



## AGREEMENT OF SALE

For the Sale of a Sectional Title Unit prior to the completion of the Scheme

ENTERED INTO BY AND BETWEEN

**SELLER**

**GROWTH INVEST 171 PROPRIETARY LIMITED**

Registration number: 2019/612729/07

Of Barinor's Vineyard North, Vineyards Office Estate  
99 Jip de Jager Drive, De Bron, BELLVILLE

(Hereinafter referred to as "**the Seller**")

and

**PURCHASER**

\_\_\_\_\_

and

\_\_\_\_\_

(Hereinafter referred to as "**the Purchaser**")

**PROPERTY**

**UNIT NUMBER: \_\_\_\_\_ CLEARWATER VILLAGE**

Kindly ensure that before signing this agreement that you have had an adequate opportunity to read and understand the terms of this agreement. If you do not understand these terms, you have the obligation to ask for an explanation or to seek independent legal advice before signature of the agreement.

**A. SELLER GROWTH INVEST 171 PROPRIETARY LIMITED**

Registration number: 2019/612729/07

Of Barinor's Vineyard North, Vineyards Office Estate  
99 Jip de Jager Drive, De Bron, BELLVILLE**B. PURCHASER INFORMATION**

Complete section if the Purchaser is an Individual

| INDIVIDUAL(S)                | PURCHASER 1 | PURCHASER 2 (if applicable) |
|------------------------------|-------------|-----------------------------|
| Surname                      |             |                             |
| Full Name(s)                 |             |                             |
| Identity Number              |             |                             |
| Income Tax Number            |             |                             |
| Marital Status               |             |                             |
| Marital Regime<br>(if appl.) |             |                             |
| Spouse Full names            |             |                             |
| Identity number              |             |                             |
| Income Tax number            |             |                             |
| Telephone Number<br>(W)      |             |                             |
| Telephone Number<br>(H)      |             |                             |
| Cell Phone Number            |             |                             |
| E-mail Address               |             |                             |
| Residential Address          |             |                             |
| Postal address               |             |                             |

Seller  
InitialPurch  
Initial



Complete section if the Purchaser is a Juristic Person (Company/Close Corporation/Trust)

| JURISTIC PERSON                    | PURCHASER |
|------------------------------------|-----------|
| Registered Name                    |           |
| Registration Number                |           |
| Entity Income Tax No.              |           |
| Entity VAT No.                     |           |
| Entity Registered Physical Address |           |
| Entity Registered Postal Address   |           |
| Representative's Name              |           |
| Representative's ID                |           |
| Contact Number                     |           |
| E-Mail Address                     |           |
| Residential Address                |           |
| Postal Address                     |           |

Transaction Information

| C. PROPERTY             |                    |
|-------------------------|--------------------|
| Scheme Name             | CLEARWATER VILLAGE |
| Section and Unit Number |                    |
| Estimate Floor Area     |                    |



|                                                                                                                                                                                                                                                                                                                  |                                                        |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|----|
| Estimate Final Participation Quota                                                                                                                                                                                                                                                                               |                                                        |    |
| Sole Utilization Areas (In terms of management rules)                                                                                                                                                                                                                                                            |                                                        |    |
| Parking Bays No.                                                                                                                                                                                                                                                                                                 |                                                        |    |
| Garden No (if applicable)                                                                                                                                                                                                                                                                                        |                                                        |    |
| The Participation Quota given above is an estimate and based on the final number and sizes of units in the completed scheme. Take notice that the scheme is a phased development and therefore the official Partition quota reflected in the interim Sectional Plans will fluctuate when the scheme is extended. |                                                        |    |
| <b>D. PURCHASE PRICE</b>                                                                                                                                                                                                                                                                                         |                                                        |    |
| Reservation Deposit (Excluded from purchase price)                                                                                                                                                                                                                                                               |                                                        |    |
| Section Purchase Price                                                                                                                                                                                                                                                                                           | R                                                      |    |
| Security Package                                                                                                                                                                                                                                                                                                 | R                                                      |    |
| Total Purchase Price (VAT Inclusive)                                                                                                                                                                                                                                                                             | R                                                      |    |
| Purchase Price in Words                                                                                                                                                                                                                                                                                          |                                                        |    |
| SUBJECT TO BOND FINANCE                                                                                                                                                                                                                                                                                          | YES                                                    | NO |
| MORTGAGE BOND AMOUNT                                                                                                                                                                                                                                                                                             | R                                                      |    |
| ESTIMATE LEVIES<br>* subject to the actual unit size                                                                                                                                                                                                                                                             | R22 p/m2                                               |    |
| <b>E. ESTIMATE OCCUPATION DATE</b>                                                                                                                                                                                                                                                                               |                                                        |    |
| Occupation Date                                                                                                                                                                                                                                                                                                  | Approx. August 2024                                    |    |
| <b>F. OCCUPATIONAL RENTAL</b>                                                                                                                                                                                                                                                                                    | TYPE A: R6800 (including levies)                       |    |
|                                                                                                                                                                                                                                                                                                                  | TYPE B: R6800 (including levies)                       |    |
|                                                                                                                                                                                                                                                                                                                  | TYPE C: R6400 (including levies)                       |    |
|                                                                                                                                                                                                                                                                                                                  | TYPE D: R5500 (including levies)                       |    |
|                                                                                                                                                                                                                                                                                                                  | EQUITY TRANSACTION: R0                                 |    |
| <b>G. TRANSFERRING ATTORNEY</b>                                                                                                                                                                                                                                                                                  |                                                        |    |
| Full Name                                                                                                                                                                                                                                                                                                        | Leandri Kruger Attorneys Incorporated t/a LK Attorneys |    |
| Registration Number                                                                                                                                                                                                                                                                                              | 2020/540212/21                                         |    |



|                                      |                |                                                                                                    |                                                                                                                      |
|--------------------------------------|----------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Physical Address                     |                | Barinor's Vineyard North, The Vineyards Office Estate, 99 Jip de Jager Drive, Welgemoed, Bellville |                                                                                                                      |
| Postal Address                       |                | PO Box 1514, Durbanville, 7550                                                                     |                                                                                                                      |
| Contact Person                       |                | Leandri Kruger / Caryn Leslie                                                                      |                                                                                                                      |
| Telephone                            | 021 979 2501   | E-Mail                                                                                             | leandri@lklegal.co.za                                                                                                |
| <b>H. BOND REGISTRATION ATTORNEY</b> |                |                                                                                                    |                                                                                                                      |
| Full Name                            |                | STBB (Illovo)                                                                                      |                                                                                                                      |
| Registration Number                  |                | 2007/007774/21                                                                                     |                                                                                                                      |
| Physical Address                     |                | 18 Rivonia Road, Cnr Rivonia Road and Boundary Road, Illovo                                        |                                                                                                                      |
| Postal Address                       |                | PO Box 1211, Saxonworld, 2132                                                                      |                                                                                                                      |
| Contact Person                       |                | Gert Minnaar / Amanda Seemund                                                                      |                                                                                                                      |
| Telephone                            | 011 219 6238/9 | E-Mail                                                                                             | <a href="mailto:gertm@stbb.co.za">gertm@stbb.co.za</a><br><a href="mailto:amandaS@stbb.co.za">amandaS@stbb.co.za</a> |
| <b>I. MORTGAGE ORIGINATOR</b>        |                |                                                                                                    |                                                                                                                      |
| Full Name                            |                | IGROW HOME LOANS, a division of IGrow Wealth Investments                                           |                                                                                                                      |
| Physical Address                     |                | Barinor's Vineyard North, The Vineyards Office Estate, 99 Jip de Jager Drive, Welgemoed, Bellville |                                                                                                                      |
| Contact Person                       |                | Madelein Kottnitz                                                                                  |                                                                                                                      |
| Telephone                            | 021 979 2501   | E-Mail                                                                                             | bonds@igrow.co.za                                                                                                    |
| <b>J. ANNEXURES AND SCHEDULES</b>    |                |                                                                                                    |                                                                                                                      |
| ANNEXURE A                           |                | Addendum to the Agreement of Sale (if applicable)                                                  |                                                                                                                      |
| SCHEDULE A                           |                | Site Development Plan                                                                              |                                                                                                                      |
| SCHEDULE B                           |                | Apartment Floor Plans                                                                              |                                                                                                                      |
| SCHEDULE C                           |                | Building Specifications                                                                            |                                                                                                                      |
| SCHEDULE D                           |                | Security Package                                                                                   |                                                                                                                      |



## TERMS AND CONDITIONS IN RESPECT OF THE AGREEMENT TO PURCHASE IMMOVABLE PROPERTY

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## 1 RECORDAL

- 1.1 The Seller has acquired Erf 1638 Parkhaven Extension 8 Township.
- 1.2 The Seller is proposing a residential development on the land in accordance with certain sketch plans which have been exhibited to the Purchaser to be known as "CLEARWATER VILLAGE" ("the Development Scheme").
- 1.3 The Seller intends to apply for the approval of the Development Scheme in terms of the Sectional Titles Act Number 95 of 1986 and Sectional Titles Management Act Number 80 of 2011 and the opening of a Sectional Title Register in respect thereof.

## 2 PURCHASE AND SALE

- 2.1 The SELLER is selling, and the PURCHASER is buying, a specific SECTION and a share in the COMMON PROPERTY associated with that SECTION. The size of the share is determined by the PARTICIPATION QUOTA of the SECTION. The PURCHASER also has the right to use the designated SOLE UTILISATION AREA mentioned in the Information Schedule.
- 2.2 The details of the SECTION can be found in the INFORMATION SCHEDULE, along with the attached plans. The complete description of the SECTION can be found in the Sectional Title Plan, which is part of the Register.
- 2.3 The construction of the SECTION will be carried out according to the site development and apartment floor plans provided in Schedule A and B. The SECTION will be finished according to the building specifications and optional extras listed in Schedule C and D, which are attached to this Agreement.

## 3 DEFINITIONS AND INTERPRETATIONS

In this Agreement, unless the context otherwise indicates:

- 3.1 "Agency" means IGrow Wealth Investments, Registration Number: 2015/093828/07, with registered address at Barinor's Vineyard North, Vineyards Office Estate, 99 Jip de Jager Drive, Bellville, 7550, Telephone Number: 021 979 250;
- 3.2 "Agreement" means this Agreement of Sale, signed by all parties, together with all Schedules attached hereto forming an integral part of the agreement;
- 3.3 "Body Corporate" means the body corporate as contemplated in section 36 of the Sectional Title Act and section 2(1) of the Sectional Titles Schemes Management Act;
- 3.4 "**Bond Originator**" means Igrow Home Loans, a division of Igrow Wealth Investments Proprietary Limited as described in the Information Schedule;
- 3.5 "**Bond Registration Attorney**" means the bond registration attorney described in the Information Schedule;
- 3.6 "**Common Property**" means the land included in the Scheme, such parts of the building which are not included in the Section and land referred to in Section 26 of the STA and section 5(1)(d) of the STSMA;
- 3.7 "**Completion Certificate**" means the certificate issued by the Principal Agent confirming that in the opinion of the Principal Agent, the UNIT has been completed free of patent defects other than Snags (as defined) and may be used for the intended purpose of residential accommodation;



- 3.8 **“Completion Date”** means the later of the date on which:
- 3.8.1 The section is complete for beneficial occupation as certified by the Principal Agent, whose decision as to the date will be final and binding upon the parties; or
- 3.8.2 a certificate of occupancy is issued in respect of the Property by the local authority and service connections like electricity and water must be connected and operational;
- 3.9 **“Contractor”** means JT Group (Pty)Ltd Registration Number: 2011/004711/07 with whom the Seller entered into a building agreement to conduct the buildings for this Scheme, which home builder is registered in terms of Section 10(6)(a) of the Housing Consumers Protection Measures Act, 1998 (No 95 of 1998);
- 3.10 **“Developer”** means the Seller;
- 3.11 **“Development Scheme”** means the LAND and BUILDINGS in respect of which the SELLER intends to open a sectional Title Register which it envisages calling "CLEARWATER VILLAGE";
- 3.12 **“Estimate Participation Quota”** in relation to a SECTION means a decimal fraction determined in accordance with the ACT;
- 3.13 **“Independent Property Inspector”** means SA Investor Rentals Proprietary Limited, Registration Number: 2014/186623/07, trading as IGrow Rentals whose representatives shall inter alia carry out inspections of all the sections in the Scheme and act as the liaison between the Purchaser and the Seller for the purposes as contemplated in this Agreement;
- 3.14 **“Land”** means: Erf 1638 Parkhaven Extension 8 Township, Registration Division IR Gauteng Province, measuring 5,5037 hectares;
- 3.15 **“Managing Agent”** means the executive managing agent as contemplated in rule 2(g) of the management rules prescribed in terms of section 10(2)(a) of the STSMA and/or the managing agent as contemplated in rule 2(j) of the said management rules to be appointed by the Seller from time to time;
- 3.16 **“NHBRC”** means the National Home Builders Registration Council established in terms of the Housing Consumers Protection Measures Act 95 of 1998;
- 3.17 **“Occupation Date”** means the date upon which occupation of the Unit is tendered to the Purchaser, provided that such date shall not be prior to the issuing of the Occupancy Certificate for the Section by the relevant Authority and provided that such date shall not be prior the date the electricity is to be connected;
- 3.18 **“Principal Agent”** means a qualified architect or senior architectural technologist or a member of The South African Council for the Architectural Profession to be appointed by the Seller;
- 3.19 **“Property”** means collectively, the Section in the Scheme as indicated in the Schedule together with an undivided share in the Common Property apportioned in accordance with the Participation Quota and Sole Utilization Areas as indicated on the Sectional Plan;
- 3.20 **“Purchaser”** means the person or entity, described more fully in Paragraph B of the Information Schedule;
- 3.21 **“Rules”** mean the management and conduct rules from time to time applicable to the owners and residents in the Scheme, which initial rules are available online at <https://igrow.co.za/properties/clearwater/> and as contemplated in section 10 of the STSM;



- 3.22 **“Section”** means a section shown as such on the Sectional Plan and set out on the Site Development Plan attached hereto marked Schedule “A”;
- 3.23 **“Sectional Plan”** means the Sectional Plan drawn or to be drawn in respect of the Erf and Buildings in terms of the STA, approved or to be approved by the Surveyor-General and to be registered in the relevant deeds’ registry;
- 3.24 **“Sectional Title Register”** means the register in respect of the Erf and the buildings registered and opened in terms of the STA and STSMA;
- 3.25 **“Seller”** means GROWTH INVEST (PTY) LTD Registration Number: 2019/612729/07;
- 3.26 **“Sole Utilization Areas”** means that part of the Common Property as indicated to the Purchaser and to be allocated to the Purchaser for his exclusive use and enjoyment as contemplated in section 10(7) of the STSMA once the amended rules are approved by the Body Corporate and registered with the Ombud in terms of the provisions of the STSMA;
- 3.27 **“Signature Date”** means the date on which this Agreement is signed by the latter of the Seller or the Purchaser;
- 3.28 **“Transfer Date”** means the date of registration by the Registrar of Deeds, in the relevant deeds’ office, of the transfer of the Property into the name of the Purchaser;
- 3.29 **“Transferring Attorney”** means the Transferring attorney described in Paragraph G of the Information Schedule;
- 3.30 **“Trust Account”** means the trust bank account of the Transferring Attorney which details are set out in the Information Schedule;
- 3.31 **“Unit”** means the section set out on the Sectional Title Plan of the scheme PLUS an undivided share in the common property PLUS sole utilization areas as more fully specified in the schedules hereto read in conjunction with the sketch plans also annexed and the building plans;
- 3.32 **“STSMA”** means the Sectional Titles Schemes Management Act 8 of 2011, as amended and include the Regulations issued under the said act;
- 3.33 **“VAT”** means value-added tax payable in terms of the VAT Act;
- 3.34 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.
- 3.35 Words importing the singular shall include the plural and vice versa, words importing the masculine gender shall include females, and words importing persons shall include a juristic person and *vice versa*;
- 3.36 Where numerical figures are referred to in numerals and words, if there is any conflict between the two, the words will prevail.
- 3.37 Words and expressions defined in the STA and the STSMA will bear the meanings as ascribed to it therein. Subject thereto that where any reference is made in a clause hereof to a provision of the STA, and that provision has been repealed and the subject matter thereof dealt with in terms of the STSMA, then that clause will be read as referring to the relevant provision of the STSMA.
- 3.38 Reference to “days” shall be construed as calendar days unless qualified by the word “business day”, which shall mean any day other than a Saturday, Sunday or public holiday gazetted by the Government of the Republic of South Africa from time to time. Any reference to “business hours” shall be construed



as being the hours between 8.30am and 16.30pm on any business day. Any reference to “time” shall be based upon South African Standard Time.

#### 4 PURCHASE PRICE

- 4.1 The Purchase Price (including VAT) of the unit is as set forth in the Information Schedule.
- 4.2 Reservation Deposit: R10,000.00 payable within 48 hours if applicable. (Excluded from the purchase price unless otherwise agreed with by the purchaser).
- 4.3 Additional Deposit: as set forth in the Information Schedule / balance purchase price payable withing 14 days from the date of mortgage bond approval.
- 4.4 Mortgage Bond Amount: The specific amount for the Mortgage Bond is mentioned in the Information Schedule, and it needs to be approved within 21 days from the date of signing this agreement. If the approval process takes longer than the initial 21 days, the period will automatically be extended by an additional 21 days.
- 4.5 All the payments made towards the purchase price will be held in a trust account by the Transferring Attorney until the transfer of the UNIT is registered. These funds will be invested in an account that earns interest, as required by section 86(4) of the Legal Practice Act.
- 4.6 Any interest earned on the invested funds will belong to the Purchaser, and it will be paid to them on the Transfer Date. However, before the interest is paid, the Transferring Attorney will deduct an investment fee that they are entitled to.
- 4.7 The Transferring Attorney has the authority to invest the funds, and the Purchaser gives them permission to use the interest earned from these investments to reduce any amounts owed by the Purchaser under this Agreement. This authorization is irrevocable, meaning it cannot be taken back once given.**
- 4.8 The Transferring Attorney can only invest the money received under two conditions:
- 4.8.1 The necessary documentation required by the Financial Intelligence Center Act, 38 of 2001 is provided to the Transferring Attorneys.
- 4.8.2 The required documentation, as requested by the Conveyancer or the investing bank, is signed to allow the Conveyancer to invest the money and meet the investment requirements of the bank.
- By initialing in this section, the purchaser acknowledges that they have been informed about this provision and understand its implications.**
- 4.9 The reservation deposit referred to in clause 4.2 is refundable, except if
- 4.9.1 the bond application documentation is not received in time, and/or
- 4.9.2 if the Purchaser was in any way untruthful with his application for a mortgage bond and/or
- 4.9.3 incurred additional debt after the mortgage bond was granted causing the bond to be withdrawn by the bank and/or
- 4.9.4 if the Purchaser delays the registration process in any manner. The Seller/or his duly appointed agent, save for his rights that he may have in law, reserves the right to then deem an amount of R5 000.00 (Five Thousand Rand) of the reservation deposit as an administration**



**fee, and retain same as liquidated wasted costs. By initialing hereunder, the purchaser acknowledges having been made aware of the nature and effect of this provision.**

## **5 GUARANTEE**

- 5.1 Within 14 (fourteen) days of being called upon to do so by the Transferring Attorney, the PURCHASER shall furnish the Transferring Attorney with a bank or other irrevocable guarantee issued by a recognised commercial bank acceptable to the SELLER for the due payment of all amounts payable in terms of this agreement, and/or
- 5.2 Cash Payment into the trust account of the Transferring Attorney.
- 5.3 Withdrawal by a guarantor of the bank guarantee for any reasons whatsoever after being issued shall constitute a material breach by the PURCHASER of his obligations to deliver a bank guarantee in terms of this Agreement.

## **6 CLAUSES PERTAINING TO A MORTGAGE BOND**

**This clause is only applicable if the sale is subject to a mortgage bond.**

- 6.1 IGrow Homeloans, whom by virtue of their position and expertise can obtain finance for the Purchaser, are hereby appointed by the Purchaser to submit and to process the bond application/s to the relevant financial Institutions.
- 6.2 The Purchaser acknowledges that all applications for the bond will be submitted by IGrow Homeloans to the financial institutions by IGrow Homeloans only. The Purchaser shall take all steps, do all things, and sign all documents required by such originator to pursue any mortgage bond application required in terms hereof.
- 6.2.1 Should the PURCHASER not source his / her bond finance through IGrow Homeloans the SELLER and/or IGrow Homeloans reserves the right to claim an amount of R10,000.00 (TEN THOUSAND RAND) inclusive of VAT as liquidated damages from the Purchaser. Upon request the Purchaser shall pay the amount to the trust account of the Transferring Attorney and the Purchaser hereby authorises the Transferring Attorney to pay the amount to the Bond Originator upon transfer of the Property. By initialing hereunder, the purchaser acknowledges having been made aware of the nature and effect of this provision.
- 6.3 The Purchaser warrants that he has the requisite financial means to obtain the mortgage bond in the amount indicated and binds his utmost good faith in pursuing mortgage bond finance as aforesaid and ensuring that registration of the mortgage bond is affected by the Transferring Attorney.
- 6.4 The Seller shall be liable for the bond costs on condition that IGrow Homeloans submits the bond Application, and the appointed bond attorneys as mentioned in the information schedule are instructed to register the bond. If an attorney, other than the bond attorney mentioned above is appointed to attend to the registration of the Purchaser's mortgage bond, the purchaser will be liable for the payment of the balance of the registration costs, if any.
- 6.5 The Purchaser will be liable for the payment of correspondent fees and disbursements. However, no such fees will be payable by the Purchaser if the documents are signed at any branch of the attorneys in the country.
- 6.6 The Purchaser is aware that the Scheme consists of multiple units and that the Seller requires the simultaneous transfer of the units with the opening of the Register and the registration of the Sectional Plan or the registration of the extension of the Scheme. The parties agree that it is imperative that the bank or other financial institution at which the Purchaser applies for finance do not impose onerous



conditions which may result in this delaying transfer, if such onerous conditions are imposed, the Purchaser warrants that he shall accept and comply with such conditions expeditiously, failing which the Seller may at his option, immediately cancel this Agreement.

- 6.7 The Purchaser is aware that if the mortgage bond has been granted this agreement has become unconditional. If the mortgage bond is withdrawn on his instructions or otherwise before the transfer date, he will remain liable for the provision of guarantees for the balance purchase price. He will be in breach of this agreement should he fail to provide such guarantees or make payment of the balance purchase price into the trust account within 14 (fourteen) days of the bond so withdrawn. By initialing hereunder, the purchaser acknowledges having been made aware of the nature and effect of this provision.
- 6.8 The suspensive condition shall be deemed to have been fulfilled upon the issue to the Purchaser by the bank of a written loan quotation as contemplated in section 92 of the National Credit Act, No. 34 of 2005 in respect of the mortgage bond in the said amount within the period referred to in clause 4.4.

## 7 SUSPENSIVE CONDITIONS

**This agreement is subject to the following suspensive conditions:**

- 7.1 Mortgage bond approval (if applicable) for the amount stipulated in the information schedule must have been obtained within 21 (twenty-one days);
- 7.2 On date of lodgment of the transfer and bond documents-
- 7.2.1 The guarantee issued by the financial institution for the payment of the purchase price for the Unit, will be in place and be of full force and effect; or
- 7.2.2 The Deposit referred to in the information schedule will not have been attached and still be available to be paid to the Seller on Transfer;
- 7.3 (1) The SELLER is satisfied with the results achieved by its marketing campaign and, in its sole discretion, confirms that the development is viable; (2) the LOCAL AUTHORITY approves the building plans for the Development Scheme; (3) and the sale of such number of units in the Scheme and such conditions as may be prescribed by the Financial Institution, which provides the development bond; (4) 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 as the Seller and Purchaser may agree, in writing, or if the Seller for any reason does not proceed with the proposed development scheme, then the Purchaser shall be entitled to a refund of the deposit, together with interest earned thereon, or to renegotiate a new agreement with the Seller.

## 8 TRANSFER

- 8.1 The Seller can only transfer the unit to the Purchaser upon the opening of the Sectional Title Register. The Seller undertakes to use all reasonable endeavours to procure the opening of the Sectional Title Register as soon as is legally possible and practicable.
- 8.2 The Transferring Attorneys will attend to the transfer of the Unit at the Seller's cost.
- 8.3 The Purchaser will be required to furnish all information and documentation and sign all transfer and bond registration documents within **7 (seven) days** of being requested to do so, as well as secure any further deposit within 48 hours.



## 9 AGENT'S COMMISSION

- 9.1 The Seller is responsible to the Agency for payment of agent's commission in accordance with the rates and on terms as has been agreed between them.
- 9.2 The Purchaser and the Agency warrants to the Seller that the Purchaser was not introduced to the Property or to the Seller by any person other than the Agency and the Agent was the effective cause of the sale of the property. The Purchaser and the Agency indemnifies the Seller and holds him harmless against any claims for commission that may be made against the Seller by any Estate Agent and/or Agent.
- 9.3 **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 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 5% (Five percent) Plus VAT thereon of the purchase price. By initialing hereunder, the purchaser acknowledges having been made aware of the nature and effect of this provision.**

## 10 OCCUPATION AND POSSESSION

- 10.1 OCCUPATION means when the Seller tenders the Unit to the Purchaser for occupation irrespective of the Purchaser or a third party occupying the Property through him moving into the Property.
- 10.2 POSSESSION means when the risk and benefit of the unit pass to the Purchaser. This includes the risk of accidental damage or loss, the responsibility to maintain the property, all costs associated with the property and the benefits of the property, including entitlement to rental income.
- 10.3 Occupation shall be given to the Purchaser on the Occupation Date as stipulated in the INFORMATION SCHEDULE subject to Clause 11.
- 10.4 Possession shall be given to the Purchaser on Transfer date.
- 10.4.1 From the TRANSFER DATE, all risks in and benefits of the UNIT shall pass to the Purchaser. Therefore, from the Transfer Date, the Purchaser shall be liable for the payment of the Property's rates, electricity, water, refuse, and sewerage costs, connection fees, municipal deposits, amounts due to the Homeowners Association, and all other related charges in respect of the Property.
- 10.5 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 the information schedule monthly in advance. If the Property is occupied by a tenant prior to registration the occupational interest.
- 10.6 If any amount of occupational rental due by the purchaser to the seller remains unpaid on date of transfer of the property and if IGrow Rentals is the appointed agent, then the Purchaser authorises IGrow Rentals to pay the outstanding occupational interest, if any, to the Seller from the rental income received in terms of the lease agreement. By initialing hereunder, the purchaser acknowledges having been made aware of the nature and effect of this provision.
- 10.6.1 The occupational interest includes monthly levies and municipal rates, excludes electricity and water consumption charges for all of which the Purchaser shall be liable for payment from the occupation date.
- 10.7 **SALE OF PROPERTY AFTER OCCUPATION DATE:** If the property is sold or a mortgage bond is approved after the Occupation date as indicated in the Information Schedule, Occupation of the Property shall be given by the SELLER and taken by the PURCHASER on the TRANSFER DATE.



- 10.8 The Seller may, in his sole discretion, allow the Purchaser or a third party occupying the property through the Purchaser to take occupation of the Property prior to the Transfer Date subject thereto that (1) the Local Authority has issued an Occupancy Certificate for the Section; and (2) the full Purchase Price has been paid or secured; and (3) the Purchaser has signed all documentation on request of the Attorneys and (4) occupational Interest will be payable from date of physical occupation to date of registration.

## 11 CHANGE OF OCCUPATION DATE

- 11.1 It is anticipated that the Property will be ready for occupation on the Occupation Date ("the specified date") stipulated in the Information Schedule or such reasonable time thereafter.
- 11.2 The Seller has the right to amend the Occupation Date, at its discretion, on 30 (thirty) days written notice (via email) advising the Purchaser of the new occupation date. Notwithstanding any other provision contained herein, the Purchaser will have no claim against the Seller if the Occupation Date, for any reason, is delayed or anticipated earlier.
- 11.3 If the works are delayed by *vis major*, inclement weather, non-availability of any materials, a delay in the successful connection of electricity by Eskom, or for any reason beyond control of the Seller, or anybody contracted by him, the Purchaser shall have no claim against the Seller, howsoever arising for damages or compensation of any nature because of the change in occupation date subject thereto that occupation is tendered within a reasonable time.

## 12 CONDITIONS APPLICABLE PENDING TRANSFER

- 12.1 From the occupation date until the transfer date, the following conditions shall apply:
- 12.2 Unless inconsistent with the provisions of this agreement, the provisions of Section 19 of the Sectional Titles Management Act will be applicable.
- 12.3 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.
- 12.4 The Purchaser will permit any authorized person in writing by the Seller or its agent/s or its employee/s at all reasonable hours on notice, except in the case of emergency (when no notice shall be required), to enter the UNIT for the purpose of inspection, maintenance, and repairs.
- 12.5 The Purchaser may (1) only use the property for residential purposes, (2) maintain the interior of the Unit in a fit and proper condition and (3) may not make any alterations or additions to the Unit.
- 12.6 The Purchaser shall be responsible for any damage caused to the UNIT by the Purchaser or any person claiming access of occupation through him.
- 12.7 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.
- 12.8 The Purchaser will not sell/dispose of the Unit before transfer.
- 12.9 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 all amounts which may have been paid by the Purchaser to the Transferring Attorney and the Agency together with interest earned thereon shall be refunded to the Purchaser 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.

- 12.10 The PURCHASER acknowledges that he may suffer inconvenience from building operations, noise, dust, and other nuisance factors from time to time after 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 afore going to cancel or withdraw from this agreement or claim damages from any person or institute interdict proceedings. The Purchaser indemnifies the Seller against any claim by reason of 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.

### **13 APPOINTMENT OF CONTRACTOR AND CESSION OF SELLER'S RIGHTS**

- 13.1 The Seller appointed and entered into a building agreement with the Contractor. The parties agree that after completion and handover of the Property to the Purchaser that: (1) The Seller cedes all its rights and interest in the building agreement, including all guarantees or warranties of whatsoever nature given to the Seller by the Contractor to the Purchaser who hereby accepts cession thereof;
- 13.2 The Purchaser shall be entitled to enforce its rights and exercise its obligations in respect of the completion of the buildings in accordance with the plans and specifications forming part of the building agreement entered between the Seller and the Contractor, as well as in respect of any faults, snags, or workmanship as fully and effectually, for all intents and purposes as the Seller would be entitled to do against the Contractor.

### **14 PHASED DEVELOPMENT**

- 14.1 The Seller reserves to itself, and to its successors in title as Developer, all such rights as are provided for in Section 25 of the STA, to erect and complete a phased development on the Land from time to time, but no later than 15 (fifteen) years from the date of opening of the Sectional Title Register, for its personal account.

### **15 VERIFICATION OF SPECIFICATIONS**

- 15.1 The buildings and the section will be built substantially in accordance with the apartment floor plans annexed hereto as Schedule "B" and the building specifications attached hereto as Schedule "C", provided that the Seller shall be entitled to:
- 15.1.1 substitute items of a similar standard and quality for any specified item referred to in the Schedule of Finishes. The PURCHASER acknowledges that he will not be able to request any variations to the Section and or the building specifications; and
- 15.1.2 vary the Sectional Plans for the BUILDINGS should the SELLER consider the same reasonably necessary for technical or aesthetic reasons; and
- 15.1.3 change the area or lay-out of the Section, save only that the area of the Section shall not vary by more than 5% (five percent) of the estimated area.
- 15.2 If the area of the Section being smaller than 95% (ninety-five percent) of the estimated area set forth in Schedule "A" and "B", 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).



- 15.3 If a dispute should arise between the parties regarding the changes effected by the SELLER, the decision of the SELLERS PRINCIPAL AGENT will be final and binding as to whether there has been substantial compliance by the Seller of its obligations after the Principal Agent has requested written submissions from both the Purchaser and the Seller. Should the dispute be determined in favour of the Purchaser, the Purchaser shall be entitled to cancel this Agreement and claim a refund of the Reservation Deposit and other amounts that was paid.
- 15.4 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.
- 15.5 The Purchaser will not in any way interfere with, or give instructions to any of the Seller's agents, employees, contractors, or subcontractors. The Purchaser will not be allowed to enter the Section unless the prior written consent of the Seller is first had and obtained, in which event the Purchaser must be accompanied by the Independent Property Inspector or his representation.

## 16 RECTIFICATION OF DEFECTS AND GUARANTEES

- 16.1 Prior to the OCCUPATION DATE, the PURCHASER and/or his duly authorised representative shall, together with the duly authorised representative of the SELLER, inspect the property on a date specified by the SELLER.
- 16.1.1 The PURCHASER and/or his duly authorised representative shall, within 3 (three) days after inspection, furnish the Sellers representative with a list of patent defects, which defects the Seller will rectify before occupation. ("Patent Defect" "Patent Defect" means a fault or defect that is not hidden and should easily be discovered by a reasonable inspection.)
- 16.1.2 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 must be acceptable to the mortgagee (if applicable).
- 16.2 The PURCHASER and/or his duly authorised representative, shall furthermore submit a list of Latent Defects to the Sellers or the Sellers representative within a period 180 (One Hundred and Eighty) days from the date of occupation and the Seller undertakes to remedy such defects. ("Latent Defect" means a fault or defect that a reasonable inspection would not readily reveal.)
- 16.3 The SELLER shall only be responsible for such defects provided in the Latent Defects List caused by faulty materials and/or workmanship. The Seller shall under no circumstances be liable for any consequential loss or damage, and the Purchaser waives any such claim and indemnifies the Seller in this respect.
- 16.4 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. The Purchaser shall not be precluded from exercising his rights in terms of Section 56 as read with Section 55 of the Consumer Protection Act in so far as they may be applicable.
- 16.5 The Purchaser undertakes to give access to the Seller and its contractors after the Occupation Date to enable them to attend to the remedying of the Defects indicated in any of the above defect's lists. If they are unsuccessful to get access to the Section at least twice 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 (1) it will be deemed that the Purchaser does not require any such items to be remedied, (2) that he is satisfied with the condition of the Property and (3) that the Purchaser has released the Seller and its contractors from any obligations with regard to the repair of any patent defects.



- 16.6 A certificate issued by the Principal 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.
- 16.7 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.
- 16.8 The following warranties are given in terms of the NHBRC Act:
- 16.8.1 The Seller will ensure that its contractors comply with all applicable building regulations and conditions and that a Standard Home Builders Warranty be issued in accordance with legislation and the rules and practice of the National Home Builders Registration Council relating to the improvements on the Property. If any portion of the Section must be repainted due to a defect being reported, only that portion affected by the defect will be repainted.
- 16.8.2 The Seller will ensure that its contractors warrant to remedy, at its own expense, the entire Section in respect of:
- 16.8.2.1 Major structural defects in the Building caused by non-compliance with the NHBRC technical requirements occurring within 5 (five) years of the Occupation Date;
- 16.8.2.2 any roof leaking in the Building manifesting itself within 12 (twelve) months of the Occupation Date due to faulty materials, design or workmanship;
- 16.8.2.3 any deficiency manifesting itself within 180 (one hundred and eighty) days of the Occupation date due to faulty materials, design, or workmanship;
- 16.8.2.4 subject that the Contractor receives notice from the purchaser within each period.

## 17 BODY CORPORATE AND MANAGING AGENTS

- 17.1 Upon transfer the Purchaser will become a member of the Body Corporate. The Purchaser agrees to abide by the rules and regulations of the Body Corporate as established by law and/or determined or established by the Seller.
- 17.2 The Seller will be entitled to appoint the first Managing Agent, which appointment shall be valid and binding on the Body Corporate for 1 (one) year after the date of the first annual general meeting of the Body Corporate, provided that such appointment complies with section 6(2) of the Rules. Insofar as it may be necessary, the Purchaser grants the Seller the irrevocable power to make such an appointment.

## 18 MANAGEMENT AND CONDUCT RULES

- 18.1 The purchaser acknowledges that he is familiar with the rules as referred and contained in section 10 of the STSMA as published in Government Gazette 40335 of 7 October 2016. A copy of the rules can be viewed on the website at <https://www.csos.org.za/wp-content/uploads/2019/12/Regulation-on-Sectional-Titles-Schemes-Management-Act.pdf> or a copy will be made available to the Purchaser on request.

## 19 AMOUNTS PAYABLE BY THE PURCHASER

The Purchaser will be liable for payment of the following:



- 19.1 Levies to the body corporate from date of transfer;  
Calculated in accordance with the participation quota attributable to each UNIT. The bona fide estimate of the monthly levy, pending the final determination thereof, is as set out in the Transaction details of the Information Schedule. Should the Body Corporate determine an actual levy, after it is 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.

**19.2 The purchaser is liable for the payment of electrical and water connection fees estimated at R4,500.00. The amount is payable as soon as requested by the Transferring Attorneys.**

## **20 RENTAL MANAGEMENT**

- 20.1 The SELLER hereby consents that the Property may be let to a suitable tenant with effect from the Occupation Date if the Purchaser does not intend occupying the Property himself.
- 20.2 The PURCHASER hereby appoints the Independent Property Inspector as its sole and exclusive agent to procure and place tenants in the Property and act as his rental agent for a period of 3 (three) years from the Completion Date on the terms and conditions of the Independent Property Inspector's standard rental management agreement from time to time.

## **21 DIRECT MARKETING AND COOLING OFF**

- 21.1 In terms of Section 16 of the Consumer Protection Act 68 of 2008, if the PURCHASER entered into this Agreement as a result of direct marketing, meaning that the Purchaser was directly or indirectly approached either in person or by mail by the Seller/Seller's Agent for the purpose of promoting or offering to supply, in the ordinary course of business, the sale of the Property hereby sold, the Purchaser would have been entitled to cancel this Agreement without reason or penalty by written notice within 5 (five) days after the Signature Date, or within 5 (five) business days after delivery of the Property.
- 21.2 The Seller will not enter into this Agreement if the agreement resulted from direct marketing. The Purchaser therefore warrants that this Agreement is not entered into because of direct marketing.
- 21.3 The Purchaser understands that if, after delivery of the Property, the Purchaser is successful in cancelling this Agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the CPA, the Purchaser shall be liable for damages suffered by the Seller as a result thereof based on the Purchaser's breach of this warranty.

## **22 REFUND TO THE PURCHASER**

- 22.1 The PURCHASER shall be entitled to a refund of all amounts paid in lieu of the Reservation Deposit and the balance of the purchase price as contemplated in Clause 5 should this Agreement:
- 22.1.1 Lapse as contemplated in this agreement due to a deviation in the initial extent of the property of more than 5% (five percent) or if the suspensive conditions as stipulated in this agreement (specifically the obtaining of a mortgage bond, if applicable) are not met; or
- 22.1.2 terminate as contemplated in this agreement if the property is not sufficiently completed by the extended Anticipated Occupation date; or
- 22.1.3 be cancelled due to the breach of this Agreement by the Seller; or
- 22.1.4 be cancelled due to an unresolved dispute arising between the parties regarding the variations of specifications of the property; or



- 22.1.5 be cancelled due to a deviation of more than 5% (five percent) on the initial extent of the property; or
- 22.1.6 be cancelled due to the failure of the Seller to transfer the property to the Purchaser within 36 (thirty-six) months from date of signature of this agreement.
- 22.2 The Transferring Attorney shall refund to the Purchaser's nominated bank account such amounts as remain in trust with the Transferring Attorney after deduction of a portion of the interest accrued liable to the Legal Practitioners' Fidelity Fund in terms of Section 86(5)(b) of the Legal Practice Act and the attorney's investment fee.
- 22.3 The Purchaser shall have no recourse against the Seller and/or the Transferring Attorney for the reimbursement of any monies paid over by the Transferring Attorney to the Agent in terms of his commission.

## 23 NOTICES OF SERVICE

- 23.1 Each of the parties chooses as his *domicilium citandi et executandi* ("domicilium") for the purposes of giving of any notice or the serving of any process and for any other purpose arising from this Agreement their respective addresses as stated above.
- 23.2 Any notice in terms hereof may be delivered to the other party ("the recipient") by hand, prepaid registered post, or E-mail.
- 23.3 Any notice given by a party to the other which:
- 23.3.1 Is delivered by hand, to a responsible person, during ordinary business hours, at the physical address provided will be presumed to have been received (unless the contrary is proved by the addressee) on the day and time of delivery; or
- 23.3.2 is sent by prepaid registered post, in a correctly addressed envelope, to the postal address specified above will be presumed to have been received by the recipient on the seventh day after the date of posting; or
- 23.3.3 is sent by email to the E-mail address specified will be deemed (unless the contrary is proved by the addressee), to have been received on the first business day after transmission.
- 23.4 Where in terms of this Agreement any communications are required to be in writing the term writing will include communications by E-mail.
- 23.5 Each of the parties will be entitled from time to time, by written notice to the other party to change his *domicilium* to any other address within the Republic of South Africa which is not a post office box or poste restante. The changed address will be effective after 14 (fourteen) days of such change.

## 24 BREACH AND CANCELLATION

- 24.1 If either Party ("the Defaulting Party") fails to pay any amount, or fails to provide the guarantee(s) required in terms of this Agreement on the due date, or commits a breach of any other of the terms and conditions of this agreement then the other Party ("the Aggrieved Party") will be entitled to give the Defaulting Party 5 (five) business days (unless the transaction has already been lodged at the deeds office for registration, in which event the notice period will be reduced to 24 (twenty-four) hours written notice to remedy such breach. Should the Defaulting Party fail to comply with such notice, the Aggrieved Party shall be entitled, without prejudice, to any other rights and remedies that it may have in law, including the right to claim damages to:



- 24.1.1 hold the defaulting party to the contract and demand fulfilment of his obligations in terms thereof; or
- 24.1.2 cancel the Agreement without prejudice to the Aggrieved party's rights without any further notice and claim damages suffered because of such breach. If the cancellation was due to the PURCHASER'S breach the SELLER shall be entitled to:
- 24.1.2.1 Retain all amounts paid by or on behalf of the PURCHASER on account of the purchase price as liquidated damages; and/or
- 24.1.2.2 claim all damages suffered by the SELLER by reason of such breach, in which event the parties hereby agree that the SELLER shall be entitled to retain any amounts paid under this agreement in reduction of such damages sustained by the SELLER without prejudice to the SELLER's rights to claim the balance of such damages from the PURCHASER.
- 24.2 If the PURCHASER disputes the SELLER'S right to cancel and/or remains in occupation of the UNIT after the date of cancellation or purported cancellation, the PURCHASER shall continue to pay occupational interest as herein provided in consideration for continuing to occupy the UNIT.
- 24.3 If the Aggrieved Party institutes legal proceedings against the Defaulting Party due to his failure to fulfill his obligations in the Agreement. In that case, the Aggrieved Party acknowledges that he will be liable for all legal costs, including collection commission, incurred by the Seller on an attorney and client scale.
- 24.4 Where the Purchaser has forfeited the Deposit, and other amounts in favour of the Seller or the Sellers have become entitled to retain the Deposit or different amounts paid to the Trust Account, the Transferring Attorney will be obliged to pay such charges to the Seller on demand.
- 24.5 Upon cancellation of this Agreement the Purchaser/all persons occupying the Property through him will vacate the Property within 24 (twenty-four) hours of cancellation, and the Seller shall immediately be entitled to resell the property.
- 24.6 If the Purchaser causes an unjustified delay in the registration of the Property and/or bond, which delay results in the relevant documentation not being lodged for registration in the deeds registry at the time of the lodging of the application for the opening of the Register and the registration of the Sectional Plan or the registration of the extension of the Scheme, the Seller will have the right, without prejudice to any other right or remedy he may have in law (including but not limited to the right to claim damages) to either: immediately cancel this Agreement or claim specific performance of the terms and provisions of this Agreement.
- 24.7 If the Seller claims specific performance, the Purchaser shall, in addition to the monthly levies and the monthly occupational interest, also be liable for the payment of an amount of R10 000,00 (Ten Thousand Rand) per month from the date on which the documentation pertaining to the opening of the Register and the registration of the Sectional Plan or the registration of the extension of the Scheme could have been lodged in the relevant deeds registry until the actual date of lodgment thereof.
- 24.8 Notwithstanding anything stated to the contrary herein, the Purchaser shall be entitled to cancel this Agreement by written notice to the Seller if the Seller fails to pass transfer of the Property into the Purchaser's name within 36 (thirty-six) months from the Signature Date. In this event, the Purchaser shall be entitled to a refund of the Reservation Deposit and other amounts (if applicable).
- 24.9 Should the contract be cancelled by agreement the Purchaser shall remain liable for costs incurred which costs cannot be recovered from a subsequent purchaser as liquidated damages. Such costs shall include but not be limited to the wasted costs for preparing and drafting documentation not exceeding R5,000.00 (Five Thousand Rand).



- 24.10 Should the sale be cancelled after complying with the suspensive conditions due to the failure of the Purchaser in carrying out any of his obligations in terms of this agreement the Seller reserves the right to claim from the Purchaser who will be liable to the Seller for payment on demand of a cancellation fee of up to 5% (five percent) of the Purchase Price as wasted costs as well as Agent's commission as liquidated damages.
- 24.11 The reservation deposit or part thereof shall be used by the Seller/Agent to recover the costs Seller and Purchaser authorise the Transferring Attorney to pay the amount due to the Agent/Seller from the Transferring Attorneys trust account within 5 (five) days of the cancellation of the agreement.

## 25 DISPUTE RESOLUTION AND ARBITRATION

- 25.1 A dispute concerning this Agreement exists once a party notifies the others in writing of the nature of the dispute and requires it to be resolved under this clause. The parties must refer any dispute to be resolved by:
- 25.1.1 negotiation; failing which
  - 25.1.2 mediation; failing which
  - 25.1.3 arbitration.
- 25.2 Within ten Business Days of notification, the parties must seek an amicable solution to the dispute by referring it to designated and authorised representatives of each of the parties to negotiate and resolve it by the parties signing an agreement resolving it within 15 (fifteen) Business Days.
- 25.3 If negotiation fails, the parties must refer the dispute for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead) (AFSA).
- 25.4 If mediation fails, the parties must refer the dispute within 15 (fifteen) Business Days for resolution by arbitration (including any appeal against the arbitrator's decision) by one arbitrator (appointed by agreement between the parties) as an expedited arbitration in Cape Town under the then current rules for expedited arbitration of AFSA. If the parties cannot agree on any arbitrator within a period of ten Business Days after the referral, the arbitrator will be appointed by the Secretariat of AFSA.
- 25.5 These clauses shall not prevent any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of an arbitrator. The Parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to herein.
- 25.6 The Parties hereby consent to the arbitration being dealt with on an urgent basis in terms of the Rules of AFSA should either Party, by written notice, require the arbitration to be held on an urgent basis. In such event either Party may apply to the AFSA Secretariat as required in terms of the said Rules to facilitate such urgent arbitration.
- 25.7 The arbitration shall be held at Johannesburg or Pretoria with only the legal and other representatives of the Parties to the dispute present there at and otherwise in terms of the Arbitration Act, unless otherwise provided for herein. The arbitrator shall be a practising advocate of the Johannesburg or Pretoria Bar of at least ten years' standing, appointed by agreement between the parties to the dispute. Should the Parties fail to agree on an arbitrator within **14 (fourteen) days** after the giving of notice the arbitrator shall be appointed by the Chairperson of the Bar Council at the request of either Party to the dispute.
- 25.8 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the High Court, at the instance of any of the parties to the dispute.



- 25.9 If a party to a dispute wishes to appeal the decision of the arbitrator, such party shall apply to the arbitrator for leave to appeal within **14 (fourteen) days** from the date of the decision of the arbitrator.
- 25.10 If a party to the dispute is granted leave to appeal the decision of the arbitrator, such appeal shall be held before 3 (three) arbitrators appointed in accordance with clauses 28.4 and 28.5, it being agreed that for the purposes of appeal the appointed arbitrators may include a retired judge otherwise appointed in accordance with clauses 25.4.
- 25.11 If a party to the dispute is granted leave to appeal the decision of the arbitrator such party shall furnish security for the costs of the appeal in an amount of R100 000 (One Hundred Thousand Rand) within **30 (thirty) days** from the date on which leave to appeal is granted. Should the relevant party fail to furnish security to this effect the leave to appeal shall lapse and the prospective appellant will no longer be entitled to proceed with an appeal and the arbitrator's decision will be final and binding upon the Parties.
- 25.12 The Parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.

## **26 GENERAL**

- 26.1 The Parties 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.
- 26.2 If the purchaser is a Company, Close Corporation or a Trust, or any person acting in a representative capacity, the person signing this Agreement on behalf of the Purchaser shall be deemed to have bound himself as surety and co-principal debtor(s) for all the obligations of the Purchaser (and, if applicable, jointly and severally with any other persons signing this Agreement on behalf of the Purchaser), such surety hereby renouncing the benefits of excussion and division the effect of which he acknowledge himself to be aware.
- 26.3 No concession or any other indulgence which may be granted by the Seller to the Purchaser, whether in respect of time for payment or otherwise, regarding the terms and conditions of this Agreement shall be deemed to be a waiver or estoppel of and shall not affect, prejudice, or derogate from the rights of the Seller under this Agreement.
- 26.4 Each of the provisions of this Agreement is separate and severable and enforceable accordingly.
- 26.5 This Agreement is the sole Agreement between the parties, and no amendment, variation, or consensual cancellation hereof will be valid unless reduced to writing and signed by the parties or their duly authorised representatives hereto.
- 26.6 Save as otherwise agreed to in this Agreement, the Purchaser will not be relieved of any of his obligations under this Agreement or be entitled to any reduction of the purchase price or any other amount due in terms hereof if the Seller fails to obtain, or delay in obtaining, any approval of whatsoever nature which may be required for the development to be completed from any governmental authority or if the opening of the Register is delayed for whatever reason.



## **27 PROTECTION OF PERSONAL INFORMATION ACT NO. 4 of 2013**

- 27.1 The attorneys are required to collect and process relevant personal information of the SELLER and PURCHASER to give effect to all the parties' rights and obligations that flow from this Agreement.
- 27.2 The Parties, therefore, agree that the Transferring Attorney may process their personal information and share it with all professional parties involved in the transaction.
- 27.3 The parties include but are not limited to the Agent, bond registration attorneys, mortgage originator, municipality, home-owners associations, Rental Agent, Accountants and Auditors and/or their business partners as required by law.
- 27.4 The Transferring Attorney undertakes to only process the personal information of the parties for the course and duration of the transaction as may be required to give effect to the transaction and will retain the personal information as required by the Protection of Personal Information Act, Act No. 4 of 2013 (POPIA).

## **28 OFFER**

- 28.1 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.

## **29 ACKNOWLEDGEMENT BY PURCHASER IN TERMS OF THE CPA**

- 29.1 The SELLER declares that it is selling the Property in the ordinary course of its business, and specific provisions of the Consumer Protection Act 68 of 2008 ("CPA") may be applicable.
- 29.2 The Purchaser acknowledges that all clauses that limits the risk or liability of the Seller, impose an obligation on the Purchaser to indemnify the Seller have been marked in bold and the Purchaser therefore acknowledges that:
- 29.2.1 This Agreement has been fully explained to him and he understands his rights and obligations contained herein; and
- 29.2.2 he is aware of the importance of the wording printed in bold; and**
- 29.2.3 he may refer the agreement to an independent third party to secure independent advice prior to signing the AGREEMENT; and
- 29.2.4 he is aware that he must not sign the AGREEMENT OF SALE unless he has an adequate understanding of the terms of the AGREEMENT OF SALE.



### 30 SIGNATURES

|                                                |                   |
|------------------------------------------------|-------------------|
| DATED AT _____ ON THIS _____ DAY OF _____ 20__ |                   |
| WITNESSES:                                     |                   |
| 1. _____                                       | _____ PURCHASER 1 |
| 2. _____                                       | _____ PURCHASER 2 |

|                                                |              |
|------------------------------------------------|--------------|
| DATED AT _____ ON THIS _____ DAY OF _____ 20__ |              |
| WITNESSES:                                     |              |
| 1. _____                                       | _____ SELLER |

|                                                |                  |
|------------------------------------------------|------------------|
| DATED AT _____ ON THIS _____ DAY OF _____ 20__ |                  |
| WITNESSES:                                     |                  |
| 1. _____                                       | _____ CONTRACTOR |