF THE BODY CORPORATE AND/OR TRANSFER

- 13.1 It is recorded that the Body Corporate shall be deemed to be established on the registration of the first transfer in terms of Section 36 of the Act.
- 13.2 The Purchaser acknowledges that the Rules contained in Annexure 1 and 2 of the regulations promulgated under the Sectional Title Scheme Management Act shall be applicable and acknowledges and agrees that he/she is acquainted with the provisions thereof and has received a copy thereof.
- 13.3 The Purchaser further acknowledges that the Seller shall be entitled from time to time, and prior to the opening of the Sectional Title Register or registration of any future phases of the Scheme to impose additional Rules in terms of the provisions of the Act and of which the Purchaser acknowledges that he will be bound. Such additional Rules will be available for inspection at the Seller's offices.
- 13.4 The Purchaser agrees that:
- 13.4.1 immediately upon becoming the registered owner of the Property the Purchaser will automatically become a member of the Body Corporate and will be and remain bound by its Rules for so long as the Purchaser is a registered owner;

13.4.2 should the Purchaser sell the Property the Purchaser will ensure that any potential buyer is made fully aware of the existence of the Body Corporate and the fact that such buyer will automatically become a member of the Body Corporate.

13.5 From the Occupation Date until the date of registration of transfer of the property into the name of the Purchaser, the Purchaser shall:

13.5.1 keep the Unit in good repair;

13.5.2 permit the Seller or his agent at all reasonable times to enter and inspect the Unit;

13.5.3 be responsible for all costs of electricity and water consumed in the Unit insofar as these may be separately metered;

13.5.4 not make any alterations to the Unit, alter the colour scheme or redecorate, without the Seller's written consent first being obtained, which consent shall not be unreasonably withheld;

13.5.5 save insofar as may be inconsistent with the provisions of this Agreement, be responsible for all other obligations of an owner as set out in the Act;

13.5.6 comply with all rules and regulations applicable to the Property;

13.5.7 not be allowed to sell, transfer and/or cede the Unit and/or any rights in respect of the Exclusive Use Areas (including, but not limited to, the Purchaser's rights of occupation thereof) except with the prior written consent of the Seller.

14 SECTIONAL PLAN

14.1 The Purchaser acknowledges that the Sectional Plan has not yet been approved and that the exact boundaries of the Section forming part of the Property shall be those shown on the final approved Sectional Plan will be substantially in accordance with those set out in the annexures hereto. The undivided share of the Common Property apportioned to the Section shall be

in accordance with the Participation Quota, which is ultimately determined in terms of the Act upon approval and registration of the Sectional Plan.

14.2 The Purchaser acknowledges that the extent of the Unit on the final Sectional Plan will be measured by the Land Surveyor in accordance with the Act. It is specifically recorded that the extent includes internal walls within the Unit and that, as a general rule, the Unit boundary extends to the median line contiguous to the adjoining units and Common Property.

14.3 The Purchaser shall not be entitled to claim cancellation of this Agreement or any reduction in the purchase price by reason of any minor alteration to the size of any Section to that shown on the Plans annexed hereto. For purposes of clarity and good order, a minor alteration in size shall be a decrease in the area of the Section or Unit not greater than 5% (five percent). The Purchaser undertakes to accept transfer of the Unit as re-defined and renumbered in the Sectional Plan approved by the relevant local authority and the Surveyor General.

14.4 The Land Surveyor shall have the sole decision upon whether a deviation referred to in clause 16.3 above is minor and his decision shall be binding on the parties.

15 SECTIONAL TITLE/EXCLUSIVE USE AREAS

15.1 The Purchaser acknowledges that this sale is by Sectional Title and that the Purchaser has or will have satisfied himself / herself / itself regarding all Rules, regulations, conditions and servitudes of whatever nature pertaining to the sale. The Purchaser furthermore acknowledges that the Purchaser has been informed that the Management Rules and Conduct Rules are available on request.

15.2 Units in the Sectional Title Scheme shall be sold and utilised for residential purposes.

15.3 The Purchaser shall accept transfer of the Unit and cession and allocation of the exclusive use rights forming part of the Property subject to the Rules and title conditions and servitudes benefiting or burdening same whether existing or hereinafter imposed by any competent authority or by the Seller.

15.4 The parking bays shall be allocated in the rules in terms of the Sectional Titles Scheme Management Act. The Seller shall have the right to sell and cede/allocate to a Purchaser of any other unit in the scheme similar rights to other exclusive use areas.

16 **SELLING AGENT'S COMMISSION**

16.1 The Seller shall pay the commission of the selling agent/s named in clause 8 of the Schedule ("the selling agent"). The commission shall be agreed between the Seller and the selling agent.

16.2 **The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any agent other than the selling agent. The Purchaser indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be incurred, made against or suffered by the Seller arising out of any breach of the foregoing warranty.**

Initial: _____

17 **JURISDICTION/COSTS**

17.1 The Purchaser hereby consents in terms of Section 45 of the Magistrate's Court's Act, No. 32 of 1944, as amended, to the jurisdiction of any Magistrates' Court having jurisdiction over its person under Section 28 of that Act, notwithstanding that any action or proceeding arising out of this Agreement would otherwise be beyond the jurisdiction of such court. The Seller shall, however, have the right to institute action in any other court of competent jurisdiction.

17.2 The Purchaser agrees that, in the event of the Seller instructing its attorneys and/or taking legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfil any of its obligations in terms hereof, then the Purchaser shall pay all legal costs plus VAT incurred by the Seller in connection therewith as between attorney and own client, including collection commission laid down at the tariff rate applicable.

Initial: _____

18 **JOINT AND SEVERAL LIABILITY**

Should this Agreement be signed by more than 1 (one) person as purchaser, the obligations and liability of all the said Purchasers shall be joint and several.

19 **DIRECTOR**

19.1 If this Agreement is entered into, by the signatory for the Purchaser in a capacity as director for a company to be formed, then the said signatory, by the signatory's signature hereto, hereby binds himself/herself in favour of the Seller as surety and co-principal debtor, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company in terms of or arising out of this Agreement or any cancellation hereof; and

19.2 Without prejudice to the provisions of clause 19.1 above, in the event of such company not being formed within 30 (thirty) days after the date of signature of this Agreement by the Purchaser, and/or failing to ratify and make the provisions of this Agreement binding upon itself, and/or failing within 7 (seven) days of being formed to deliver to the Seller's Conveyancers the originals or notarially certified copies of its Memorandum of Incorporation, Certificate to Commence Business, Certificate of Incorporation, and all necessary resolutions of shareholders and/or directors in respect of this sale, in the case of a company, or of its Founding Statement, any applicable association agreement, then and in any such event, the said signatory shall be personally liable in terms hereof as if the signatory had contracted in his own personal capacity.

20 **COMPANY / CLOSE CORPORATION**

If this Agreement is signed as Purchaser by a person purporting to act for and on behalf of a company, close corporation or trust (other than a company not yet formed), the signatory shall be deemed to warrant that the signatory is duly authorised so to sign this Agreement and shall by the signatory's signature hereto bind himself thereto in favour of the Seller as surety and co-principal debtor together with such Company or close corporation under renunciation of the

benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company, close corporation or trust in terms of or arising out of this Agreement or any cancellation hereof.

21 **CESSION AND ASSIGNMENT OF RIGHTS**

The Purchaser shall not be entitled to sell, assign, cede or make over its rights under this Agreement and the Seller shall not under any circumstances agree to enter into a Tripartite Agreement. **The Purchaser cannot sell or alienate his unit before he has taken transfer thereof.**

22 **BREACH**

22.1 Should the Seller or the Purchaser ("the defaulting party") fail to pay any amount, or fail to provide the guarantee(s) required in terms of this Agreement on due date, or should the defaulting party commit a breach of any other of the terms and conditions of this Agreement and remain in default for 7 (seven) days (unless such breach occurs after the transfer documents have been lodged in the Deeds Office for registration, in which case the 7 (seven) day period may at the election of the other party ("the aggrieved party") be reduced to 24 (twenty four) hours) after dispatch of a written notice requiring payment and/or delivery of the guarantee(s) and/or requiring such breach to be remedied, the aggrieved party shall be entitled without prejudice to any other rights the aggrieved party may have in law, including the right to claim damages:

22.1.1 to cancel this Agreement without any further notice and the event of the Purchaser being the defaulting party, the Seller shall be entitled to retain all monies paid by the Purchaser to the Seller and/or the Seller's agents or the Seller's Conveyancers in terms hereof, including monies paid as a deposit to the Seller's Conveyancers together with any interest earned thereon; pending determination of damages; or

22.1.2 to claim immediate performance and/or payment, of all the obligations of the defaulting party in terms of this Agreement, including immediate payment of the balance and/or whole of the purchase price in the event of the Purchaser being the defaulting party.

22.2 The Purchaser shall be liable to the Seller to pay the selling agents commission in event of cancellation or default by the Purchaser. If the Seller cancels this Agreement and resells the Property at a lower price, then the Purchaser shall be liable to the Seller for payment of the shortfall.

Initial: _____

22.3 Should the Purchaser dispute the right of the Seller to cancel this Agreement and/or remain in occupation of the Unit after the date of cancellation, then pending the determination of that dispute and/or vacation of the Unit, the Purchaser shall be obliged to continue payment of all of the amounts payable by it in terms of this Agreement on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any other rights of the Seller whatsoever. Notwithstanding the foregoing the above occupancy shall not be regarded as creating a tenancy either in terms of a statutory provision or at common law.

22.4 Upon cancellation of the Agreement for any reason whatsoever, the Purchaser hereby undertakes to vacate forthwith the Unit and all Exclusive Use Areas and shall cease to have any rights under this Agreement and the Seller shall immediately be entitled to resell the Property.

23 NOTICE ADDRESS

23.1 The parties to the Agreement choose the addresses set out in clauses 1.1 and 1.2 in the schedule as their respective domicilium citandi et executandi for all purposes arising hereout and as their respective addresses for the service of any notices required to be served upon them hereunder.

23.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give such notice by telefax and/or by e-mail.

23.3 Either party may by notice to the other change the physical address chosen as its notice address or may advise a telefax number and/or email address or change the telefax number and/or e-mail address; provided that such

change(s) shall only become effective on the 6th (sixth) business day after the date of receipt, or deemed date of receipt, of such notice by the addressee.

23.4 Any notice to a party shall –

23.4.1 If sent by pre-paid registered post, be deemed to have been received on the fourth business day after posting unless the contrary is proved.

23.4.2 If delivered by hand, shall be deemed to have been received on the day of delivery or on the next business day if the day of delivery is not a business day.

23.4.3 If sent by telefax and/or e-mail, shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day unless the contrary shall otherwise be proved.

23.5 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a party to this Agreement shall be an adequate written notice or communication to it/him notwithstanding that it was not sent to or delivered at the chosen notice address or transmitted to such party's telefax number and/or e-mail address as stipulated herein.

23.6 The Purchaser shall with effect from the Occupation Date be deemed to have changed his domicilium to the Unit.

24 **GENERAL CONDITIONS**

24.1 The parties acknowledge that this Agreement represents the entire agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever whether express or implied have been made by either party or their agents other than as set forth in this Agreement.

24.2 The terms of this Agreement form the sole contractual relationship between the parties hereto and no variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.

24.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in respect of this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.

24.4 Each of the parties hereby undertakes to sign and/or execute all such documents (and without limiting the generality of the foregoing), same shall include the execution of the necessary Power of Attorney, Transfer Duty Declarations and personal affidavits.

25 **OFFER ACCEPTANCE**

Inasmuch as this Agreement, signed by the Purchaser and delivered to the Seller, shall constitute an offer to purchase the Property, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller signing same within 14 (fourteen) days after the date of signature thereof by the Purchaser.

26 **CONSUMER PROTECTION ACT**

26.1 The Purchaser acknowledges that this Agreement contains certain provisions which:

26.1.1 limit the risk or liability of the Seller;

26.1.2 constitute an assumption of risk or liability on the part of the Purchaser;

26.1.3 impose an obligation on the Purchaser to indemnify the Seller; and/or

26.1.4 constitute an acknowledgment of facts by the Purchaser.

26.2 the Purchaser's attention is specifically drawn to these provisions, which are highlighted in bold text in the Agreement and listed below:

Clauses: 3.2, 4.1.4, 4.1.5, 5.7, 7.1, 7.2, 7.5, 8.1, 8.9, 8.9.1, 8.9.2, 8.9.3, 9.2, 9.2.1, 9.2.2, 9.2.3, 9.2.4, 9.2.5, 9.3, 11.2, 11.4, 11.7, 11.7.1, 11.7.2, 11.7.3, 12.6, 14.1, 14.2, 14.3, 14.4, 16.2, 23, 23.2, 26.1, 26.1.1, 26.1.2, 26.1.3, 26.1.4, 26.2, 26.3, 26.4, 29 and 30.

26.3 The Purchaser further acknowledges that the amount for the Levies will approximately be the amount as set out in Clause 6 of the schedule.

26.4 By signing at the end of this clause, the Purchaser acknowledges that the Seller has provided sufficient time and opportunity for the Purchaser to receive and comprehend the nature and effect of the provisions of this Agreement.

Signed by the Purchaser: _____

27 NATIONAL CREDIT ACT

27.1 If this Agreement is subject to the National Credit Act 34 of 2005, the Purchaser warrants that:

27.1.1 once the mortgage bond is approved and the pre-agreement quotation statement and quotation is accepted, the Purchaser shall not do anything that may cause the Purchaser to become over-indebted in terms of the National Credit Act or cause the bank to withdraw the bond approval;

27.1.2 the Purchaser shall not do anything between the date of acceptance of the pre-agreement statement and quotation and registration of the mortgage bond which may cause the Purchaser's financial situation to deteriorate;

27.1.3 at the time of signature of this Agreement the Purchaser is not:

27.1.3.1 over-indebted and/or;

27.1.3.2 subject to debt review and/or;

27.1.3.3 subject to an administration order.

28 **PARTICIPATION QUOTA**

28.1 Units in the Sectional Title Scheme shall be sold and utilized for residential purposes.

28.2 It is therefore agreed that the proposed Sectional Title Scheme in respect of the Development will accordingly be a scheme as envisaged in terms of Section 32(2) of the Act.

28.3 The Participation Quota of a Section shall be a percentage expressed to four decimal places, as determined by the Developer.

28.4 The total of the quotas allocated by the Developer to the residential sections shall be divided among them in proportion to a calculation of their quotas made in terms of Section 32(1) of the Act.

28.5 It is recorded by the Seller and Purchaser that the Participation Quotas were calculated from Architect drawings and that they may change after actual measurement of the completed Building and all constituent Sections.

29 **GENERAL**

All warranties, acknowledgements and undertakings by and on behalf of the Purchaser, are subject to and without prejudice to the rights conferred on the Purchaser in terms of the Consumer Protection Act.

31.4 CLAUSES FOR BODY CORPORATE

31.4.1 Relating to the facility

The Developer has made certain areas of the common property available for the installation of the facility ("the facility") referred to in the service level agreement ("the SLA") which it entered into with Vida Verde Proprietary Limited of which the Body Corporate has taken cession.

No one shall be entitled to access, operate or tamper with the facility unless such person has been approved in accordance with the terms of the SLA.

Any owner or occupier of a section who has been found to have accessed, operated or tampered with the facility in any way whatsoever shall be personally liable for any loss or damage caused thereby and shall, in addition, be liable for the payment of a fine, the amount of which will be determined by the trustees of the Body Corporate from time to time. An owner or occupier shall similarly be liable in the event that any guest or agent or invitee or employee or service provider of such owner or occupier has been found to have accessed, operated or tampered with the facility in any way whatsoever.

31.4.2 Relating to the Insurance

In addition to the insurance of the immovable property situate, the trustees of the Body Corporate shall insure the facility and shall Vida Verde Proprietary Limited shall be named as the co-insured. The Body Corporate agrees to pay the cost of this insurance.

31.4.3 Relating to the rental of sections

All leases must be on a form approved by the Body Corporate and shall incorporate the following conditions:

"The tenant shall purchase electricity from the landlord's agent and/or authorised representative, who is an authorized electricity reseller. The tenant agrees to purchase electricity on a prepaid basis and agrees that, should the tenant's prepaid account be empty or fall into arrears, the landlord or the landlord's authorised representative may interrupt or cancel the supply of electricity to the unit. The tenant indemnifies and holds the landlord and /or his authorised agent harmless against any loss damage, costs or expenses that the tenant may suffer or incur arising directly or indirectly from an interruption or cancellation of the supply of electricity to the unit.

The landlord has appointed MOTU Proprietary Limited as its authorised representative with regards to the management of all payments. The landlord may charge the tenant an additional fee for all the reasonable operational costs incurred by the landlord for any additional non electricity related services provided by the landlord's authorised

representative, including account and database management. The landlord will invoice the tenant for these services at the end of each month in arrears.

The Landlord or his authorised agent or representative may appropriate any payment they or their agent have received from the tenant (including pre-paid electricity payments) towards the satisfaction of any indebtedness whatsoever that the tenant has to the landlord under this agreement, and in such order as the landlord or his authorised representative may choose."

A fully executed copy of the lease must also be provided to the Body Corporate.

31.4.4 Relating to the supply of electricity

Electricity shall be supplied to each unit on a prepaid basis in accordance with the NERSA approved Local Authority Tariff.

Should the owner or occupier's account be reduced to zero or fall into arrears, the supply of electricity to the unit may be interrupted or cancelled and the owner and /or occupier of a unit agrees to indemnify the Body Corporate and /or its authorised agents and/or representatives and hold them harmless against any loss damage costs or expense which the owner and/or occupier may suffer or incur arising directly or indirectly from an interruption or cancellation of the supply of electricity to the unit.

SIGNED by the Purchaser at on

..... 20__.

AS WITNESSES

1.

.....
Purchaser 1

2.

.....
Purchaser 2 (if applicable)

SIGNED by the Seller at on

.....20__.

AS WITNESSES

1.

.....
Seller

2.