

AGREEMENT OF SALE

BY SECTIONAL TITLE FOR A NEW DEVELOPMENT

to be known as

"OCEAN TERRACES"

UNIT NUMBER:

made and entered into by and between

COMMERCIAL DYNAMICS PROPRIETARY LIMITED

(Registration No. 1975/002028/07)

(hereinafter referred to as "the SELLER")

and

(Full name of Purchaser to be inserted)

(hereinafter referred to as "the PURCHASER")

Annexure "A"	Schedule
Annexure "B"	Sketch Plan
Annexure "C"	Site Plan
Annexure "D"	Schedule of Finishes
Annexure "E"	Standard Home Builders Warranty

PREAMBLE

WHEREAS:

- A. The SELLER has acquired Erf 2133 Capricorn.
- B. The SELLER is proposing a development on Erf 2133 Capricorn in accordance with certain sketch plans which have been exhibited to the PURCHASER to be known as "OCEAN TERRACES" ("the DEVELOPMENT SCHEME");
- C. The SELLER intends to apply for the approval of the DEVELOPMENT SCHEME in terms of the Sectional Titles Act Number 95 1986 and Sectional Titles Management Act Number 80 of 2011 and the opening of a Sectional Title Register in respect thereof.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 In this agreement, unless inconsistent with the context:

1.1.1 "the ACT" means the Sectional Titles Act No. 95 of 1986, as amended, and includes the regulations framed thereunder or as amended from time to time;

1.1.2 "the AGENCY" means **IGROW WEALTH INVESTMENTS PTY LIMITED.**

1.1.3 "the AGENT" means IGROW WEALTH INVESTMENTS who operates as and is registered as an independent contractor with the AGENCY;

1.1.4 "the ARCHITECT" means the ARCHITECT or draughtsman appointed to ACT as such from time to time by the SELLER in

respect of the DEVELOPMENT SCHEME and includes any member of his firm;

1.1.5 "the BUILDINGS" means the BUILDINGS to be constructed upon the LAND;

1.1.6 "the COMMON PROPERTY" means the property not forming part of any SECTION and/or UNIT in the DEVELOPMENT SCHEME in terms of the ACT;

1.1.7 "the DEVELOPMENT SCHEME" means the LAND and BUILDINGS in respect of which the SELLER intends to open a Sectional Title Register which it envisages calling "OCEAN TERRACES";

1.1.8 "the ESTIMATED PARTICIPATION QUOTA" in relation to a SECTION means a decimal fraction determined in accordance with the ACT;

1.1.9 "the EXCLUSIVE USE AREA" means those areas of the COMMON PROPERTY as marked on the site plan annexed hereto and to be reserved for the exclusive use of the PURCHASER in terms of Section 10 of the STMA;

1.1.10 "the LAND" means Erf 2133 Capricorn.

1.1.11 "the OCCUPATION DATE" means the date

a) upon which the UNIT is handed over to the PURCHASER;
or

b) on issue of a certificate by the ARCHITECT stating that the UNIT is fit for beneficial use;

whichever of these dates shall be the earliest, and from such date the SELLER shall be discharged and released completely from all of its obligations, express or implied, under this agreement and any variation thereof or addition thereto, save and except to the extent of the undertakings contained in Clause 12 and/or as imposed by any applicable national legislation.

- 1.1.12 "the RULES" means the rules of the Body Corporate;
 - 1.1.13 "the SECTION" means a Section shown as such on the Sectional Plan and set out on the Sketch Plan attached hereto marked "B";
 - 1.1.14 "the SELLER" means COMMERCIAL DYNAMICS (PTY) LTD
Registration Number: 1975/002028/07;
 - 1.1.15 "the SELLER'S ATTORNEYS" means DE ABREU & COHEN INC.
of UNIT 2, 42 Blaauwberg Road, Table View, 7441;
 - 1.1.16 "the STMA" means the Sectional Title Management Act Number 80
of 2011;
 - 1.1.17 "the UNIT" means the SECTION sold which forms part of the
DEVELOPMENT SCHEME and includes an undivided share in the
COMMON PROPERTY as more fully specified in the annexures
hereto read in conjunction with the sketch plans also annexed and
the building plans and all EXCLUSIVE USE AREAS as specified
in clause 2 A and 2 B of the Annexure "A";
 - 1.1.18 "VAT" means Value-Added Tax as levied from time to time in terms
of the Value-Added Tax Act No. 89 of 1991, as amended.
- 1.2 Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females, and words importing persons shall include partnerships and bodies corporate, and vice versa.

1.3 Reference to the agreement means this agreement and all annexures thereto.

1.4 The head notes to the paragraphs to this agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

2. **SALE OF UNIT**

2.1 The SELLER sells and the PURCHASER hereby purchases:

2.1.1 the SECTION and an undivided share in the COMMON PROPERTY apportioned to the SECTION in terms of the PARTICIPATION QUOTA of the SECTION and the right to the EXCLUSIVE USE AREA referred to in 2.1.2 below. Such SECTION is more fully described in clause 2 A and 2 B on Annexure "A" read with the sketch plans also annexed and as will be more fully described in the Sectional Title Plan read with the Register. The SECTION will be constructed in accordance with the annexed sketch plans and will be finished in accordance with the schedule of finishes attached hereto, collectively marked Annexures "B", "C", "D" and "E".

2.1.2 The right to the parking bay/s which is referred to in clause 2 B on Annexure "A" shall be allocated to the PURCHASER as an EXCLUSIVE USE AREA in terms of SECTION 10 of the STMA.

3. **PURCHASE PRICE**

The purchase price of the UNIT shall be the sum set forth in clause 9 on Annexure "A", which sum includes VAT at the applicable rate. As VAT is payable by the SELLER, the PURCHASER shall not be required to pay transfer duty.

4. PAYMENT OF PURCHASE PRICE

- 4.1 A deposit in the amount specified in clause 10 on Annexure "A", shall be payable in cash by the PURCHASER to the SELLER'S ATTORNEY against signature thereof.
- 4.2 The balance of the purchase price shall be paid in cash against registration of transfer of the UNIT into the name of the PURCHASER.
- 4.3 All amounts paid on account of the purchase price (excluding the amount referred to in Clause 21.6), shall pending the registration of transfer of the UNIT, be held in trust by the SELLER'S ATTORNEYS to be invested in an interest bearing account, interest to accrue to the benefit of the PURCHASER. The SELLER'S ATTORNEYS are hereby authorized to invest same and the PURCHASER hereby irrevocably authorizes the SELLER'S ATTORNEYS to appropriate interest accrued on money so invested in reduction of all amounts as may be owing by the PURCHASER in terms of this agreement.
- 4.4 It is hereby recorded that the SELLER'S ATTORNEYS shall only invest these amounts once the PURCHASER has complied with the SELLERS ATTORNEYS requirements to ensure the PURCHASER is FICA compliant.
- 4.5 All or any payments to be effected hereunder shall be effected by the PURCHASER to the SELLER'S ATTORNEYS.
- 4.6 In the event that any payment in terms of this agreement is made in cash to the SELLER'S ATTORNEYS or deposited in cash into the SELLER'S ATTORNEYS bank account, the PURCHASER shall be liable for cash handling fee equal to 2% (two percent) of the value of each such cash payment.

5. GUARANTEE

Within 7 (seven) days of being called upon to do so by the SELLER or the SELLER'S ATTORNEYS, the PURCHASER shall furnish the SELLER or the SELLER'S ATTORNEYS with a bank or other irrevocable guarantee acceptable to the SELLER for the due payment of all amounts payable in terms of this agreement.

6. INTEREST ON OVERDUE INSTALMENTS

- 6.1 Unless otherwise provided herein, all monies payable by the PURCHASER in terms hereof and unpaid on due date shall bear interest at 3% (three percent) above the prime bank commercial overdraft lending rate charged by ABSA Bank on an unsecured basis from time to time. (In the case of a dispute as to the rate so payable, the rate shall be certified by any manager or assistant manager of any branch of the said bank, whose decision shall be final and binding on the parties.)
- 6.2 Interest as aforesaid shall be calculated from the due date for payment of the unpaid amount to the actual date of payment thereof (both dates inclusive) which interest shall be capitalized monthly in arrears on the last day of each calendar month that such amount remains unpaid.
- 6.3 Each payment made by the PURCHASER shall be allocated first to the payment of interest and then to the payment of any other monies due in terms hereof and thereafter to the reduction of the purchase price.
- 6.4 In the event of a delay in the Registration of Transfer attributable (directly or indirectly) to the PURCHASER, the PURCHASER shall be liable to the SELLER for interest, at the rate referred to in Clause 6.1, on the purchase price reckoned from the date which the SELLER'S ATTORNEYS certify Registration of Transfer would in their opinion have been effected had it not been for such a delay, until the actual date of Registration of Transfer.

The said certificate of the SELLER'S ATTORNEYS shall be final and binding on the parties.

- 6.5 In the event that there is a delay in the OCCUPATION DATE, the delay being attributable (directly or indirectly) to the PURCHASER, the PURCHASER shall be liable to the SELLER for interest, at the rate referred to in clause 6.1, on the purchase price reckoned from the date the ARCHITECT certifies the UNIT would have been ready for beneficial occupation had it not been for such delay, until the OCCUPATION DATE. The ARCHITECT'S said certificate shall be final and binding on the parties.

7. **POSSESSION, OCCUPATION, RISK AND BENEFIT**

- 7.1 It is recorded that the BUILDINGS are presently in the course of planning, under construction or completed.
- 7.2 Possession shall be given by the SELLER and taken by the PURCHASER on the OCCUPATION DATE.
- 7.3 **From the OCCUPATION DATE all risks in and benefit of the UNIT shall pass to the PURCHASER. Notwithstanding the fact that any condition contained herein remains to be unfulfilled subsequent to the OCCUPATION DATE, it is specifically agreed that the PURCHASER is liable to fulfill all obligations which arise with effect from the OCCUPATION DATE.**
- 7.4 The PURCHASER acknowledges that he may suffer inconvenience from building operations, noise, dust and other nuisance factors from time to time subsequent to the OCCUPATION DATE arising from the development of the DEVELOPMENT SCHEME and same shall accordingly not be a breach of this agreement. The PURCHASER shall therefore not be entitled by reason of any of the foregoing to cancel or

withdraw from this agreement or claim damages from any person or institute interdict proceedings.

- 7.5 Within 30 (thirty) days of the OCCUPATION DATE, the PURCHASER or his duly appointed proxy shall sign a Handover Form acknowledging that they have examined the sanitary ware, cupboards, worktops, carpets and tiling and have noted on the form any defects which may exist in these items at the time of handover. The PURCHASER further acknowledges and agrees that the SELLER shall only be responsible for the rectification of defects properly recorded and noted by the PURCHASER on the Handover Form. Should the PURCHASER fail to deliver a signed Handover Form to the SELLER within 30 (thirty) days of possession, in which he sets out any defects then and in such event, the PURCHASER shall be deemed to have acknowledged that there are no such defects.**
- 7.6 Should registration of transfer take place after the OCCUPATION DATE, then, notwithstanding anything herein contained, the PURCHASER shall pay occupational interest to the SELLER in an amount referred to in Paragraph 8 of Annexure A per month.**
- 7.7 Occupational interest shall be paid monthly in advance to the SELLER'S ATTORNEYS commencing on the OCCUPATION DATE. Should registration of transfer take place on a day other than the last day of the month, then occupational interest in respect of the period from the date of registration of transfer to the end of the month will be refunded to the PURCHASER by the SELLER'S ATTORNEYS.
- 7.8 All monies payable by the PURCHASER in terms hereof which are unpaid on due date shall bear interest thereon in terms of the provisions of Clause 6 above calculated at the interest rate from due date to the actual date of payment.

- 7.9 All payments made by the PURCHASER shall be allocated first to the payment of interest, then to the payment of any other monies due in terms hereof and, finally, to the reduction of the purchase price.
- 7.10 Save as recorded herein and/or as imposed by any applicable national legislation, the PURCHASER shall have no further claims against the SELLER in respect of any defect and/or rectification and/or repairs.
- 7.11 The occupation of the UNIT by the PURCHASER (and those occupying through or under the PURCHASER) between the OCCUPATION DATE and the date of Registration of Transfer, shall not in any way constitute a tenancy between the SELLER and the PURCHASER (and those occupying the UNIT through or under the Purchaser).
- 7.12 The parties hereby agree that despite the content of the above that the SELLER shall only be obliged to give possession to the PURCHASER after the PURCHASER has signed all required transfer and bond documents, made all payments for which the PURCHASER is liable in terms of this AGREEMENT and any retention applicable on the mortgage bond has been uplifted and the Bank that approved the mortgage bond has given consent for the mortgage bond to be registered and the first month's occupational interest has been paid to the SELLER'S ATTORNEYS.**

8. TRANSFER

- 8.1 It is recorded that it will only be possible for the SELLER to give transfer of the UNIT to the PURCHASER upon the opening of the Sectional Title Register in respect of the DEVELOPMENT SCHEME in terms of the ACT.
- 8.2 The SELLER accordingly undertakes to use all reasonable endeavor's to procure the opening of the Sectional Title Register as soon as is legally possible and practicable.

- 8.3 Transfer shall be passed by the SELLER'S ATTORNEYS and the PURCHASER undertakes:
- 8.3.1 Within 3 (three) days of demand made by the SELLER and/ or the SELLER'S ATTORNEYS to:**
 - 8.3.1.1 deliver / furnish to the person who made such demand, such documents / information as may reasonably be required by such person;**
 - 8.3.1.2 do all such things as may be necessary to enable this AGREEMENT to be fulfilled without delay;**
 - 8.3.2 To keep all appointments with the SELLER'S ATTORNEY.**
 - 8.3.3 To sign all documents prepared by the SELLER'S ATTORNEYS and the Bond Attorneys to give effect to the provisions of this AGREEMENT within 3 (three) days of demand and, if the documents are signed other than at the offices of the SELLER'S ATTORNEYS, the signed documents shall be delivered to the SELLER'S ATTORNEYS within 3 (three) days of signature.**
- 8.4 The PURCHASER shall accept transfer of the UNIT subject to all conditions and servitudes benefiting or burdening the UNIT and the LAND whether existing or hereafter imposed by any competent authority.
- 8.5 In the event of there being any minor difference between the dimensions of and/or the levies payable in respect of any UNIT as depicted on the Sectional Plan from that reflected in this agreement, the PURCHASER shall nevertheless accept transfer.
- 8.6 Subject to the Provisions of Clause 16.2 the SELLER shall be liable and pay for all costs of transfer due to the SELLER'S ATTORNEYS and shall

settle the costs of transfer, including Deeds Office fees, legal fees and the like, immediately upon request of the SELLER'S ATTORNEYS.

8.7 The PURCHASER shall accept registration of transfer when same is tendered to it and the PURCHASER shall not delay the registration of transfer notwithstanding that certain work covered by the provisions of Clause 12 has not yet been affected. The PURCHASER acknowledges that a breach of any of the foregoing shall constitute a material breach of this Agreement.

8.8 The PURCHASER shall be responsible for ensuring that not less than 30 (thirty) days before the SELLER'S anticipated date of lodgment of all relevant documents at the Deeds Office that:

8.8.1 All the documents necessary for the registration of the transfer and if applicable the bond, which are required to signed by the PURCHASER;

8.8.1.1 have been properly completed and signed; and

8.8.1.2 comply fully with all requirements of the bank which granted the loan of the PURCHASER and the said Bank has confirmed that all its pre-lodgment and pre-registration requirements have been fulfilled and the said Bank has authorized in writing that registration of the bond may be proceeded with.

8.8.2 All amounts due by the PURCHASER in respect of this agreement has been paid to the SELLER'S ATTORNEYS.

For the purpose of this clause the SELLER'S ATTORNEYS assessment of the anticipated date of lodgment shall be binding on the PURCHASER.

9. **CONDITIONS APPLICABLE PENDING TRANSFER**

During the period from the OCCUPATION DATE until date of transfer, the following conditions shall apply:

- 9.1 save insofar as they may be inconsistent with the provisions of this agreement, the provisions of Section 19 of the STMA shall apply;
- 9.2 the provisions of the RULES insofar as they cast any duty upon the owner or occupier of a UNIT shall bind the PURCHASER and be enforceable by the SELLER;
- 9.3 **the PURCHASER may not make any alterations or additions, including but not limited to alterations to the colour scheme and to the redecoration of the UNIT without the consent in writing of the SELLER first having been obtained;**
- 9.4 **the PURCHASER shall maintain the UNIT in a fit and proper condition;**
- 9.5 **the PURCHASER shall be responsible for any damage caused to the UNIT by the PURCHASER or any person claiming access of occupation through him;**
- 9.6 **the PURCHASER shall not sell or in any other manner dispose of the UNIT prior to registration of transfer into the PURCHASER'S name, without the express written consent of the SELLER, which consent may be granted or withheld in the entire discretion of the SELLER;**
- 9.7 **the PURCHASER shall be responsible for and pay to the SELLER promptly and on demand all costs of electricity and water consumed in the UNIT as separately metered or alternatively, if no separate meter is applicable in respect of the water, then on a pro rata basis as determined by the SELLER;**

- 9.8** If, before transfer of the UNIT to the PURCHASER, the UNIT is destroyed or damaged to such extent that in the opinion of the SELLER it is uneconomical to reinstate the UNIT then this sale shall be cancelled, provided that such damage or destruction was not caused as a direct result of an act or omission by the SELLER. In such event the SELLER shall refund to the PURCHASER all amounts which may have been paid by the PURCHASER to the SELLER'S ATTORNEYS under the provisions of Clause 4 hereof together with interest earned thereon, excluding the payment made to the AGENCY in terms of clause 21 hereof, and the PURCHASER shall have no further claims against the SELLER. If the UNIT is destroyed or damaged due to the actions of the PURCHASER, then the provisions of this clause shall not apply.
- 10. LEVIES**
- 10.1** The PURCHASER shall be liable from the OCCUPATION DATE for levies payable in terms of the ACT and/or the STMA calculated in accordance with the participation quota attributable to each UNIT as if the PURCHASER was the registered owner of the UNIT.
- 10.2** Such levies shall be paid monthly in advance on the first day of each and every calendar month provided that if the OCCUPATION DATE falls on any day other than the first day of a calendar month, then the PURCHASER shall be obliged to pay a pro rata share of the levies due for the calendar month in which the OCCUPATION DATE occurs.
- 10.3** Such levies shall be paid to the SELLER'S ATTORNEYS until registration of transfer and thereafter to the Body Corporate.
- 10.4** If the Body Corporate has not yet been established then, from the OCCUPATION DATE until the date of registration of transfer, the PURCHASER shall pay to the SELLER'S ATTORNEYS a monthly contribution towards the running costs of the development. Such

contribution shall be an amount equal to the estimated levy as contained in clause 14 on Annexure "A".

10.5 Should the Body Corporate determine an actual levy after it having being established, then the actual levy shall replace the estimated levy and the actual levy shall from date of determination by the Body Corporate be payable by the PURCHASER.

11. **THE RULES**

The PURCHASER agrees to abide by the RULES of the Body Corporate as established by law and/or determined or established by the SELLER.

12. **WARRANTIES BY SELLER**

12.1 The UNIT is sold in accordance with the Sectional Title Plan with participation quota endorsed thereon and any modifications or alterations which may be made thereto from time to time in accordance with provisions of the ACT, and without any warranties, express or implied other than those imposed by any applicable national legislation;

12.2 The SELLER shall carry out such works and repairs as may be necessary to honor the terms and the conditions of the Standard Home Builders Warranty. See Annexure "E".

12.3 In order to implement the warranty referred to in Clause 12.2 above, the PURCHASER shall, subject to the provisions of Clauses 7.5 above, deliver to the SELLER a written list of alleged defects in the UNIT to be known as the Handover Form within 30 (thirty) days of the OCCUPATION DATE. Any defect contained in this list (hereinafter referred to as "the snag list") for which the SELLER is liable to repair in terms of this agreement, shall be remedied by the SELLER within a reasonable period after receipt of the snag list. Should the PURCHASER fail to deliver a

snag list to the SELLER timeously as aforesaid, then the PURCHASER shall be deemed to have accepted the UNIT free of any defects and the SELLER shall have no further responsibility in respect of any such defects save and except those defects that may be covered by the SELLER'S warranty as contained in Clauses 1 and 2 of Annexure "E" hereto and/or those imposed by any applicable national legislation.

12.4 Save as specifically set out in this agreement and/or those imposed by any applicable national legislation, the SELLER has made no representations and given no warranties in respect of the UNIT or the BUILDINGS or in respect of anything relating thereto.

12.5 More particularly, and notwithstanding the provisions of Clauses 12.1 and 12.2, the PURCHASER shall have no claim against the SELLER, including the cancellation of this agreement for any discrepancies other than those of a substantial nature between the building plans relating to the UNIT and the completed UNIT, nor shall the PURCHASER have any claim against the SELLER, should the actual levy be higher than the estimated levy.

12.6 Hairline cracks resulting from shrinkage of materials are not the responsibility of the SELLER.

12.7 The PURCHASER acknowledges that:

12.7.1 at the time of his signature hereto, the positions of electricity mini substations and meter kiosks in the DEVELOPMENT SCHEME may not have been determined;

12.7.2 an electricity mini substation or a meter kiosk may be positioned in front of or in proximity to the UNIT;

12.7.3 his attention has been specifically directed to these facts;

12.7.4 the SELLER shall not be liable to the PURCHASER for any possible damage or loss suffered by the PURCHASER arising out of the determination of final positions of the electricity mini substations or meter kiosks within the DEVELOPMENT SCHEME.

13. DISPUTES RELATING TO DEFECTS

The parties agree that if, in the implementation of the Home Builders Warranty, a dispute arises relating to liability for defects, then the ARCHITECT as described in Clause 1.1.4 shall be appointed as the Arbitrator in such dispute. The parties further agree to instruct the Arbitrator to limit the arbitration proceedings to an investigation and an expert opinion by the Arbitrator in respect of the defect complained of. The parties agree to be bound by the expert opinion of the Arbitrator, whose decision shall be final and binding on the parties.

14. DEFAULT

14.1 In the event of either party being in breach of any of their obligations contained in the terms and conditions of this Agreement and remaining in breach despite having been given 7 (seven) days' written notice by the other party or his AGENT, that party or his AGENT shall forthwith be entitled (but not obliged) without prejudice to any other rights or remedies which they may have in law, including the right to claim damages:

14.1.1 to cancel this agreement on written notice to the defaulting party in which event, if the PURCHASER is the defaulting party, the PURCHASER shall forfeit all monies paid to the SELLER or its AGENTS in terms hereof as pre-estimated damages, provided that such pre-estimated damages does not significantly exceed the harm suffered by the SELLER. The SELLER'S ATTORNEYS are irrevocably authorised to

deal with deposits received in accordance with the provisions as set out above; or

14.1.2 to claim immediate performance and/or, if the PURCHASER is the defaulting party, to claim payment of all the PURCHASER'S outstanding obligations in terms hereof.

14.2 If the PURCHASER disputes the SELLER'S right to cancel and/or remains in occupation of the UNIT after date of cancellation or purported cancellation, the PURCHASER shall continue to pay interest (including occupational interest) and all levies as herein provided in consideration for continuing to occupy the UNIT.

14.3 In the event of the PURCHASER breaching any of its obligations in terms of this AGREEMENT and the SELLER incurring legal costs as a result of such breach, then the PURCHASER shall be liable for all such legal costs on the Attorney and own client scale.

15. INSPECTION OF UNIT

The SELLER and/or the SELLER'S duly authorized AGENT/S shall be entitled to inspect the UNIT at all reasonable times during the period that the PURCHASER is indebted to the SELLER hereunder.

16. MORTGAGE BOND

16.1 This AGREEMENT is subject to the PURCHASER obtaining a bond in principle from a bank on its usual terms in the amount as specified in Clause 11 of the Annexure "A" if any. In this regard, it is specifically recorded that the PURCHASER shall be obliged to source his/ her/ its bond finance from such mortgage originator appointed by the SELLER in writing. The PURCHASER shall take all steps, do all things and sign all documents required by such originator for the purposes of pursuing any

mortgage bond application required in terms hereof. **Should the PURCHASER not source his / her bond finance from the mortgage originator appointed by the SELLER, then unless payment of the purchase price by the PURCHASER is made in cash without registration of a mortgage bond, the PURCHASER shall be liable for all costs incidental to the registration of the Mortgage Bond that would have been payable by the SELLER. In such event, the PURCHASER shall pay all bond registration costs within 2 (two) days of request.**

- 16.2 The PURCHASER binds his utmost good faith in pursuing mortgage bond finance as aforesaid and ensuring that registration of the mortgage bond is effected by the **SELLER'S ATTORNEYS. Should the PURCHASER fail to endeavour to ensure that the financial institution attending to his mortgage bond registration, instructs the SELLER'S ATTORNEYS to effect registration of the mortgage bond concerned, alternatively, directly or indirectly whether by act or omission, frustrates the appointment of the SELLER'S ATTORNEYS for the purpose of registering the aforesaid mortgage bond, then unless otherwise agreed to in writing by the SELLER, the PURCHASER shall become liable for the transfer costs that would have been payable by the SELLER. In such event, the PURCHASER shall pay all transfer costs within 2 (two) days of request.**
- 16.3 In the event of the PURCHASER, despite his/ her/ its best efforts, not obtaining such bond within 21 (twenty one) days of date of signature hereof by the SELLER or within such extended period as the SELLER in its sole discretion may determine; then in that event, this AGREEMENT shall be null and void.
- 16.4 **In the event of the PURCHASER failing to make application for such mortgage bond and/or failing to provide the information and/or documentation required for the processing of such application timeously and/or frustrating, by any acts or omissions, the fulfillment of the suspensive condition relating to the obtaining of**

the bond finance referred to in this agreement, then in all such events, the suspensive condition relating to the obtaining of mortgage finance shall be deemed to have been fulfilled timeously.

- 16.5 Subject to the provisions of Clause 16.4 above, in the event that this agreement shall become null and void in terms of Clause 16.3 above, then the SELLER'S ATTORNEYS shall refund to the PURCHASER such deposit as may have been paid by the PURCHASER together with interest thereon and the parties shall have no further claims against each other.
- 16.6 **Subject to the provisions of Clause 16.1, the SELLER shall be responsible for all costs incidental to the registration of the aforementioned bond. Notwithstanding the content of the aforesaid, the PURCHASER shall be responsible for all the Bank's fees including, but not limited to, the initiation fee and should the PURCHASER not be able to sign the transfer and bond documentation at the offices of the SELLER'S ATTORNEYS, the PURCHASER shall be liable and pay a correspondent's fee in the amount of R1 000.00 to the SELLER'S ATTORNEY immediately upon request.**
- 16.7 All transfer, bond and other incidental costs or charges that may be or may become payable by the PURCHASER in terms of this agreement, shall be payable to the transfer and/or bond Attorneys within 2 (two) days of request by such Attorneys.
- 16.8 In addition to other claims that the SELLER might have against the PURCHASER in terms of this agreement or common law it is specifically agreed that should the Agreement be cancelled after granting of the required bond due to the PURCHASER'S action that all costs incurred plus penalty charges in the amount of R 20 000.00 (Twenty Thousand Rand) will be due and payable by the PURCHASER to the SELLER being the SELLER'S pre-estimated damages, provided that such pre-estimated damages does not significantly exceed the harm suffered by the SELLER.

17. JURISDICTION

The Parties hereby consent in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 (as amended), or any legislation passed in substitution thereof, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28(1) of the said ACT, in any action instituted by either party arising out of this agreement. Notwithstanding anything herein contained, the parties shall be entitled to institute any action against the PURCHASER arising out of this agreement in any Court having jurisdiction.

18. IMPROVEMENTS AND ALTERATIONS

18.1 The SELLER shall in its sole discretion be entitled to:

18.1.1 effect improvements and alterations, whether of a luxurious nature or not, to the BUILDING or to the COMMON PROPERTY;

18.1.2 alter the extent of any SECTION in the Building other than the SECTION/S sold in terms of this AGREEMENT OF SALE;

18.1.3 consolidate SECTIONS, other than the SECTION sold in terms of this AGREEMENT OF SALE;

18.1.4 relocate existing EXCLUSIVE USE AREAS or substitute them with other EXCLUSIVE USE AREAS;

18.1.5 subdivide any SECTION/S, other than the SECTION sold in terms of this AGREEMENT OF SALE;

18.1.6 subdivide off any portion of the LAND in the DEVELOPMENT SCHEME as a separate Erf which, if implemented, shall not form part of the Sectional Title Development of the LAND;

18.1.7 create servitudes over the LAND and if applicable, the COMMON PROPERTY in favour of the owners of UNITS and/or erven within the Sectional Title Scheme.

18.2 The PURCHASER hereby:

18.2.1 irrevocably consents to the SELLER effecting such improvements, alterations, subdivisions, consolidation; and

18.2.2 irrevocably consents to the amendment of the Sectional Title Plan to incorporate such alterations, sub-divisions and consolidations.

18.3 The PURCHASER shall on request sign any resolution required to give effect to this clause.

18.4 To the extent that the consent of any mortgagee of the SECTION or SECTIONS purchased by the PURCHASER may be required in respect of any of the aforesaid ACTS, the PURCHASER undertakes to procure such consent.

19. GENERAL

19.1 The terms of this AGREEMENT form the sole contractual relationship between the parties hereto and no variation or consensual cancellation of this AGREEMENT shall affect the terms hereof unless such variation or consensual cancellation shall be reduced to writing under the hands of the parties hereto.

19.2 The parties acknowledge that no warranties or representations, other than those specifically recorded herein (if any), were made in connection with this agreement before same was concluded and that no such representations or warranties other than those imposed by law may be relied on by any of the parties.

- 19.3 No extension of time or indulgence granted by either party to the other shall be deemed in anyway to affect, prejudice or derogate from the rights of such party in any respect under this agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this agreement.
- 19.4 If there is more than one PURCHASER in terms of this agreement, then the liability of each of the PURCHASERS shall be joint and several.
- 19.5 The PURCHASER hereby irrevocably and in rem suam gives and grants to his/her spouse the right to deal in all matters arising out of this agreement and to sign any documents relating hereto on his/her behalf.
- 19.6 The rule of construction that this agreement shall be interpreted against the party responsible for the drafting of this agreement shall not apply.
- 19.7 In the event of the PURCHASER being a Company or Close Corporation or the trustees for the time being of a trust, the signatory for the PURCHASER by his signature hereto binds himself to the SELLER as surety and co-principal debtor in *solidum* with the PURCHASER under renunciation of the benefits of *excussion* and division for the performance by the PURCHASER'S obligations in terms of this Agreement.

20. **ADDRESS AND NOTICES**

- 20.1 The parties choose the addresses mentioned in clauses 20.1.1 and 20.1.2 below as the respective addresses at which they will accept service of any notices and/or legal process in terms hereof, but such address of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice:

20.1.1 The SELLER at the address set forth in clause 3 on Annexure "A" hereto;

20.1.2 The PURCHASER at the address set forth in clause 4 on Annexure "A" hereto;

20.2 Any notice to any party shall be addressed to it at its chosen address aforesaid and sent by prepaid registered post, email or delivered by hand. A notice shall be deemed to have been duly given when:

20.2.1 sent by prepaid registered post - 7 (seven) calendar days after posting;

20.2.2 sent by email - 1 (one) working day after transmission;

20.2.3 hand delivered - on the date of delivery.

20.3 The PURCHASER shall with effect from the OCCUPATION DATE, be deemed to have changed his/her address to the address of the UNIT.

21. **COMMISSION**

21.1 The SELLER acknowledges being solely responsible to the AGENCY for payment of commission in accordance with the rates and on terms as has been agreed between them.

21.2 If the PURCHASER fails to carry out his obligations in terms of this agreement and as a result of such breach this agreement is cancelled, then and in such event, the AGENT or AGENCY shall, without prejudice to the SELLER'S remedies, have the right to recover AGENT'S commission directly from the PURCHASER who shall become liable therefore in the amount calculated at the rate of 7.98% (seven comma ninety eight percent) of the purchase price.

- 21.3 The PURCHASER warrants that the AGENT and/or AGENCY is the AGENT and/or AGENCY who introduced him to the UNIT and to the SELLER.
- 21.4 The PURCHASER hereby indemnifies and holds the SELLER free and harmless against any claim which may be made by any other AGENT and/or AGENCY in respect of any commission arising out of the sale of the UNIT where such AGENT and/or AGENCY claims to have actually introduced the PURCHASER to the UNIT and/or to the SELLER in connection with this transaction or to be the effective cause of the sale.
- 21.5 Commission payable to the AGENT and/or AGENCY shall only become payable by the SELLER to such AGENT and/or AGENCY upon the registration of transfer of the UNIT into the name of the PURCHASER and payment of the full purchase price by the PURCHASER.
- 21.6 Notwithstanding the contents of this agreement, the PURCHASER hereby irrevocably agrees and irrevocably instructs the SELLER'S ATTORNEYS to deduct the amount of R10 000,00 (Ten Thousand Rand) (hereinafter referred to as the "Reservation Fee"), from the amount paid by the PURCHASER to the SELLER'S ATTORNEY in terms of clause 4.1 and 4.2 hereof and to pay the Reservation Fee to the AGENCY upon fulfillment of all the suspensive conditions contained in this AGREEMENT. The PURCHASER confirms that this clause has been fully explained to him and that he understands his rights and obligations herein.**

It is furthermore an express condition of this payment of the Reservation Fee to the AGENCY, that the aforesaid AGENCY shall upon demand be obliged to repay such Reservation Fee without setoff or any deductions into the PURCHASERS nominated bank account should the PURCHASER formally and legally cancel this particular AGREEMENT OF SALE because of the failure of SELLER to pass transfer of the PROPERTY into the name of the PURCHASER within 24 (Twenty-Four) months from the date hereof.

Should the AGENCY fail to make the aforementioned payment to the PURCHASER, the SELLER and/or the SELLER'S ATTORNEY shall not be liable for the repayment of the Reservation Fee and/or any interest thereon (if applicable) to the PURCHASER.

The PURCHASER hereby irrevocably indemnifies the SELLER and/or the SELLER'S ATTORNEY against any claim of whatsoever nature that the PURCHASER or any other party may institute against the SELLER and/or the SELLER'S ATTORNEY due to the release of the reservation fee to the AGENCY as referred to above and/or the AGENCY'S failure to repay the Reservation Fee to the PURCHASER, should same be repayable to the PURCHASER in terms of this AGREEMENT.

22. NOMINATION

22.1 The PURCHASER shall be entitled to nominate any third party to be the PURCHASER in terms of this Agreement.

22.2 For a nomination to be binding on the SELLER, the PURCHASER shall nominate his/her nominee:

22.2.1 on the same day as date of signature of this agreement;

22.2.2 by notice in writing to the SELLER to that effect accompanied by the nominee's written acknowledgement that he is bound by the provisions of the agreement.

22.3 Should the PURCHASER nominate a nominee in terms of Clause 22.2 above,

22.3.1 all reference to the PURCHASER in this agreement shall be deemed to be a reference to his/her nominee;

22.3.2 all obligations of the PURCHASER'S nominee in terms hereof shall be the joint and several obligations of the PURCHASER and his/her nominee.

22.4 Should the PURCHASER fail to nominate a nominee in terms of Clause 22.2 above, he/she shall not hereafter be entitled to nominate a nominee but shall be bound to perform all the obligations of the PURCHASER in terms hereof.

22.5 Should such nomination attract transfer duty in any form, such transfer duty shall be for the account of the PURCHASER.

23. COMMON PROPERTY IMPROVEMENTS

23.1 The PURCHASER acknowledges that the ARCHITECT will accept handover of all the improvements constructed on the Common Properties on behalf of the Body Corporate and issue a certificate of completion for such improvements after he has satisfied himself that the facilities are fit for beneficial use.

23.2 The PURCHASER acknowledges that on the possession date, the COMMON PROPERTY and other SECTIONS may be incomplete and the PURCHASER and other occupiers must necessarily suffer inconvenience from building operations and from the noise and dust resulting therefrom and that the PURCHASER shall have no claim against the SELLER nor be entitled to any reduction in the purchase price by reason of any such inconvenience, provided that such inconvenience is not caused by the intentional or grossly negligent act/s of the SELLER or its AGENT/S or its employee/s.

24. COMPANY TO BE FORMED

24.1 In the event of the PURCHASER being a company to be formed, the signatory for the PURCHASER shall be personally liable for all the obligations of the PURCHASER as though he contracted in his personal capacity if:

24.1.1 the company in respect whereof he acts as trustee is not incorporated within 21 (twenty-one) days of the signature date; and

24.1.2 the company having been incorporated, fails to adopt and ratify unconditionally this transaction without modification within 7 (seven) days of the date of incorporation.

24.2 Upon timeous formation of the said company and due and timeous ratification and adoption of this transaction as aforementioned, the said signatory shall become and be liable to the SELLER as surety for and co-principal debtor with the company for its obligations as PURCHASER in terms of this AGREEMENT under renunciation of the benefits of excussion and division.

25. VARIATIONS TO SPECIFICATIONS

25.1 The BUILDINGS and the UNIT shall be built substantially in accordance with the Drawings and in specific, the Schedule of Finishes which is annexed hereto marked "D", provided that the SELLER shall be entitled to:

25.1.1 Substitute items of a similar standard and quality for any specified item referred to in the Schedule of Finishes (Annexure "D")'

25.1.2 vary the Sectional Plans for the BUILDINGS should the SELLER consider the same reasonably necessary for technical or aesthetic reasons; and

25.1.3 change the area or lay-out of the UNIT, save only that the area of the UNIT shall not vary by more than 5% (five percent) of the estimated area.

25.2 In the event of the area of the SECTION being smaller than 95% (ninety-five percent) of the estimated area set forth in Annexure "B" and "C" of the Schedule, the PURCHASER shall have the right, to be exercised in writing prior to signature of the documents for transfer, to resile from the Agreement, in which event all monies paid by him to date on account of the purchase price and costs shall be refunded (together with any interest earned thereon).

25.3 Neither the PURCHASER nor any person or firm employed by him shall carry out any work on or to the UNIT prior to registration of transfer. Work subsequent thereto shall not be carried out without the permission of the Body Corporate in terms of the RULES.

25.4 The PURCHASER shall not be entitled to interfere in any manner whatsoever with the building or construction of the development, including but not limited to the giving of directions or instructions, with the contractors and/or sub-contractors employed by the SELLER.

25.5 In the event of the SELLER, after receipt of the approved building plans pertaining to the BUILDINGS from the ARCHITECT, informing the PURCHASER that the said plans are available for inspection at the SELLER'S office, the PURCHASER shall be deemed to have accepted the plans as complying with the provisions of Clause 25.1 unless the PURCHASER, within 10 (ten) days of date of the notice as aforesaid, informs the SELLER in writing to the contrary. Should the PURCHASER, after having inspected the building plans within the

forementioned period, be of the view that the plans do not comply with the provisions of the said clause, the PURCHASER shall, within the 10 days period furnish the SELLER with the reason for it not accepting the building plans and the matter shall ten be referred to the ARCHITECT for a ruling as to whether the plans comply with Clause 25.1.

26. RIGHT OF CESSION

The SELLER shall be entitled to cede any of its rights and delegate any of its obligations in terms of this AGREEMENT, and to the extent that it may be necessary, the PURCHASER consents hereto.

27. COOLING OFF

In the event of the PURCHASER having appointed the AGENCY as a result of direct marketing as contemplated in Section 16(3) of the Consumer Protection Act 68 of 2008, then and in such event, the PURCHASER shall have the right to, in writing, cancel this agreement within five (5) business days' after the date on which this agreement was concluded.

28. SUSPENSIVE CONDITIONS

28.1 The PURCHASER acknowledges that this agreement is subject to the suspensive conditions that:

28.1.1 the SELLER is satisfied with the results achieved by its marketing campaign and, in its sole discretion, confirms that the development is viable;

28.1.2 the LOCAL AUTHORITY approves the building plans for the Development Scheme.

- 28.2 Should the above suspensive conditions not be fulfilled within 12 (twelve) months of the date of signature of this Deed of Sale ("the Suspensive Period") or such extended period/s not exceeding a further 6 (six) months in aggregate as the SELLER may require by notice in writing to the PURCHASER, then in such event this agreement shall *ipso facto* lapse and be of no force or effect and the SELLER shall refund to the PURCHASER the deposit paid in terms of Clause 4.1 together with any interest that may have been earned thereon.
- 28.3 The above suspensive conditions shall be deemed to have been fulfilled unless the SELLER dispatches written notice to the PURCHASER within the suspensive period, as extended if applicable, notifying the PURCHASER that one or more of the suspensive conditions recorded in Clause 28.1 above have not been fulfilled.
- 28.4 In the event of the agreement lapsing as a result of the non-fulfillment of the suspensive conditions as aforesaid, then in such event neither party shall have any claim against the other in respect of this agreement.

29. HOME OWNER'S ASSOCIATION

The UNIT is situated in an area which has a Home Owners Association and the PURCHASER shall become a member of the Home Owners Association on registration of transfer. The Title Deed will contain a condition stating that the Home Owners Association will be required, to give consent every time the UNIT is sold. The PURCHASER agrees to abide by the rules and regulations of the Home Owners Association, as well as the architectural guidelines and to pay any monthly contribution thereto.

30. POPIA

The SELLER/S and PURCHASER/S hereby give their consent to the AGENT/AGENCY, SELLER'S ATTORNEY to process our personal information for all purposes related to this sale, in accordance with the provisions of the Protection of Personal Information Act. Such consent shall extend to the sharing of my/our personal information to any financial consultants, attorneys, agents, inspectors for compliance certificates, service providers, parties to this contract and any other parties which the Agent may have to approach for all purposes related to the administration and conclusion of the sales transaction.

The SELLER/S and the PURCHASER/S hereby give their consent to the AGENT/AGENCY, SELLER'S ATTORNEY to store a record of all documentation relating to and arising out this sales transaction. Such record shall be kept to the benefit of the SELLER, PURCHASER and AGENTS/AGENCY to the transaction and can be provided to the SELLER/S.

31. OFFER

This agreement, once signed by the PURCHASER, shall be regarded as an offer by the PURCHASER and shall be irrevocable and open for acceptance by the SELLER for a period 30 (thirty) days calculated from date of signature by the PURCHASER and may not be withdrawn by the PURCHASER during the aforesaid 30 (thirty) day period.

32. ACKNOWLEDGEMENT

30.1 The PURCHASER confirms that the contract AGREEMENT OF SALE has been fully explained to him/her/them and that he/she/they understand their rights and obligations contained herein.

302 The PURCHASER has been informed that he/she/they may ask questions with regards to the AGREEMENT OF SALE and that he/

she/they may refer the **AGREEMENT OF SALE** to an independent third party in order to secure independent advice about the **AGREEMENT OF SALE** prior to signing the **AGREEMENT**.

30.3 The **PURCHASER** is aware of the importance of the wording printed in bold.

30.4 The **PURCHASER** is aware that he/she/it must not sign the **AGREEMENT OF SALE** unless he/she/it has an adequate understanding of the terms of the **AGREEMENT OF SALE**.

30.5 The **PURCHASER** hereby acknowledges that he/she/it did not purchase the **UNIT** as a result of direct marketing as contemplated in Section 16(3) of the Consumer Protection Act 68 of 2008.

SIGNED at _____ on this _____ day of _____ 20__

AS WITNESSES:

1. _____

2. _____

PURCHASER

SIGNED at _____ on this _____ day of _____ 20__

AS WITNESSES:

1. _____

2. _____

SELLER

SIGNED at _____ on this _____ day of _____ 20__

AS WITNESSES:

1. _____

2. _____

AGENT