
MASON ARBOUR TOWN
SALE OF A SECTIONAL TITLE UNIT
UNIT: _____

In respect of the sale by the Seller of the Unit to the Purchaser for the Purchase Price on the terms and conditions set out in this Agreement. This Agreement comprises this Transaction Schedule, the Sale Terms which are attached marked Appendix 1 and the other Appendices to this Transaction Schedule, all of which the Parties agree to be bound to.

TRANSACTION SCHEDULE

1. THE PARTIES

1.1 The Seller:

- 1.1.1 The Trustees for the time being of the IHS Fund II SA Rental Trust 5, a Trust duly established according to the laws of South Africa, duly represented by its Trustees being International Housing Solutions (RF) Proprietary Limited with registration number 2006/003913/07 and IHS Fund II SA GP Proprietary Limited with registration number 2012/121022/07
- 1.1.2 Registration Number IT 2011/2015(G)
- 1.1.3 Address: of 54 Peter Place, Peter Place Office Park, Block C Cardiff House, Ground Floor, Bryanston, 2191
- 1.1.4 Attention: Graham Kusano
- 1.1.5 Contact No: 011 300 8600
- 1.1.6 Email: info@ihsinvestments.co.za

1.2 The Purchaser

1.2.1 Individual

Individual (1)			
Full Names			
Date of Birth			
ID Number			
Nationality			
Marital Status	☐ Single	☐ Married out of community of property	☐ Married in community of property
Income Tax No			
Physical Address			
Postal Address			
Email Address			
Telephone Nos	(c)	(w)	(h)

Individual (2)			
Full Names			
Date of Birth			
ID Number			
Nationality			
Marital Status	☐ Single	☐ Married out of community of property	☐ Married in community of property
Income Tax No			
Physical Address			
Postal Address			
Email Address			
Telephone Nos	(c)	(w)	(h)

1.2.2 Company / Close Corporation / Trust

Full Names	
Reg Number	

Signatory			
Income Tax No			
VAT No			
Physical Address			
Postal Address			
Email Address			
Telephone Nos	(C)	(W)	(H)

2. SECTIONAL TITLE UNIT

The Unit comprises the following:

Section No	
Measuring	(square metres)
Parking Bay Number/s	
Together with an undivided share in the Common Property in accordance with the participation quota attaching to the Section as indicated on the Sectional Plan, which is estimated to be	
Est Participation Quota	

3. SUMMARY OF PRINCIPLE TERMS

The payment of the Purchase Price, the related financial elements and important dates pertaining to the sale of the Unit are as follows:

Purchase Price (incl VAT)	
Deposit	
Deposit Due Date	The date that is 5 (five) Business Days from the date on which this Agreement is signed by the Purchaser
Purchase Price Cash Component	
Purchase Price Cash Component Due Date	The date that is 20 (twenty) Business Days from the date on which this Agreement is signed by the Purchaser
Balance of the Purchase Price	
Loan Amount	
Loan Amount Grant Due Date	The date that is 30 (thirty) days from the Signature Date of this Agreement
The Purchaser	
Guarantee Due Date	Within 14 (fourteen) days of written request from the Conveyancers
Occupation Date	The Registration Date

4. THE ESTATE AGENT

IHS Property Management (Proprietary) Limited trading as Engel and Volkers

Registration Number: 2015/009733/07

Address: 54 Peter Place, Peter Place Office Park , Block C, Cardiff House, Ground Floor, Bryanston, 2191

Contact No: 087 236 8686

Email: dustanf@ihspm.co.za

5. THE MORTGAGE ORIGINATOR

Engel And Volkers South Africa Financial Services (Proprietary) Limited

Registration Number 2004/002270/07

Address: Shop 6B Centurion Lifestyle Centre, 80 Old Johannesburg Road, Centurion, 0157

Attention: Sandy Reddy, 079 5001 954

6. **THE CONVEYANCER'S TRUST ACCOUNT**

The Standard Bank Of South Africa Limited

Account Holder: Bowmans Trust Account

Account Number: 022 677 631

Branch: Sandton

Branch Code: 019 205

Reference: Mason Arbour Town / Purchaser's Surname/ Unit Number

7. **MARKETING**

The Purchaser, for the purposes of the Purchaser's right in terms of section 16 of the Consumer Protection Act, records that the Purchaser was firstly introduced to the Unit as result of the following (*tick as applicable*):

- ☐ Newspaper advertisement
- ☐ Recommendation by another person than the Seller or Estate Agent
- ☐ The Purchaser approached the Seller or Estate Agent first
- ☐ The Seller or Estate Agent approached the Purchaser first via post, email, sms or personall

APPENDIX 1 – MASON ARBOUR TOWN - SALE OF SECTIONAL TITLE UNIT – SALE TERMS**1. INTRODUCTION**

- 1.1 The Seller intends carrying out the Development.
- 1.2 Pursuant to the Development, the Seller will construct the Buildings on the Land and will establish the Scheme, which will result in the creation of the Unit.
- 1.3 The Seller sells the Unit to the Purchaser, who purchases the Unit from the Seller, for the Purchase Price on the terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS:**2. DEFINITIONS**

In this Agreement and the Introduction, unless clearly inconsistent with or otherwise indicated by the context:

- 2.1 **Agreement** means the agreement between the Parties as set out in the Transaction Schedule, these Sale Terms and the other appendices to the Transaction Schedule;
- 2.2 **Architect** means the architect appointed by the Seller in respect of the Development, namely Boogertman and Partners;
- 2.3 **Architectural Drawings** means the drawings prepared by the Architect, which are attached to the Transaction Schedule marked Appendices 2 to 5 respectively; depicting the –
 - 2.3.1 location of the Section;
 - 2.3.2 floor plan of the Section;
 - 2.3.3 building elevations;
 - 2.3.4 location of the Parking Bays,
- 2.4 **Balance of the Purchase Price** means the amount set out in the Transaction Schedule, being the Purchase Price less the Deposit;
- 2.5 **Beneficial Occupation** means the Purchaser's entitlement to the occupation, use and enjoyment of the Unit subject to such disturbances and restrictions which may arise as a result of the continued building operations in and around the Unit to complete the Development in phases;
- 2.6 **Body Corporate** means the controlling body of owners of Scheme Sections in the Scheme as contemplated in terms of section 2 of the Sectional Title Schemes Management Act;
- 2.7 **Body Corporate Rules** means the management and conduct rules for the control and management of the Scheme referred to in annexure 1 and 2 of the Sectional Titles Scheme Management Regulations, as amended, which provide for the administration and management of the first phase of the Scheme;
- 2.8 **Buildings** means the buildings and all other improvements to be constructed on the Land pursuant to the Development and **Building** means any one of such Buildings as the context requires;
- 2.9 **Common Property** means the Land and such parts of the Buildings on the Land which do not form part of any Scheme Sections;
- 2.10 **Companies Act** means the Companies Act, No. 71 of 2008;
- 2.11 **Connection Fees** means the amount payable to the Relevant Authority in terms of clause 16.2;
- 2.12 **Consumer Protection Act** means the Consumer Protection Act, No. 68 of 2008;
- 2.13 **Conveyancers** means Bowman Gilfillan Inc., 11 Alice Lane, Sandton, Telephone No. 011 669 9000, represented by Craig Schafer, whose banking details are set out in the Transaction Schedule;
- 2.14 **Deeds Office** means the Deeds Registry in Pietermaritzburg;
- 2.15 **Deposit** means the deposit in the amount set out in the Transaction Schedule payable by the Purchaser in the Conveyancers' Trust Account by the Deposit Due Date;
- 2.16 **Deposit Due Date** means the deposit due date as described in the Transaction Schedule;

- 2.17 **Development** – the:
- 2.17.1 phased construction, preparation and completion of the Buildings on the Land and all associated site works and other improvements (including landscaping, paving, earthworks and parking areas) on the Land;
- 2.17.2 preparation and approval of the Sectional Plan in respect of the Scheme;
- 2.17.3 reservation of the Real Right of Extension;
- 2.17.4 registration of the Sectional Plan and the opening of the Sectional Title Register in phases (pursuant to the exercise of the Real Right of Extension) in the Deeds Office; and
- 2.17.5 sale of sectional title units in the Scheme to purchasers and the transfer of such sectional title units to such purchasers in the Deeds Office;
- 2.18 **Draft Sectional Plan** means the draft sectional plan of the Scheme depicting the Land, the proposed Scheme Sections, the proposed Common Property and the estimated Participation Quotas, which draft sectional plan will be prepared by the Land Surveyor as soon as possible after the Signature Date;
- 2.19 **Effective Date** means the date on which the Suspensive Condition is fulfilled or waived, as the case may be;
- 2.20 **Estate Agent** means the estate agent referred to in the Transaction Schedule, or such other estate agent as appointed by the Seller from time to time;
- 2.21 **FICA** means the Financial Intelligence Centre Act 38 of 2001;
- 2.22 **Floor Finishes Options** means the schedule specifying the floor finishes selected by the Purchaser, attached to the Transaction Schedule marked as Appendix 6;
- 2.23 **Governmental Authority** means any Government, Governmental Department, Governmental Body, Commission, Board, Bureau, Agency, Regulatory Authority, Judicial or Administrative Body whether National, State, Provincial or Local, having jurisdiction over the matter or matters in question;
- 2.24 **Housing Consumers Protection Measures Act** means the Housing Consumers Protection Measures Act, No. 95 of 1998;
- 2.25 **Land** means Portion 39 of Erf 243 Umbogintwini, Registration Division ET, the Province of Kwazulu-Natal, being the land on which the Seller will carry out the Development;
- 2.26 **Land Surveyor** means the land surveyor engaged by the Seller to prepare the Sectional Plan, namely Benchmark Surveys;
- 2.27 **Law** means:
- 2.27.1 the common law; and
- 2.27.2 any present or future constitution, decree, judgment, legislation, measure, requirement, order, ordinance, regulation, statute, treaty, directive or rule having the force of law, issued, passed or promulgated by any Governmental Authority;
- 2.28 **Legal Practice Act** means the Legal Practice Act No. 28 of 2014;
- 2.29 **Lender** means the bank or other financial institution which makes the Loan available to the Purchaser;
- 2.30 **Letter of Satisfaction** means a letter signed by the Purchaser confirming that the Purchaser is satisfied with the condition of the Unit, as contemplated in clause 11.2;
- 2.31 **Levies** means Body Corporate Levies payable in terms of section 3(1)(f) of the Sectional Titles Schemes Management Act;
- 2.32 **Loan** means the loan which the Purchaser is required to obtain for to fund payment of the Balance of the Purchase Price (or such lesser amount as may be acceptable to the Purchaser) to be secured by the Purchaser Mortgage Bond;
- 2.33 **Loan Amount** means the amount of the Loan which the Purchaser obtains from the Lender;
- 2.34 **Loan Amount Grant Due Date** means the loan amount due date as described in the Transaction Schedule;
- 2.35 **Managing Agent** means the Managing Agent appointed by the Seller to manage and administer the Scheme;
- 2.36 **Mortgage Originator** means the mortgage originator referred to in the Transaction Schedule, or such other mortgage originator as appointed by the Seller from time to time;

- 2.37 **NHBRC** means the National Homebuilders Registration Council established under the Housing Consumers Protection Measures Act;
- 2.38 **Parking Bays** means the parking bays allocated to the Section for the Purchaser's exclusive use, as described in the Transaction Schedule, and which are hatched in red on the applicable Architectural Drawing;
- 2.39 **Participation Quota** means the percentage allocated to the Section or any other Scheme Section (as the context requires) in a schedule attached to the Sectional Plan expressed to 4 (four) decimal places and arrived at by dividing the floor area, correct to the nearest square metre, of the Section by the floor area, correct to the nearest square metre, of all the sections in the Buildings comprising the Scheme, which determines, among other things, the amount of the Levies payable by the Purchaser in respect of the Unit and the value of the Purchaser's vote at any meeting of the Body Corporate;
- 2.40 **Parties** means the Purchaser and the Seller and **Party** means any one of them as the context requires;
- 2.41 **Practical Completion** means that the Buildings have been completed to such a stage that they are ready for Beneficial Occupation;
- 2.42 **Practical Completion Certificate** means the certificate issued by the Principal Agent in respect of the Building of which the Section forms a part certifying that, Practical Completion has been achieved in respect of the Building;
- 2.43 **Practical Completion Date** means the date on which the Principal Agent issues the Practical Completion Certificate;
- 2.44 **Prime Rate** means the nominal annual, compounded Monthly in arrear, rate of interest from time to time publicly quoted as such by First National Bank, a division of FirstRand Bank Limited calculated on a 365 (three hundred and sixty five) day factor irrespective of whether or not the year is a leap year;
- 2.45 **Principal Agent** means the principal agent engaged by the Seller to supervise the Development;
- 2.46 **Purchase Price** means the Purchase Price payable by the Purchaser for the Unit set out in the Transaction Schedule;
- 2.47 **Purchase Price Cash Component** means the difference between the Balance of the Purchase Price and the Loan Amount (to the extent that this is a positive number);
- 2.48 **Purchase Price Cash Component Due Date** means the date that is 20 (twenty) days after the Effective Date;
- 2.49 **Purchaser** means the Purchaser described in the Transaction Schedule;
- 2.50 **Purchaser Mortgage Bond** means any mortgage bond required by the Lender to be registered by the Purchaser in its favour over the Unit as security for the Loan;
- 2.51 **Real Right of Extension** means the real right of extension which the Seller intends reserving in its favour in terms of section 25(1) of the Sectional Titles Act which will entitle the Seller to carry out the Development in phases and to extend the Scheme by the:
- 2.51.1 horizontal or vertical extension of existing Buildings; and
- 2.51.2 erection of further Buildings on a specified part of the Common Property;
- and to divide the Buildings into a section or sections and Common Property and to confer the right of exclusive use over parts of the Common Property on the owner or owners of one or more sections;
- 2.52 **Relevant Authorities** means the Ethekwini Metropolitan Municipality and/or any other Governmental Authority and/or other associated entities having jurisdiction over the Land and/or the Development from time to time;
- 2.53 **Registration Date** means the date on the Transfer is registered in the Deeds Office;
- 2.54 **Sale** means the sale of the Unit by the Seller to the Purchaser for the Purchase Price on the terms and conditions set out in this Agreement;
- 2.55 **Sale Terms** mean these sale terms attached to the Transaction Schedule as Appendix 1;
- 2.56 **Schedule of Finishes and Specifications** means the schedule of finishes and the selections thereof in respect of the Section attached to the Transaction Schedule marked Appendix 7;
- 2.57 **Scheme** means the sectional title scheme known as "Mason Arbour Town" which will comprise the Land and the Buildings as depicted on the Sectional Plan;

- 2.58 **Scheme Sections** means all of the sections in the Scheme (as contemplated in the Sectional Titles Act) which includes the Section;
- 2.59 **Section** means the section in the Scheme described in the Transaction Schedule and on the Sectional Plan, which forms part of the Unit and which is depicted on the Architectural Drawings;
- 2.60 **Sectional Plan** means the plan of the Scheme (as contemplated in the Sectional Titles Act) to be prepared by the Land Surveyor and which will:
- 2.60.1 depict the Land as the Scheme Sections and the Common Property;
- 2.60.2 contain a schedule setting out the Participation Quotas applicable to the Scheme Sections;
- 2.60.3 be approved by the Surveyor General; and
- 2.60.4 registered by the Deeds Office in order to open the Sectional Title Register;
- 2.61 **Sectional Titles Act** means the Sectional Titles Act, No. 95 of 1986;
- 2.62 **Sectional Title Register** means the sectional title register to be opened at the Deeds Office in respect of the Scheme;
- 2.63 **Sectional Titles Schemes Management Act** means Sectional Titles Schemes Management Act, No. 8 of 2011;
- 2.64 **Seller** means the seller described in the Transaction Schedule;
- 2.65 **Signature Date** means the date on which this Agreement is signed by the Party signing last in time;
- 2.66 **Surveyor General** means the office of the Surveyor General at Durban;
- 2.67 **Surviving Provisions** means the provisions which come into force and effect on the Signature date and bind the Parties, namely the provisions of clauses 1 to 4, 6.2.17 and 27 to 31;
- 2.68 **Suspensive Condition** means the Suspensive Condition referred to in clause 4.1;
- 2.69 **Transaction Schedule** means the schedule to which these Sale Terms are attached as Appendix 1, which set out the principle details and terms of the Sale;
- 2.70 **Transfer** means registration of transfer of the Unit from the Seller to the Purchaser in the Deeds Office;
- 2.71 **Unit** means the -
- 2.71.1 Section together with its undivided share in the Common Property in accordance with the Participation Quota; and
- 2.71.2 Parking Bays;
- 2.72 **VAT** means Value-added Tax payable in terms of the VAT Act; and
- 2.73 **VAT Act** means the Value-added Tax Act, No. 89 of 1991, as amended.

3. CONSUMER PROTECTION ACT

- 3.1 The Seller, in selling the Unit to the Purchaser in terms of this Agreement, is acting in the ordinary course of its business. If the Purchaser is a natural person, or a legal entity with an annual turnover or asset value of less than R2 000 000 (two million rand) as at the Signature Date, then the Consumer Protection Act applies to this Agreement. If the Consumer Protection Act applies to this Agreement, then the clauses which are depicted in bold print and the impact, nature and effect of such clauses are specifically brought to the attention of the Purchaser, who is required to initial alongside each such clause in accordance with the provisions of clause 3.2.
- 3.2 Notification is hereby given to the Purchaser in terms of section 49 of the Consumer Protection Act of the clauses highlighted in bold in this Agreement because these clauses limit the risk or liability of the Seller, constitute an assumption of risk or liability by the Purchaser, impose an obligation on the Purchaser to indemnify the Seller, constitute an acknowledgement of fact by the Purchaser, are of an unusual character or nature and/or are such that the Purchaser could not reasonably be expected to be aware or notice. The Purchaser is given notice to read these provisions and if necessary obtain legal advice in order for the Purchaser to be aware of the full meaning, effect and consequences of the clauses before the Purchaser signs this Agreement. The Purchaser by initialling at the foot of the clause in question agrees to be bound by the clause in question.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 3	<i>Initials of the Purchaser</i>
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4. **SUSPENSIVE CONDITION**

4.1 The operation of this Agreement (save for the Surviving Provisions which shall come into force and bind the Parties from the Signature Date) is subject to the condition that:

4.1.1 the Lender grants the Purchaser the Loan on such terms and conditions usually imposed by the Lender when granting loans in respect of similar transactions, to be secured by the Purchaser Mortgage Bond; and

4.1.2 the Purchaser furnishes the Seller with a letter from the Lender evidencing the grant of the Loan; within 30 (thirty) days of the Signature Date (or such extended period as the Seller may in writing determine prior to the expiry of such period).

4.2 The Suspensive Condition will be deemed to be fulfilled if the Lender agrees to grant the Loan subject to:

4.2.1 the repayment of the Loan being guaranteed by the Purchaser's spouse; and/or

4.2.2 any term usually imposed by the Lender when granting loans in the private sector for the purchase of sectional title units sold "off plan" in the manner contemplated in this Agreement.

4.3 The Purchaser:

4.3.1 warrants that the Purchaser's financial position is such that having regard to the criteria or requirements usually applied by the Lender to the granting of the Loan, the Purchaser's application for the Loan will not be refused;

4.3.2 warrants that the Purchaser has the legal capacity and the financial ability to enter into this Agreement, to fund and to pay the Purchase Price, to lawfully complete and sign all documents necessary to apply for the Loan, to register the Purchaser Mortgage Bond and to take Transfer without undue delay;

4.3.3 undertakes to use the services of the Mortgage Originator to apply for the Loan and to:

4.3.3.1 co-operate with and provide the Mortgage Originator with all documentation and information requested by the Mortgage Originator for such purpose

4.3.3.2 take all necessary steps and use all reasonable endeavours to ensure that the Loan is granted timeously and agrees to comply with the requirements stipulated by the Lender pursuant to the granting of the Loan;

4.3.4 acknowledges that the Conveyancers (or their nominees) shall be requested to by the Mortgage Originator to attend to the registration of the Purchaser Mortgage Bond.

4.4 If the Purchaser fails to:

4.4.1 take such steps in order to obtain fulfilment of the Suspensive Condition; or

4.4.2 comply with or accept any condition reasonably imposed by the Lender;

then the Suspensive Condition shall be deemed to have been fulfilled and the Purchaser will be obliged to fund the payment of the Purchase Price from the Purchaser's own resources and if the Purchaser fails to do so, then the Seller is entitled to invoke such remedies as are at its disposal in this Agreement.

4.5 The Suspensive Condition is inserted for the benefit of the Purchaser, who shall be entitled by notice in writing to the Seller, to waive compliance with the Suspensive Condition before the due date for the fulfilment thereof.

4.6 If the Suspensive Condition has not been fulfilled or waived on or before the due date for the fulfilment thereof, then:

4.6.1 this Agreement, other than the Surviving Provisions, shall lapse and be of no further force or effect; and

4.6.2 no Party shall have any claim against the other Party by reason of the lapsing of this Agreement, except for breach of the provisions of this clause 4 and the Surviving Provisions and the Parties shall be restored to their respective positions in which they were prior to the Signature date.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 4	<i>Initials of the Purchaser</i>
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5. MINIMUM SALES

- 5.1 The Seller will only be able to proceed with the Development if the Seller has sold a minimum number of Scheme Sections in terms of unconditional sale agreements in terms of which all deposits and other cash payments have been paid in full (**Bankable Sale Agreements**).
- 5.2 Accordingly, this Agreement shall come into effect on the Effective Date provided that the continued operation of this Agreement is subject to the condition that, if by no later than the date that is 12 (twelve) months after the Signature Date (or such extended period as determined by the Seller), 75% (seventy five per cent) or more of the Scheme Sections have not been sold by the Seller in terms of Bankable Sale Agreements, then the Seller shall be entitled to declare, by notice in writing to the Purchaser, that this Agreement has lapsed and is of no further force or effect.
- 5.3 Unless the Seller delivers such notice in writing, this Agreement shall continue to be of full force and effect.
- 5.4 In the event of this Agreement lapsing in terms of clause 5.2, the Purchaser shall be entitled to a refund of all monies paid on account of the Purchase Price provided that the Surviving Provisions shall remain in force and effect despite the termination of the Agreement.

6. THE PURCHASE PRICE

- 6.1 The Purchase Price shall become due and payable by the Purchaser to the Seller on the Registration Date without deduction or set-off.
- 6.2 The Purchaser shall secure payment of the Purchase Price to the Seller (or its nominee) on the Registration Date by:
- 6.2.1 paying the Deposit into the Conveyancers' Trust Account by no later than the Deposit Due Date;
 - 6.2.2 paying the Purchase Price Cash Component into the Conveyancers' Trust Account by no later than the Purchase Price Cash Component Due Date;
 - 6.2.3 furnishing the Conveyancers with a bank guarantee for the Loan Amount within 14 (fourteen) days of written request from the Conveyancers, which guarantee shall be:
 - 6.2.3.1 issued by the Lender;
 - 6.2.3.2 reasonably acceptable to the Seller;
 - 6.2.3.3 for the Loan Amount; and
 - 6.2.3.4 expressed to be payable via electronic transfer to the Seller or its nominee free of exchange, against registration of the Transfer, free of deduction or set off.

7. INVESTMENT OF FUNDS HELD IN THE CONVEYANCERS' TRUST ACCOUNT

- 7.1 The Conveyancers are authorised and instructed to invest all amounts paid by the Purchaser into the Conveyancers Trust Account on account of the Purchase Price (the **Investment Funds**) with either the Standard Bank of South Africa Limited, FirstRand Bank Limited or Investec Bank Limited (the **Investment Bank**) in terms of Section 86(4) of the Legal Practice Act, for the benefit of the Purchaser pending the Registration Date on the basis set out in paragraph 7.2:
- 7.2 The Investment Funds will be invested on the following basis:
- 7.2.1 the Investment Funds will be invested in a trust savings account or other interest-bearing account which shall contain a reference to Section 86(4) of the Legal Practice Act (the **Investment Account**);
 - 7.2.2 the Investment Funds, when invested in the Investment Account, will not be trust money as contemplated by the Legal Practice Act, and will not be protected against a possible liquidation of the Investment Bank;
 - 7.2.3 the interest which accrues on the Investment Funds whilst invested in the Investment Account will be for the benefit of the Purchaser subject to the following provisos:
 - 7.2.3.1 5% of such interest will be paid to the Legal Practitioners Fidelity Fund on a monthly basis in accordance with the provisions of the Legal Practice Act);

- 7.2.3.2 the Conveyancers shall be entitled to charge an administration fee for opening and managing the Investment Account in an amount equal to 10% (plus VAT) of the interest which accrues on the Investment Funds;
- 7.2.4 if the Investment Funds are required by the Conveyancers to procure the issue of a guarantee by the Investment Bank in favour of the Seller or its nominee (as security for the payment of the Investments Funds on the Registration Date), the Purchaser consents to the issue of such guarantee by the Investment Bank and cedes the Purchaser's right, title and interest in and to the Investment Funds to the Investment Bank for such purpose;
- 7.2.5 on the Registration Date, the Investment Account will be closed and:
- 7.2.5.1 the capital amount of the Investment Funds will be paid in accordance with the Seller's instructions; and
- 7.2.5.2 the interest which has accrued on the Investment Funds (subject to clause 7.2.3) will be paid to the Purchaser as soon as reasonably possible after the Registration Date.
- 7.3 The Purchaser acknowledges that the Conveyancers will not be able to open the Investment Account and invest the Investment Funds until the Purchaser has complied with all of the Conveyancer's FICA requirements and has provided the Conveyancers with all such documentation and information required by the Conveyancers for such purpose.

8. OCCUPATION AND PASSING OF RISK

- 8.1 From the Registration Date:
- 8.1.1 ownership and all the benefits and risks of ownership attaching to the Unit shall pass to the Purchaser;
- 8.1.2 occupation and possession of the Section shall be given to and taken by the Purchaser (unless otherwise agreed between the Parties in writing in terms of clause 8.3); and
- 8.1.3 the Purchaser shall be liable for payment of the Levies and all municipal rates and taxes, all electricity and water consumed in this Section and all other amounts which may be levied directly on owners by the Relevant Authority in respect of the Unit.
- 8.2 The Purchaser shall refund to the Seller all amounts paid by the Seller in respect of Levies and any other charges, including municipal rates and taxes electricity and water charges for any period after the Registration Date.
- 8.3 The Parties expressly record and agree that the Purchaser shall not be entitled to take occupation and possession of the Unit prior to the Registration Date unless otherwise agreed in writing in terms of a written addendum to be concluded between the Parties which will set out the occupational rental payable by the Purchaser to the Seller and the basis upon which the Purchaser may take occupation and possession of the Unit prior to the Registration Date.

9. FINISHES

The Purchaser has selected the:

- 9.1 Floor Finishes Options set out in the schedule attached to this Agreement marked as Appendix 6;
- 9.2 the internal finishes in respect of the Section which are set out in the Schedule of Finishes and Specifications attached to this Agreement marked as Appendix 7.

10. TRANSFER

- 10.1 Transfer will be effected by the Conveyancers:
- 10.1.1 as soon as possible after the:
- 10.1.1.1 approval of the Sectional Plan;
- 10.1.1.2 the Purchase Price has been secured in full in accordance with the provisions of clause 6;
- 10.1.1.3 the Purchaser has paid the costs of and incidental to the registration of:
- 10.1.1.3.1 the Transfer, including the conveyancing fees, Deeds Office fees, plus VAT and disbursements,

- 10.1.1.3.2 the Purchaser Mortgage Bond, including the conveyancing fees, Deeds Office fees, plus VAT and disbursements,
all of which shall be payable on request;
- 10.1.1.4 simultaneously with the registration in the Deeds Office of:
- 10.1.1.4.1 the release of the Unit from the operation any mortgage bonds; and
- 10.1.1.4.2 the Purchaser Mortgage Bond.
- 10.1.2 The Conveyancers have been instructed by the Seller to attend to the Transfer either simultaneously with or as soon as reasonably possible after the opening of the Sectional Title Register and the registration of the Scheme in the Deeds Office, provided that the Purchaser has complied with the Purchaser's obligations in terms of this Agreement.
- 10.1.3 No transfer duty is payable as the Seller is a registered VAT vendor for purposes of this transaction.
- 10.1.4 The Seller and the Purchaser hereby undertake in favour of each other –
- 10.1.4.1 within 7 (seven) Business Days after being required by the Conveyancers to do so, to complete and/or sign all documents necessary to effect Transfer; and
- 10.1.4.2 to take all steps, pay all such amounts and do and procure the doing of all such things as are reasonable in the circumstances so as to place the Conveyancers in a position to affect Transfer without unnecessary delay or hindrance.
- 10.1.5 Any amounts paid by the Seller, in respect of the Land, for any period after the Registration Date, including amounts paid by the Seller to the Relevant Authority in order to obtain a rates clearance certificate to effect Transfer, shall, if received by the Purchaser or credited to the Purchaser's account held with the Relevant Authority be immediately refunded by the Purchaser to the Seller.
- 10.1.6 If Transfer is delayed as a result of the Purchaser's non-compliance of the Purchaser's obligations under this Agreement, then the Purchaser shall pay to the Seller, monthly in advance, interest on the Purchase Price at the Prime Rate plus 2% (two per cent) calculated thereon from the date upon which Transfer would have taken place had it not been for the Purchaser's default until the Registration Date (both dates inclusive). The date upon which Transfer would have taken place shall be determined by the Conveyancers acting as experts in accordance with the provisions of clause 0 whose decision shall (in the absence of manifest error) be final and binding on the Parties and carried into effect by the Parties.

11. PRACTICAL COMPLETION CERTIFICATE AND LETTER OF SATISFACTION

- 11.1 If a Practical Completion Certificate has been issued in respect of the Section, and there remains certain building works to be carried out in respect of the Section, then notwithstanding the fact that such building works have not been carried out or completed, the Purchaser hereby agrees to take Transfer, and to comply with all of the Purchaser's obligations in terms of this Agreement.
- 11.2 The Purchaser will be required to sign a Letter of Satisfaction for the purposes of the Loan as written proof to the Lender that the Purchaser is satisfied with the condition of the Section. If the Purchaser fails, for any reason whatsoever, to sign the Letter of Satisfaction within 3 (three) days of the presentation by the Seller to the Purchaser of the Practical Completion Certificate, then the Purchaser agrees to sign the Letter of Satisfaction within 24 (twenty four) hours of receipt of written notice from the Seller advising the Purchaser to do so. In the event of the Purchaser's failure to do so, the Purchaser hereby irrevocably and in *rem suam* grants the Architect power of attorney to sign the Letter of Satisfaction on the Purchaser's behalf, in which event the Architect's signature on the Letter of Satisfaction shall constitute the Purchaser's signature.
- 11.3 The grant of the power of attorney to the Architect on behalf of the Purchaser does not relieve the Purchaser of the Purchaser's obligations set out in clause 11.2 and if the Architect fails to sign the Letter of Satisfaction for whatever reason, then the failure on the part of the Purchaser or the Architect to sign the Letter of Satisfaction will constitute a breach of this Agreement entitling the Seller to invoke such remedies as are at its disposal in terms of this Agreement, without further notice having to be given to the Purchaser.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 11	<i>Initials of the Purchaser</i>
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12. SALE OF THE UNIT PRIOR TO TRANSFER

- 12.1 Prior to the Registration Date, the Purchaser is not entitled to sell, alienate or in any other manner dispose of the Unit, except with the written consent of the Seller which consent may be given subject to such terms and conditions as the Seller in its sole discretion may impose.
- 12.2 This clause 12 shall apply in the same manner if the Purchaser is a company, close corporation or trust and the shareholder / member / trustee requires that the shares / members interest / beneficiaries interest and loan accounts be sold rather than the Unit.
- 12.3 The Seller will not enter into a tripartite agreement or any other arrangement or agreement with the Purchaser and the third party purchaser whereby this Agreement is cancelled, the sale agreement between the Purchaser and the third party purchaser is cancelled and the Unit is sold by the Seller to the third party purchaser with the intent that the Unit is transferred directly from the Seller to the third party purchaser.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 12	<i>Initials of the Purchaser</i>
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13. DEFECTS ON COMPLETION

- 13.1 The Purchaser shall endeavour to give the Purchaser at least 30 days' notice of the anticipated Practical Completion Date and shall afford the Purchaser a period of 7 days prior to such date to inspect the Unit and to furnish the Seller with a written list of any items which in the opinion of the Purchaser requires to be attended to or to be rectified by the Seller in respect of the Unit (the **Snag List**).
- 13.2 The Seller shall rectify the defects listed in the Snag List within 30 (thirty) days after receipt of the Snag List or such longer period as may be reasonable in regard to the nature of item/s on the Snag List. If the Snag List is not furnished to the Seller within the aforementioned 7 (seven) day period, or such longer period as may be reasonable, then the Purchaser shall:
- 13.2.1 be deemed to have accepted that the Unit is in a fit and proper condition; and
- 13.2.2 have no claim of any nature whatsoever against the Seller in that regard.
- 13.3 The provision by the Purchaser of a Snag List to the Seller shall not preclude the Principal Agent from issuing a Practical Completion Certificate if, in the opinion of the Principal Agent, Practical Completion has been achieved.
- 13.4 If after the Seller has attended to the rectification of the defects listed in the Snag List and the Purchaser is dissatisfied with the manner in which the defects have been rectified and a dispute arises between the Seller and the Purchaser with regard to the Snag List, then, -
- 13.4.1 the dispute shall be referred to the Architect for the Architect's determination of the dispute, whose decision in this regard shall be final and binding on the Parties and shall be carried into effect by the Parties; and
- 13.4.2 if the Architect determines the dispute in favour of the Purchaser, then the Seller shall forthwith attend to the rectification of the defects to the satisfaction of the Architect
- 13.5 Notwithstanding the provisions of 13.2, the Seller is liable to make good or cause to be made good at the cost of the Seller:
- 13.5.1 any defects, shrinkage or other faults due to faulty materials, design or workmanship, which may appear in the Unit within 3 (three) months from the Registration Date; and
- 13.5.2 any leakage in the roof of the Building in which the Section is situated arising from faulty materials, design or workmanship occurring within a period of 12 (twelve) months after the Registration Date, provided that if no heavy rain falls during the aforementioned period of 12 (twelve) months, such period shall be deemed to be extended for such period as is necessary to permit a test of the roof by sufficiently heavy rain.

14. CONDITIONS OF TITLE

The Sale is subject to the conditions, reservations and servitudes contained in the title deeds of the Unit or implied at Law under the Sectional Titles Act as well as such conditions of sectional title as are or which may be imposed by the Seller in terms of section 11(2) of the Sectional Titles Act.

15. SECTIONAL PLAN

- 15.1 The Sale shall remain of full force and effect even if it transpires on the preparation and the registration of the Sectional Plan, that there are –
- 15.1.1 divergences between the Participation Quota and that finally determined in terms of the Sectional Plan as registered; or
- 15.1.2 minor divergences between the Section, if any, and those finally specified on the Sectional Plan as registered.
- 15.2 The Seller is not liable for any deficiency in the extent of the Section as reflected on the Sectional Plan, nor shall the Seller benefit by any excess.
- 15.3 For the purposes of this Agreement a "minor divergence" shall mean a divergence having a variant of not more than 5% (five per cent).
- 15.4 The Seller is entitled, at any time prior to the opening of the Sectional Title Register, to make alterations or amendments of whatsoever nature to the Draft Sectional Plan and/or the Architectural Drawings, which are deemed necessary by the Land Surveyor, Architect, Conveyancers or Relevant Authority without prior notice to the Purchaser and the Purchaser has no claim against the Seller arising out of any such alterations or amendments.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 15	<i>Initials of the Purchaser</i>
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16. CONNECTION FEES

- 16.1 The Purchaser acknowledges that the Seller or the Managing Agent will have made certain payments to the Relevant Authority for the supply of electricity and supply of water to the Unit.
- 16.2 The Purchaser is liable to pay an amount of R5 000.00 (Five Thousand Rand) for the Connection Fees to the Seller by no later than 30 (thirty) days prior to the Registration Date.
- 16.3 If the amount of the Connection Fees, specified in clause 16.2, is not sufficient to cover the amount payable by the Purchaser to the Relevant Authority, then the Seller is entitled to recover the additional amounts from the Purchaser in order to cover the Purchaser's Connection Fees.
- 16.4 The Purchaser is entitled to a refund of the Connection Fees from the Seller or the Managing Agent if the amount of the Connection Fees is less than the amount specified in clause 16.2.

17. BUILDING OPERATIONS

- 17.1 The Purchaser acknowledges that due to the fact that the Development will be constructed in various phases, building operations will take place upon the Land, the Common Property and/or upon the Scheme Sections adjoining the Unit and:
- 17.1.1 the Purchaser's peaceful occupation of the Section may be disturbed as a result of such building operations; and
- 17.1.2 the Purchaser and occupants of the Section may consequently suffer inconvenience from such building operations and from noise and dust resulting therefrom.
- 17.2 The Purchaser has no claim whatsoever against the Seller by reason of such inconvenience.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 17	<i>Initials of the Purchaser</i>
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18. SECTIONAL TITLE REGISTER

- 18.1 It is not possible for the Seller to pass Transfer until such time as the Sectional Plan is approved by the Surveyor General and the Sectional Title Register is opened in the Deeds Office.
- 18.2 The Seller undertakes, at its own expense, to take such steps as may reasonably necessary to obtain approval of the Sectional Plan and to open the Sectional Title Register.

19. INSURANCE

- 19.1 The Seller will, pending the establishment of the Body Corporate, procure that the Buildings are insured against such risks and for such amounts as it may in its sole discretion determine prior to the opening of the Sectional Title Register.
- 19.2 If, before the Registration Date, the Section is damaged or destroyed in such a way that Transfer will be delayed from the date on which Transfer would otherwise have been registered but for such damage or destruction (as determined by the Conveyancers) for a period in excess of 6 (six) months, then either Party has the right by notice to the other to cancel this Agreement.
- 19.3 The Purchaser shall not do or permit to be done any act, matter or thing as a result of which any insurance policy held by the Seller or the Body Corporate in respect of the Section or any of the Building/s in the Scheme may be rendered void or voidable or as a result of which the premiums in respect thereof may be increased.

20. ELECTRICAL

The Seller shall at its expense arrange for the issue of a certificate of compliance in terms of Government Regulation No. 2920/1992, issued by an accredited person, who is registered with the Electrical Contracting Board of South Africa certifying that the electrical installation of the Section is in accordance with SABS0142 or is reasonably safe.

21. HOUSING CONSUMERS PROTECTION MEASURES ACT

- 21.1 This Agreement is subject to the provisions of the Housing Consumers Protection Measures Act and all regulations and rules prescribed thereunder.
- 21.2 The Purchaser is entitled to inspect the certificate of proof of enrolment of the Seller with the National Home Builders Registration Council as contemplated in section 14(c) of the Housing Consumers Protection Measures Act and obtain or request a copy from the Seller free of charge.
- 21.3 The Purchaser is obliged to follow all complaint procedures contained in the National Home Builders Registration Council rules.

22. SELLER CARRYING OUT BODY CORPORATE DUTIES

Until the Body Corporate is established, the Seller is entitled to carry out such duties and to exercise such powers as are assigned to and conferred upon the Body Corporate under sections 37 and 38 of the Sectional Titles Act. The Seller is entitled to employ the services of the Managing Agent for the purpose of the carrying out of the Body Corporate's duties or the exercise of the Body Corporate's powers.

23. PURCHASER'S ACKNOWLEDGEMENTS

The Purchaser acknowledges and agrees that:

- 23.1 the Development will be constructed in phases and the Section is a Scheme Section in one of such phases;
- 23.2 the Seller will reserve the Real Right of Extension in its favour which will entitle it to construct the Development in phases and extend the Scheme in accordance with such Real Right of Extension;
- 23.3 the Seller intends to amend the Body Corporate Rules for the management, control and administration of the Scheme and the Land as prescribed by section 10 of the Sectional Titles Scheme Management Act, which amended Body Corporate Rules will be registered simultaneously with the establishment of the Scheme;

- 23.4 the Seller will in such amended Body Corporate Rules impose a condition in terms of which the right to exclusive use of such part or parts of the Common Property, delineated for exclusive use on the Sectional Plan is conferred upon the owner or owners of one or more of the Sections (and in terms of which the Purchaser will be entitled to the exclusive use of the Parking Bays);
- 23.5 upon approval of the Sectional Plan, the:
- 23.5.1 numbering of the Scheme Sections; and
- 23.5.2 physical location of the Parking Bay/s allocated to the Purchaser may change;
- 23.6 the Seller undertakes to record such changes refer if any, in an addendum to the Agreement as soon as possible after the changes become known and the Purchaser undertakes to immediately sign such addendum when called upon to do so;
- 23.7 the Purchaser is aware of and fully acquainted with the fact that the Scheme has not yet commenced, the Section have not been constructed and the matters hereinafter set forth;
- 23.8 it will only be possible for the Seller to effect Transfer on or after the registration of the Sectional Plan and the opening of the Sectional Title Register; and
- 23.9 the Purchaser has read and approved this Agreement including its Appendices and accepts that the Purchaser is obliged, on the Registration Date, to accept delivery of the Section:
- 23.9.1 substantially completed in accordance with this Agreement; and
- 23.9.2 as finally depicted and delineated on the Sectional Plan.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 23	<i>Initials of the Purchaser</i>
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24. EXTRAS

- 24.1 Other than the variations to the Section which have been agreed to by the Parties and set out in the Floor Finishes Options, the Seller is not obliged to agree to any extras, omissions, variations or changes of any nature whatsoever to the Section.
- 24.2 Notwithstanding the provisions of clause 24.1, if the Seller agrees to effect extras, omissions, variations or changes to the Section (the **Extra Work**), then and in such event the Seller is not obliged to effect the Extra Work unless:
- 24.2.1 the agreement to effect the Extra Work has been reduced to writing by means of an addendum to this Agreement and signed by the Parties;
- 24.2.2 this Agreement has become unconditional as to its terms; and
- 24.2.3 payment for the Extra Work has been paid in cash in advance and in full to the Seller or the amount of the Extra Work has been included in the Loan Amount or the Loan has been increased, in both instances, to accommodate the payment for the Extra Work prior to or on the Registration Date.

25. WARRANTIES

25.1 Basis of Warranties

The Seller hereby makes and gives to the Purchaser the warranties set out in clause 25.2 and elsewhere in this Agreement (the **Warranties**), it being agreed that:

- 25.1.1 the Warranties shall be deemed to be representations and undertakings by the Seller in favour of the Purchaser in respect of the Unit;
- 25.1.2 each Warranty shall conclusively be deemed to be a material representation of fact inducing the Purchaser to enter into this Agreement unless the contrary is proved;
- 25.1.3 insofar as any of the Warranties are promissory or relate to a future event, they shall be deemed to be given as at the due date for the fulfilment of the promise or the happening of the event, as the case may be;
- 25.1.4 each Warranty shall be a separate warranty and shall not be restricted by reference or inference from the terms of any other Warranty;

- 25.1.5 for Warranties that are qualified by the knowledge of the Seller, "Knowledge" shall mean information the Seller ought reasonably to have known and the actual knowledge of the Seller; and
- 25.1.6 save as otherwise stated or indicated by the context, each Warranty shall be read as being given as at the Signature date and the Registration Date, and all periods between such dates and to the extent that they relate to a date or event which extends beyond the Registration Date with reference to circumstances existing at that time, each Warranty, indemnity and undertaking given in this Agreement shall be read as being given as at such later date.

25.2 Warranties

The Seller warrants that -

- 25.2.1 the Land is appropriately zoned for the purposes of the Development;
- 25.2.2 there are no conditions of title, servitudes or restrictions registered against the title deeds of the Land which are contrary to or which would prejudice the implementation of the Development;
- 25.2.3 no claims are pending under the Restitution of Land Rights Act, No. 22 of 1944, against the Land;
- 25.2.4 no legal action has been instituted by or against the Seller who has no knowledge of any contemplated legal action in terms whereof the Land and/or the Unit may be attached and Transfer may be interdicted or delayed;
- 25.2.5 the information and documentation provided by the Seller to the Purchaser in this Agreement, in respect of the Warranties, and all other material matters relating to the Land, the Development and the Unit, are true and correct in all material respects and are to the best of the Seller's knowledge;
- 25.2.6 the Seller has disclosed to the Purchaser all facts and circumstances which would be material to the Purchaser purchasing the Unit;
- 25.2.7 In terms of section 55 of the Consumer Protection Act, the Unit will be useable and durable for a reasonable period of time, having regard to the use to which the Unit would normally be put and to all the surrounding circumstances of its supply except to the extent that the Buildings have been altered after having left the control of the Seller;
- 25.2.8 in accordance with the provisions of section 55(6) of the Consumer Protection Act, the:
- 25.2.8.1 Purchaser has been expressly informed that the Unit will on completion be offered to the Purchaser in the condition as it stands with certain patent (visible) defects and possible latent (invisible) defects; and
- 25.2.8.2 Seller will allow the Purchaser a reasonable opportunity to examine the Unit, that the Purchaser will be allowed to carefully inspect the Unit and expressly agrees to accept the Unit in the condition that it stands or, if the Building still needs to be erected in terms of the provisions of this Agreement, then Purchaser agrees to accept the Unit as it stands provided the Buildings are erected in a workmanlike fashion and substantially in terms of this Agreement,
- and accordingly the Warranties contained in section 55 of the Consumer Protection Act that the Unit will be reasonably suitable for the purposes for which it is generally intended and is of good quality, in good working order and free of any defects, are not applicable to the transaction contemplated in this Agreement;
- 25.2.9 in terms of section 13(2) of the Housing Consumers Protection Act, the Buildings to be constructed in terms of this Agreement shall be:
- 25.2.9.1 constructed in a workmanlike manner;
- 25.2.9.2 fit for habitation; and
- 25.2.9.3 constructed in accordance with the:
- 25.2.9.3.1 NHBC technical requirements to the extent applicable to the Buildings at the date of enrolment of the Buildings with the NHBC; and
- 25.2.9.3.2 Schedule of Finishes and Specifications and Floor Finishes Options;
- 25.3 The Seller shall -

- 25.3.1 subject to the limitations and exclusions that may be prescribed, at the cost of the Seller and upon demand by the Purchaser, rectify major structural defects in the Buildings caused by the non-compliance with the NHBC technical requirements and occurring within a period of 5 (five) years from the Registration Date, and notified to the Seller by the Purchaser within that period;
- 25.3.2 rectify non-compliance with or deviation from the Schedule of Finishes and Specifications or any deficiency related to the design, workmanship or material notified to the Seller by the Purchaser within a period of 3 (three) Months as from the Registration Date; and
- 25.3.3 repair roof leaks attributable to workmanship, design or materials occurring and notified to the Seller by the Purchaser within 12 (twelve) Months as from the Registration Date.
- 25.4 Save as specifically set out in this Agreement and its appendices, the Seller has made and makes no representations and has not given or gives no warranties in respect of the Unit or the Scheme or in respect of anything relating thereto.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 25	<i>Initials of the Purchaser</i>
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26. THE AGENT AND RELATED PROVISIONS

- 26.1 The Estate Agent is the effective cause of the Sale. The Seller is liable for the payment of the Estate Agent's commission, which shall be deemed to have been earned on the Registration Date.
- 26.2 The Estate Agent's commission plus VAT is payable to the Estate Agent as soon as possible after the Registration Date.
- 26.3 If this Agreement is cancelled as a result of the Purchaser's breach or as a result of the Seller releasing the Purchaser of the Purchaser's obligations under this Agreement, then the Seller or the Estate Agent is entitled to claim payment of the commission from the Purchaser.
- 26.4 Save as set out in this clause 26, the Parties agree that they were not introduced to each other or to the Unit by any person who is entitled to claim commission or any like remuneration on or in connection with such introduction in circumstances which could give rise to a claim for estate agent's commission or other commission against one or both of the Parties.

27. BREACH

- 27.1 If the Purchaser commits a breach of the provisions of this Agreement, then the Seller must give the Purchaser 5 (five) Business Days' written notice to remedy the breach in question.
- 27.2 If the Purchaser fails to comply with the notice of breach referred to in clause 27.1, then the Seller is entitled, at its sole discretion, to:
- 27.2.1 cancel this Agreement and to claim payment of all monies due to the Seller; and/or
- 27.2.2 retain all monies paid by the Purchaser under this Agreement on account of the damages which will be suffered by the Seller as a result of the abovementioned breach; and/or
- 27.2.3 claim specific performance by the Purchaser of the Purchaser's obligations owed to the Seller under this Agreement;
- without prejudice to the Seller's rights to claim damages from the Purchaser together with legal costs on an attorney own scale basis.
- 27.3 The Purchaser is liable for and shall pay on demand the legal costs, on the attorney and client scale, incurred by the Seller in legal proceedings instituted by the Seller against the Purchaser as a result of or arising from a breach of this Agreement.

The Purchaser, by initialling in the adjacent block, acknowledges having read and understood the provisions of this clause 27	<i>Initials of the Purchaser</i>
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28. EXPERT DETERMINATION

When in terms of this Agreement any matters are referred for expert determination:

- 28.1 the reference shall be deemed to be a reference to any person suitably qualified to determine the dispute in question appointed for this purpose by agreement between the Parties and failing agreement by the President, chairman or titular head of the professional body to which such person belongs (the **Expert**);
- 28.2 the reference shall be to the Expert acting as an expert and not as an arbitrator, with a view to the matter being dealt with as expeditiously as possible;
- 28.3 each Party is entitled to submit written representations in respect of all relevant factors to the Expert for consideration within 10 (ten) Business Days of the matter having been referred for determination by the Expert;
- 28.4 the Parties shall use their respective reasonable endeavours to procure that the Expert's determination of the matter concerned is made within a period of 20 (twenty) Business Days from the expiry of the date within which the Parties are to submit written submissions to the Expert in terms of clause 28.3;
- 28.5 the Expert's determination shall be final and binding on the Parties and carried into effect by the Parties; and
- 28.6 the cost of the Expert in making the Expert's determination shall be determined by the Expert when making the Expert's award.

29. DOMICILIUM AND NOTICES

- 29.1 The Parties choose as their *domicilium citandi et executandi* their respective addresses set out in the Transaction Schedule for all purposes arising out of or in connection with this Agreement at which addresses all the processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.
- 29.2 For the purpose of this Agreement the Parties' respective addresses shall be as set out in the Transaction Schedule, or at such other address in South Africa, not being a post office box, of which the Party concerned may notify the other in writing.
- 29.3 Any notice given in terms of this Agreement shall be in writing and shall if delivered by -
- 29.3.1 hand be deemed to have been duly received by the addressee on the date of delivery; and
- 29.3.2 recognised international courier service be deemed to have been received by the addressee on the 1st (first) Business Day following the date of such delivery by the courier service concerned.
- 29.4 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

30. INTERPRETATION

- 30.1 Clause and paragraph headings are for purposes of reference only and shall not be used in interpretation.
- 30.2 Unless the context clearly indicates a contrary intention, any word connoting:
- 30.2.1 any gender includes the other two genders;
- 30.2.2 the singular includes the plural and vice versa;
- 30.2.3 natural persons includes artificial persons and vice versa;
- 30.2.4 insolvency includes provisional or final sequestration, liquidation or judicial management.
- 30.3 A reference to a Business Day is a reference to any calendar day excluding Saturday, Sunday and a public holiday in South Africa
- 30.4 When any number of days is prescribed such number shall mean calendar days, unless Business Days are expressly referred to, and shall exclude the first and include the last day unless the last day falls on a Saturday, Sunday, or a public holiday in South Africa, in which case the last day shall be the next succeeding Business Day.
- 30.5 References to statutory provisions or enactments:
- 30.5.1 include any subordinate legislation made from time to time under that statutory provision or enactment; and
- 30.5.2 are references to such statutory provisions or enactments as at the Signature date and as amended or re-enacted from time to time.

- 30.6 The rule of interpretation that a written agreement shall be interpreted against the party responsible for the drafting or preparation of that agreement shall not apply.
- 30.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement.
- 30.8 The *eiusdem generis* rule shall not apply and accordingly, whenever a provision is followed by the word "including" and specific examples, such examples shall not be construed so as to limit the ambit of the provision concerned.
- 30.9 Where any term is defined within the context of any particular clause in this Agreement, then, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, the term so defined shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in the definition clause.
- 30.10 Any reference in this Agreement to this Agreement or any other agreement, document or instrument shall be construed as a reference to this Agreement or that other agreement, document or instrument as amended, varied, novated or substituted from time to time.
- 30.11 If any obligation or act is required to be performed on a particular day it shall be performed by 16h00 (local time at the place where the obligation or act is required to be performed) on that day.
- 30.12 Any term which refers to a South African legal concept or process (for example, and without limiting the generality of the foregoing, winding-up or curatorship) shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this Agreement may apply.

31. MISCELLANEOUS

31.1 Purchaser's right in terms of section 16 of the Consumer Protection Act

- 31.1.1 This clause 31.1 is applicable only if the Purchaser is a natural person or a legal entity with an annual turnover or asset value of less than R2 000 000 (two million rand).
- 31.1.2 If this Agreement is entered into between the Parties as a result of the direct marketing to the Purchaser by the Seller or Estate Agent, then the Purchaser is entitled to cancel this Agreement within 5 (five) Business Days after the Signature date or within 5 (five) Business Days after the Registration Date.
- 31.1.3 If the Purchaser elects to exercise the Purchasers' right in terms of this clause 31.1, then the Purchaser must -
- 31.1.3.1 inform the Seller in writing within 5 (five) days of the date referred to in clause 31.1.2 that the Purchaser is cancelling this Agreement; and
- 31.1.3.2 return the Unit within 10 (ten) Business Days after the Registration Date in the same condition as the Unit was given to the Purchaser. The return of the Unit will be done at the Purchaser's own risk and cost, and, will include transfer fees in respect of the Unit including, but not limited to transfer duty, VAT, and conveyancing fees.
- 31.1.4 If the Unit are returned to the Seller in terms of clause 31.1, then the Purchaser is liable to the Seller for the costs that must be incurred to rectify any damage caused to the Unit.
- 31.1.5 If and when clause 31.1.4 has been complied with, the Seller shall return all payments made by the Purchaser to the Seller within 15 (fifteen) Business Days, provided that the Seller is entitled to set- off the amounts that may be necessary for costs for remedial work as provided for in clause 31.1.4.

31.2 VAT

The Purchase Price is inclusive of VAT at the applicable standard rate. If applicable VAT rate changes at any time prior to the Registration Date, then the Seller is entitled to adjust the Purchase Price accordingly by giving the Purchaser written notice to that effect.

31.3 Offer to Purchase

- 31.3.1 Signature of this Agreement by the Purchaser shall be deemed to constitute an offer by the Purchaser to the Seller to enter into this Agreement, which offer shall not be capable of revocation or withdrawal by the Purchaser for a period of 14 (fourteen) days after such signature.
- 31.3.2 This Agreement is binding on the Seller when duly signed by the Seller, and until such time, no obligation or liability on the part of the Seller shall exist.

31.4 Warranty of Authority and the Purchaser's tax affairs

- 31.4.1 Each Party warrants to the other Party that it has power, authority and legal right to sign and perform this Agreement and that this Agreement has been duly authorised by all necessary actions of its directors/members/trustees and constitutes valid and binding obligations on it in accordance with the terms of this Agreement.
- 31.4.2 The Purchaser warrants that all the Purchaser's income tax, VAT returns and the Purchaser's other tax returns have been timeously submitted to the Commissioner: South African Tax Services (**SARS**), that all tax payments due by the Purchaser have been submitted to SARS and that the Purchaser has no reason to believe that the Transfer will be delayed as a result of the Purchaser's tax affairs not being in order. The Purchaser acknowledges and agrees that if Transfer is delayed as a result of the Purchaser's tax affairs not being in order, then this delay will constitute a breach of a material term of this Agreement thereby entitling the Seller to invoke the remedies set out in this Agreement.

31.5 Payment and Interest

- 31.5.1 Payments in terms of or arising out of this Agreement by the Purchaser to the Seller shall be made without deduction whatsoever.
- 31.5.2 The Purchaser is not entitled to defer, deduct, set off, adjust or withhold any payment due to the Seller in terms of or arising out of this Agreement or to obtain deferment of judgment for such amount or any execution of such judgment by reason of any set-off or counterclaim of whatsoever nature or howsoever arising.
- 31.5.3 Save to the extent otherwise provided, all amounts due by the Purchaser to the Seller (including damages) in terms of or arising out of this Agreement shall, unless paid on due date, bear interest from the due date to date of payment. Such interest shall be -
- 31.5.3.1 calculated at the Prime Rate; and
- 31.5.3.2 capitalised monthly in arrears on the balance due.
- 31.5.4 If there is any dispute as to the amount of the Prime Rate, the certificate furnished in writing by any manager of FirstRand Bank Limited (acting through its Rand Merchant Bank division), whose appointment, designation and authority as such, it shall not be necessary to prove, shall be *prima facie*, proof of the amount of the Prime Rate.

31.6 Independent Advice

- 31.6.1 Each of the Parties acknowledge that:
- 31.6.1.1 they have been free to secure independent legal advice as to the nature and effect of all of the provisions of this Agreement and that they have either taken such independent legal advice or dispensed with the necessity of doing so; and
- 31.6.1.2 all of the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are part of the overall intention of the Parties in connection with this Agreement.

31.7 Further Assurances

The Parties agree to perform any further acts and to execute and deliver any further documents which may be necessary or appropriate to carry out the purposes and the implementation of this Agreement.

31.8 **Relationship of the Parties**

The relationship of the Parties, *inter se*, shall be governed by the terms of this Agreement and nothing contained herein shall be deemed to constitute a partnership, joint venture or the like between them nor to constitute one Party the agent of the other for any purpose. No Party shall by reason of the actions of the other Party incur any personal liability as a co-partner to any third Party and no Party shall be entitled to authorise, to represent or hold out to any third Party that the relationship between the Parties is that of a partnership, joint venture or the like as aforesaid.

31.9 **Whole Agreement**

This Agreement constitutes the whole agreement between the Parties as to the subject-matter hereof and no agreement, representations or warranties between the Parties other than those set out herein are binding on the Parties.

31.10 **Variation**

No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the Parties or their duly authorised representatives.

31.11 **Relaxation**

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from this Agreement or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

31.12 **Costs**

31.12.1 Each Party shall pay their own cost of negotiating, drafting, preparing and implementing this Agreement and the appendices to it.

SIGNED at _____ on this the _____ day of _____.

THE SELLER

Signatory:

Capacity:

Who warrants his authority hereto

SIGNED at _____ on this the _____ day of _____.

THE PURCHASER

Signatory:

Capacity:

Who warrants his authority hereto

SIGNED at _____ on this the _____ day of _____ 20__.

THE PURCHASER

Signatory:

Capacity:

Who warrants his authority hereto

CONSENT BY SPOUSE/SURETY OF THE PURCHASER

I, the undersigned, being the spouse/surety of the Purchaser do hereby furnish my formal consent to the conclusion of this Agreement and grant my assistance, as far as is necessary, to the Purchaser in regard to the conclusion of this Agreement.

SIGNED at _____ on this the _____ day of _____ 20__.

Signatory:

Capacity:

Who warrants his authority hereto

WE, THE UNDERSIGNED, THE AGENT, HEREBY ACCEPT THE BENEFITS CONFERRED UPON US IN TERMS OF THIS AGREEMENT

SIGNED at _____ on this the _____ day of _____ 20__.

THE ESTATE AGENT

Signatory:

Capacity:

Who warrants his authority hereto

APPENDIX 2 – ARCHITECHUTRAL DRAWING : SECTION SITE PLAN

APPENDIX 3 – ARCHITERUCAL DRAWING : SECTION FLOOR PLAN

APPENDIX 4 – ARCHITECTURAL DRAWING : BUILDING ELEVATIONS

APPENDIX 5 – ARCHITECTURAL DRAWING : PARKING BAY ALLOCATION SITE PLAN

APPENDIX 6 – FLOOR FINISHES OPTIONS

APPENDIX 7 – SCHEDULE OF FINISHES AND SPECIFICATIONS