

AGREEMENT OF SALE

COVERING SCHEDULE

SCHEME :

1. PARTIES

1.1 **SELLER** :

1.2 **PURCHASER 1**

Full Names :

Date of Birth :

Date and Place of

Marriage :

Present address :

Future address :

As from :

Phone Home :

Phone Work :

Phone cell :

E-mail :

Fax :

PURCHASER 2

Full Names :

Date of Birth :

Date and Place of

Marriage :

Present address :

Future address :

As from :

Phone Home :

Phone Work :

Phone cell :

E-mail :

Fax :

2. THE PROPERTY:

ESTIMATED AREA

2.1 Section (Flat) : (No. _____) _____ square metres

2.2 Section (No. _____) _____ square metres

2.3 Section (No. _____) _____ square metres

2.4 Exclusive Use to : (No. _____) _____ square metres

2.5 Exclusive Use to : (No. _____) _____ square metres

2.6 Exclusive Use to : (No. _____) _____ square metres

3. **TOTAL PURCHASE PRICE** : R..... (inclusive of Value Added Tax) payable as follows:

3.1 Deposit 3.1.1 : R (Payable on signature hereof by PURCHASER)

3.1.2 : R (Payable on)

3.1.3 : R(Payable on)

3.2 The balance of the purchase price on registration of transfer.

4. **MORTGAGE BOND**

4.1 Amount of Bond : R

4.2 To be approved by
(i.e. date) :

5. Estimated Monthly LEVY : R

6. Anticipated occupation date :

7. **AGENT** :

SIGNED at on the day of 200_

PURCHASER

SELLER

PURCHASER

AS WITNESSES

1. _____

2. _____

WHEREAS

- A. The SELLER is proposing the development of Erf broadly in accordance with certain plans together with the specification schedule referred to in Clause 21.1, copies of which are annexed hereto (the "DEVELOPMENT").
- B. The SELLER intends to apply for the approval of the DEVELOPMENT in terms of the Sectional Titles Act, 1986 (the "ACT") and the opening of a Sectional Title Register in respect thereof.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. **DEFINITIONS**

1.1 Unless inconsistent with the context the following words and phrases shall have the meanings set out hereunder.

- The ACT: The Sectional Titles Act No. 95 of 1986, as amended and includes the regulations framed thereunder or as amended from time to time.
- The ARCHITECT/DESIGNER: or such other architects/designers appointed to act as such from time to time by the SELLER.
- The ATTORNEYS: Buchanan Boyes or such other attorneys appointed to act as such from time to time by the SELLER.
- The BUILDING: The buildings to be constructed upon the land to be known as (or such other name as the SELLER may, at its discretion determine) as more fully depicted on the plans annexed hereto.
- COMMON PROPERTY: The portions of the DEVELOPMENT not forming part of any section and/or unit in the DEVELOPMENT in terms of the ACT and excludes any EXCLUSIVE USE AREAS.
- CONDITION PRECEDENT: The conditions referred to in Clause 5.
- The DEVELOPMENT: The land and buildings referred to in the preamble.
- EXCLUSIVE USE AREAS: The areas demarcated for exclusive use and depicted as such in the annexed plans in respect of the DEVELOPMENT.
- The LAND SURVEYOR: or such other land surveyors appointed to act as such from time to time by the SELLER.
- OCCUPATION DATE: The date upon which the UNIT is available for beneficial occupation.
- THE PLANS: The plans annexed hereto depicting the proposed development including the floor plan, the individual section plan, the parking bay plan and storeroom/store area plan and the elevation plan.
- THE PRIME RATE: The publicly quoted lowest rate of interest from time to time at which The Standard Bank of South Africa Limited lends on unsecured overdraft to most favoured South African Corporate customers.
- The PROPERTY: The UNIT/s hereby purchased together with the right of exclusive use hereby purchased to the area/s numbered as such in the SCHEDULE and further identified in the annexed plans in respect of the DEVELOPMENT.
- The SCHEDULE: The Covering Schedule being the first and second page of this Agreement.
- The SECTION: means the Section or sections described in the SCHEDULE.
- The SPECIFICATION SCHEDULE: The Schedule annexed hereto containing the minimum specifications for the development and the schedule of extras.

5. **CONDITION PRECEDENT**

- 5.1 The PURCHASER acknowledges that the economic viability of the DEVELOPMENT depends largely on the response by the purchasing public to the advertising campaign launched in respect of the DEVELOPMENT.
- 5.2 It is specifically agreed that this Agreement is subject to and conditional upon the SELLER resolving to implement the DEVELOPMENT. If the SELLER or his AGENT fails to notify the PURCHASER in writing by of its decision not to implement the DEVELOPMENT, the SELLER shall be deemed to have committed itself to the DEVELOPMENT and this Agreement shall be binding in all respects. If the SELLER elects not to proceed with the DEVELOPMENT then and upon refund to the PURCHASER of the deposit paid in terms of clause 4.1 together with interest thereon earned in terms of clause 4.1 the parties reciprocally acknowledge that they shall have no further claim the one against the other arising herefrom.

6. **OCCUPATION/POSSESSION**

- 6.1 The PURCHASER is entitled to receive thirty (30) days prior notice of the OCCUPATION DATE.
- 6.2 Notwithstanding the provisions of 6.1, the SELLER shall have the right, within 21 (twenty one) days from the date of having given notice of the OCCUPATION DATE referred to in 6.1, to advise the PURCHASER of a revised date of occupation.
- 6.3 A certificate issued by the ARCHITECT/DESIGNER to the effect that the Unit is suitable for beneficial occupation is binding upon the parties and when issuing such certificate he shall be deemed to have acted as an expert.
- 6.4 Possession and occupation shall be given to the PURCHASER who shall be obliged to take the same on the OCCUPATION DATE subject to the SELLER being satisfied that the PURCHASER has fulfilled all his financial obligations and arrangements arising from this Agreement.
- 6.5 The SELLER shall not be responsible for any loss, damage or inconvenience suffered by the PURCHASER by reason of any building operations which may be conducted in respect of the DEVELOPMENT after the OCCUPATION DATE.
- 6.6 From the OCCUPATION DATE until the date of registration of transfer of the PROPERTY into the name of the PURCHASER, the PURCHASER shall:
- 6.6.1 Keep the UNIT in good repair and shall not store or harbour or allow to be stored or harboured in or about the UNIT and/or EXCLUSIVE USE AREA and/or the land and/or by the BUILDING any articles, goods or materials which may vitiate any fire or other insurance policy held by the SELLER or increase the premiums payable in respect of such policy.
- 6.6.2 Permit the SELLER or his Agent at all reasonable times to enter and inspect the UNIT;
- 6.6.3 Be responsible for all costs of electricity and water consumed in the UNIT insofar as these may be separately metered;
- 6.6.4 Not make any alterations or additions to the UNIT, alter the colour scheme or redecorate.
- 6.6.5 Save insofar as may be inconsistent with the provisions of this Agreement, be responsible for all other obligations of an owner as set out in the ACT;
- 6.6.6 Comply with all Rules and Regulations applicable to the PROPERTY;
- 6.6.7 Be liable for levies payable calculated in accordance with the participation quota attributable to each UNIT as if the PURCHASER was the registered owner of the UNIT. Such levies shall be paid monthly in advance to the SELLER on the first day of each and every calendar month provided that if the OCCUPATION DATE falls on any day other than the first day of a calendar month, then the PURCHASER shall pay a pro rata share of the levies due for such broken calendar month. After registration of transfer the levies shall be paid to the Body Corporate.
- 6.6.8 Be liable for a monthly occupational consideration at the rate of 2% above the prime rate calculated on the balance of the purchase price outstanding from time to time calculated from the occupation date. Such occupational interest shall be payable on the occupation date for the period from the occupation date to the last day of the month following the month of occupation and thereafter monthly in advance on the first day of each and every succeeding calendar month.
- 6.9 Until the date of registration of transfer of the PROPERTY in the name of the PURCHASER, the PURCHASER shall not sell, let or in any other manner dispose of or part with the PROPERTY or any of his rights thereto.

7. **RISK**

From OCCUPATION DATE all risk in and benefit of the PROPERTY shall pass to the PURCHASER.

8. **TRANSFER**

- 8.1 Registration of transfer shall be effected by the ATTORNEYS as soon as practicable after the occupation date and the opening of the Sectional Title Register and provided the PURCHASER has complied with all his obligations.
- 8.2 The PURCHASER shall sign all necessary documents including bond documents (if applicable), at the offices of the Attorneys within 3 (three) days of being called upon to do so:
- 8.3 In the event that transfer of the unit is delayed by any act or omission of the PURCHASER, then the PURCHASER shall pay to the SELLER an increased occupational rental, equivalent to interest at 3% (three percent) above the prime rate on the balance of the purchase price from the day on which the transfer would, but for such delay, otherwise have been registered to the date of actual registration of transfer. For this purpose the attorneys assessment of the date on which transfer would otherwise have been registered shall be binding on the PURCHASER unless he shows the same to be unreasonable.
- 8.4 The PURCHASER shall accept transfer of the Unit subject to all conditions and servitudes benefiting or burdening the Unit and the Land whether existing or hereafter imposed by any competent authority and/or imposed by the SELLER.
- 8.5 In the event of there being any minor difference between the dimensions of and/or the levies payable in respect of any Unit as depicted on the Sectional plan from the reflected in this Agreement, the PURCHASER shall nevertheless accept transfer in satisfaction of the SELLER's obligations hereunder.

9. **COSTS**

- 9.1 The PURCHASER shall pay the costs of and incidental to the registration of transfer and the registration of the mortgage bond referred to in the schedule and the disbursements necessary to effect such registration, which amount shall be paid upon request by the Attorneys.
- 9.2 The SELLER shall pay the value added tax applicable to this sale.

10. **THE BODY CORPORATE**

The PURCHASER acknowledges that the Body Corporate shall be established upon the opening of the Sectional Title Register and the passing of the first transfer in terms thereof.

11. **THE SECTIONAL TITLE REGISTER**

The PURCHASER acknowledges that it is not possible for the SELLER to effect transfer of the UNIT until such time as the DEVELOPMENT is approved and the Sectional Title Register opened. The parties agree and undertake that:

- 11.1 The SELLER shall take all reasonable steps to procure the opening of a Sectional Title Register.
- 11.2 If the Sectional Title Register is not opened within six (6) months of the OCCUPATION DATE or such extended date as the parties may agree to in writing, this Agreement shall automatically lapse whereupon
 - 11.2.1 The PURCHASER and/or any person claiming occupation through the PURCHASER shall vacate the property by the last day of the month in which this Agreement lapsed;
 - 11.2.2 The PURCHASER shall redeliver the PROPERTY to the SELLER in the same good order and condition, fair wear and tear excepted;
 - 11.2.3 Provided the PURCHASER has complied with clauses 11.2.1 and 11.2.2 the SELLER shall refund to the PURCHASER all capital payments effected by the PURCHASER less any outstanding interest due by the PURCHASER in terms hereof, levies or other charges which were payable by the PURCHASER;

- 11.2.4 Upon fulfilment of the foregoing, the parties reciprocally acknowledge that they shall have no claim the one against the other arising herefrom.
- 11.3 If the SELLER is precluded by operation of law from giving transfer, notwithstanding the opening of the Sectional Title Register, this Agreement shall lapse upon the SELLER notifying the PURCHASER accordingly, whereupon sub-clauses 11.2.1 to 11.2.4 shall apply mutatis mutandis.
- 11.4 Until the appointment of Trustees and Managing Agents at the inaugural general meeting of the Body Corporate, the SELLER may delegate any or all of its powers and duties to Managing Agents who shall be entitled to exercise such powers as the SELLER may determine. The SELLER is entitled to appoint the first Managing Agents. Such appointment shall be binding on the Body Corporate for a period of one year reckoned from the inaugural general meeting of the Body Corporate. The PURCHASER hereby grants to the SELLER the irrevocable power to make such appointment.

12. **EXCLUSIVE USE AREAS**

- 12.1 In the event of EXCLUSIVE USE AREAS not having been finally determined at date of signature hereof, until registration of a sectional scheme in respect of the DEVELOPMENT, the SELLER hereby reserves the right in its absolute discretion to convert such portion/s of the COMMON PROPERTY as it may determine for exclusive use. The SELLER shall act in collaboration with the ARCHITECT/DESIGNER and/or LAND SURVEYOR (as determined by the SELLER) in so determining EXCLUSIVE USE AREAS and a decision so arrived at shall be binding on the PURCHASER. For the sake of clarity, it is recorded that an exclusive use area permits for the issue of a Certificate of Real Right in respect of a right of exclusive use to such area.
- 12.2 The cost of and incidental to the creation of EXCLUSIVE USE AREAS shall be borne by the SELLER and all Certificates of Registered Real Right in respect of EXCLUSIVE USE AREAS so created, shall be issued to and in the name of the SELLER who shall be entitled to dispose of or otherwise deal with such EXCLUSIVE USE AREAS for its own exclusive benefit and account.
- 12.3 The PURCHASER hereby grants to the SELLER an irrevocable power of attorney in rem suam (operative from the time that the PURCHASER becomes a registered owner of the UNIT/s forming the subject matter of this sale), to attend meeting/s of the Body Corporate and to vote at such meeting/s on behalf of and to the exclusion of the PURCHASER in support of such resolutions as may be necessary to give effect to the foregoing sub-clauses, and to exercise the proxy hereby granted by the PURCHASER to the SELLER in connection therewith.
- 12.4 In the event of the PURCHASER selling the UNIT/s prior to the establishment of EXCLUSIVE USE AREAS in terms of the foregoing, it is the PURCHASER's obligation to disclose the contents of this clause to such subsequent purchaser, who shall be bound thereby.
- 12.5 Should the PURCHASER's signature be required to any documents necessary to procure implementation of the foregoing, the PURCHASER undertakes to sign such document/s immediately upon request by the SELLER.
- 12.6 The PURCHASER shall, subject to the Rules be entitled to the exclusive use and enjoyment of the EXCLUSIVE USE AREAS purchased as recorded in the SCHEDULE hereto.
- 12.7 The PURCHASER of the EXCLUSIVE USE AREA shall take all reasonable steps to keep such area in a clean, hygienic, neat and attractive condition and shall not use the area in such a manner or for such purposes as are likely to impair the safety, appearance or amenity of other UNIT/s or other parts of the COMMON PROPERTY. In the event of the PURCHASER failing to so maintain the EXCLUSIVE USE AREA, the Body Corporate shall be entitled to remedy the PURCHASER's failure and to recover the reasonable cost of doing so from him.
- 12.8 The PURCHASER shall allow the Body Corporate access to and across the EXCLUSIVE USE AREAS for any purpose reasonably required for maintenance of the COMMON PROPERTY or the BUILDING.

13. **JOINT PURCHASERS**

Insofar as there may be more than one PURCHASER in terms of this Agreement, the liability of each of such PURCHASERS shall be joint and several and in solidum.

14. **BREACH**

Should the PURCHASER breach any of his obligations under this Agreement (which shall include the signature of any documentation relating to the passing of transfer or the payment of any amount due under this agreement or the delivery of the guarantee referred to in clause 4.2 and remain in breach thereof after the expiry of a period of Seven (7) days notice in writing, given to the PURCHASER by the SELLER or on his behalf calling upon the PURCHASER to remedy such breach the SELLER shall have the right, without prejudice to any other rights to which he may be entitled in law, or under this Agreement namely:-

EITHER

- (a) to hold the PURCHASER bound to his Agreement, to enforce performance of the obligations of the PURCHASER hereunder and to claim immediate payment of all amounts payable by the PURCHASER under this Agreement, including payment of the full balance of the purchase price outstanding together with any interest accruing thereon, costs and other charges;

OR

- (b)
 - (i) to cancel this Agreement forthwith; and
 - (ii) retake possession of the property, the PURCHASER hereby waiving any lien for improvements which he may have over the property; and
 - (iii) claim damages from the PURCHASER in which event he shall not be obliged to return to the PURCHASER such amounts as have already been paid by the PURCHASER, but shall be entitled to retain such amounts, together with interest accruing thereon, pending the determination of the amount of such damages and upon such determination in favour of the SELLER such amounts shall be deemed to have been paid by the PURCHASER on account of the damages suffered by the SELLER and the balance of the amount paid by the PURCHASER shall be refunded to him should the damages be less than the actual payment made; or
 - (iv) retain all amounts paid by the PURCHASER as liquidated damages.

15. **COMMISSION**

The SELLER acknowledges being solely responsible to the Agent referred to in the SCHEDULE for payment of commission as agreed. The PURCHASER warrants that the said Agent is the only Agent who introduced him to the PROPERTY and the SELLER. The PURCHASER hereby indemnifies and holds the SELLER free and harmless against any claim which may be made by any other Agent in respect of commission arising out the the sale of the PROPERTY where such other Agent claims to have actually introduced the PURCHASER to the PROPERTY and/or to the SELLER in connection with this transaction.

16. **NOTICES AND DOMICILIA**

- 16.1 The Parties to the Agreement choose the following addresses as their respective domicilia citandi et executandi for all purposes arising hereunder and as their respective addresses for the service of any notices required to be served upon them hereunder:-
 - 16.1.1 the SELLER at _____
FAX. NO.
 - 16.1.2 the PURCHASER at _____
FAX NO.
- 16.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give such notice by telefax.
- 16.3 Either party may by notice to the other change the physical address chosen as its/his domicilium, or may advise a telefax number or change the telefax number; provided that such change[s] shall only become effective on the sixth business day after the date of receipt, or deemed date of receipt, of such notice by the addressee.
- 16.4 Any notice to a party shall –
 - 67.4.1 If sent by pre-paid registered post, be deemed to have been received on the sixth business day after posting unless the contrary is proved.
 - 16.4.2 If delivered by hand, shall be deemed to have been received on the day of delivery or on the next business day after posting unless the contrary is approved.

- 16.4.3 If sent by telefax, shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day unless the contrary shall otherwise be proved.
- 16.4.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party to this Agreement shall be an adequate written notice or communication to it/him notwithstanding that it was not sent to or delivered at the chosen domicilium citandi et executandi or transmitted to such party's telefax number as stipulated herein.

17. **WARRANTIES**

- 17.1 The PURCHASER shall, within 90 (Ninety) days after the OCCUPATION DATE, notify the SELLER in writing of all or any defects in the UNIT, failing which the PURCHASER shall be deemed to have accepted the UNIT in good order and condition. The SELLER shall cause all or any reasonable repairs as notified by the PURCHASER to be effected as soon as is reasonably possible thereafter.
- 17.2 Save as specifically set out in this Agreement, the SELLER has made no representations and given no warranties in respect of the subject matter of this Agreement or in respect of anything relating thereto and this sale is accordingly "voetstoots".
- 17.3 If any work of whatsoever nature is still required to be done to the UNIT, the PURCHASER shall not be entitled to withhold, set off or retain any amounts owing by the PURCHASER to the SELLER nor shall the PURCHASER be entitled to withhold or abate payment of any amount due to the SELLER in terms of this Agreement by reason of any breach or alleged breach of the SELLER's obligations hereunder.
- 17.4 Insofar as the SELLER has received warranties from contractors/nominated sub-contractors/suppliers and a defect in the PROPERTY manifests itself, the SELLER shall, upon request by the PURCHASER, cede its rights in such warranty to the PURCHASER to the extent that the terms of such warranty do not preclude such cession and upon cession as aforementioned, the PURCHASER shall have no further claim against the SELLER arising from such defect.
- 17.5 All warranties and undertakings given by the SELLER to the PURCHASER in terms of this Agreement are personal to the PURCHASER who shall not cede, assign or make-over his rights thereto.
- 17.6 The PURCHASER shall have no claims against the SELLER for any discrepancies of whatsoever nature between the building plans and specifications relating to the DEVELOPMENT and/or BUILDING and the completed DEVELOPMENT.
- 17.7 The PURCHASER shall accept transfer of the unit subject to all conditions and servitudes, benefitting or burdening the unit and the land comprising the development, whether existing or hereafter imposed by any competent authority or by the SELLER.

18. **SOLE CONTRACTUAL RELATIONSHIP**

- 18.1 The parties hereto acknowledge that this Agreement contains the entire agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever have been made by either party or their agents other than as set forth in this Agreement.
- 18.2 No variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.

19. **INDULGENCES**

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

20. **INDEMNITY**

Notwithstanding anything to the contrary herein contained, the SELLER shall not be responsible for any loss or damage which the PURCHASER may suffer as a result of any act or omission whatsoever or neglect on the part of the SELLER, its servants, employees or agents, nor shall the SELLER be responsible for any loss or damage of any description whether to property or person which the PURCHASER or any other person may suffer by reason of the UNIT or the BUILDING at any time falling into a defective state, or by reason of any repairs to the remainder of the DEVELOPMENT which are to be effected by the SELLER or any other occupant thereof not being effected timeously or at all, and the PURCHASER shall not be entitled for any of the said reasons or for any other reason whatsoever to withhold payment of any monies due to the SELLER in terms hereof.

21. **VARIATIONS OF SPECIFICATIONS**

- 21.1 The PROPERTY shall be substantially in accordance with the annexed plans and specification schedule provided that the SELLER shall be entitled to substitute items of a similar standard and quality for any specified item. By way of illustration, if a brand of carpet is specified which is subsequently discontinued, the SELLER shall be entitled to substitute with a carpet of equivalent quality. If any dispute arises between the parties in respect of any such substitution, such dispute shall be referred to the ARCHITECT/DESIGNER for decision. The decision of the ARCHITECT/DESIGNER shall be final and binding on the parties.
- 21.2 The SELLER shall be entitled to vary the plans for the PROPERTY for any reason considered reasonably necessary by the SELLER, but so that the PURCHASER's rights will not be materially prejudiced or affected thereby.
- 21.3 The SELLER shall have the right for technical or aesthetic reasons to make changes in the area or lay-out of the PROPERTY or of the UNIT or of any other UNIT as indicated on the plans, provided the area of the UNIT shall not vary by more than 5% (five per centum) of the estimated area as reflected in the annexures hereto.
- 21.4 If a dispute arises between the parties as to either the design or standard of finishes, then the ARCHITECT/DESIGNER shall in his absolute discretion determine whether or not there has been substantial compliance and the parties are bound by such decision.
- 21.5 The SELLER shall not be obliged at any stage, to agree to any extras, omissions, variations or changes of any nature whatsoever to the UNIT.
- 21.6 The PURCHASER shall not employ any person or firm to carry out any work of whatsoever nature on or to the UNIT prior to registration of transfer.
- 21.7 The PURCHASER will be given the opportunity of exercising a choice of certain finishes from the selection to be made available by the SELLER, broadly in terms of the SPECIFICATION SCHEDULE attached hereto. Such choice relates, inter alia, to carpet colours, tiles and certain standard options. The PURCHASER undertakes to finalise his choice of finishes within fifteen (15) days after receiving written notice to that effect from the SELLER. Should the PURCHASER fail to sign the relevant Schedule of Finishes form within such period for any reason whatsoever, then the PURCHASER shall be deemed to have appointed the ARCHITECT/DESIGNER as his agent to make such selection on his behalf and the ARCHITECT/DESIGNER'S choice shall be regarded as final and binding.

22. **LOAN FINANCE**

In the event of loan finance being required, then the following shall apply:

- 22.1 This sale is subject to the suspensive condition that a bank or other registered financial institution, grants, on the security of a mortgage bond over the Property, a loan to the PURCHASER by the date and in the amount specified in item 4 of the Schedule.
- 22.2 The PURCHASER hereby grants an irrevocable power of Attorney in favour of the SELLER who shall be entitled, but not obligated, to apply for the said loan on behalf of the PURCHASER, and/or at the SELLER's discretion to provide collateral security, interim finance or appropriate guarantees for such loan and/or to apply for any additional loan as may be required. The PURCHASER acknowledges however that the Power in this Clause 22.2 in no way relieves the PURCHASER of his obligation to apply for the said loan from a bank or financial institution. The PURCHASER shall be entitled, by giving at any time prior to the time for its fulfillment, written notice to the SELLER or the SELLER's Attorneys waiving the said condition.
- 22.3 In the event of the condition referred to in Clause 22.1 not being fulfilled or waived timeously, then the condition in Clause 22.1 shall be deemed to be incapable of fulfillment and this Agreement shall be of no force and effect.
- 22.4 In the event of Clause 22.3 above applying, neither party shall have any claim against the other.

23. **VARIATIONS**

- 23.1 For purposes of this clause "VARIATIONS" shall mean any alteration or modification of the design or quality of finishes or any addition, substitution or omission to or from the UNIT as reflected in the annexed plans and specification, which have been recorded in writing and signed by both the PURCHASER and the SELLER, or the SELLER's authorised agent.
- 23.2 In the event of the SELLER agreeing to undertake VARIATIONS, the SELLER will not be required to proceed therewith until payment for such VARIATIONS has been made in full to the SELLER. If the SELLER elects to proceed with the VARIATIONS prior to the receipt of payment in respect thereof the PURCHASER shall be liable for payment of interest from the date of commencement of the VARIATIONS to date of payment at the rate of interest determined in accordance with sub-clause 4.3. The SELLER shall be entitled to require payment upon demand.

24. **OFFER**

This Agreement, once signed by the PURCHASER shall be regarded as an offer by the PURCHASER and shall be irrevocable and open to acceptance by the SELLER within a period of thirty (30) days from date of signature by the PURCHASER and shall not be capable of being withdrawn by him during the said period.

25. **NOMINATION**

25.1 If the PURCHASER has signed this agreement to purchase reserving for himself the right to nominate a nominee as PURCHASER in his place and stead, then the parties agree that the PURCHASER shall nominate his nominee and the nominee shall accept such nomination [both in writing] by 24h00 on date of signature of this agreement. Should the PURCHASER and/or his nominee fail to timeously nominate or accept the nomination as the case may be, the right to nominate a nominee shall lapse.

25.2 In the event of the PURCHASER validly nominating a nominee as required by the provisions of 25.1 above the PURCHASER hereby binds himself to the SELLER as surety and co-principal debtor in solidum with the nominee under renunciation of the benefits of excussion and division, for the due fulfillment by the nominee of all of the PURCHASER's obligations arising from this agreement.

26. **EXTENSION OF SECTIONAL TITLE SCHEME**

26.1 The PURCHASER is aware that the SELLER intends to build the sections comprising the Development in phases and to register more than one sectional plan (in accordance with the provisions of Section 25 of the Act) in the course of completion of the Development. For this purpose the SELLER shall reserve the necessary rights to itself on opening the Sectional Title Register for the first phase of the Development.

26.2 The PURCHASER shall be obliged to allow the SELLER to exercise its positive right to proceed for its own account for the erection of all of the buildings shown on the building plans annexed hereto and to allocate areas of common property for the exclusive use of other owners or for communal facilities. To this end the PURCHASER hereby grants to the SELLER all necessary consents, powers and authorities as may be required for such purposes and consents to the participation quota allocated to his section being adjusted on the registration of each sectional plan of extension.

26.3 In the event of such right being exercised by the SELLER or its successor in title and due to changed circumstances making strict compliance with the sectional plan, building plan and other documentation and specifications as is referred to in Section 25(2) of the Act impracticable, then the PURCHASER consents to such changes/amendments as may be necessitated due to such circumstances within the sole discretion of the SELLER or its successor in title.

27. **ARBITRATION**

27.1 Should any dispute arise out of or in connection with this Agreement, other than as provided for in Clause 21, either party shall be entitled to require, by written notice to the other, that the dispute be submitted to arbitration in terms of this Clause.

27.2 Subject to the provisions of this Clause, an arbitration shall be held under the provisions of the arbitration laws for the time being in force in the Republic of South Africa, provided that :

27.2.1 the arbitrator shall, if the question in issue is :

27.2.1.1 primarily an accounting matter, be an independent practicing accountant of not less than ten years' standing;

27.2.1.2 primarily a legal matter, be a practicing advocate of not less than ten years' standing;

27.2.1.3 any other matter, be a suitably qualified independent person;

27.2.2 the arbitrator shall be agreed upon by the parties and failing such agreement by the parties within three (3) days of the date on which the arbitration is demanded, shall be appointed by the President for the time being of the Law Society of the Cape of Good Hope (or its successor) who may be instructed by any party to make the nomination at any time after the expiry of the three day period;

27.2.3 the arbitration shall be held at a venue and in accordance with formalities and/or procedures determined by the arbitrator and may be held in any informal and summary manner, on the basis that it shall not be necessary to observe or carry out the usual formalities or procedure, pleadings and/or discovery, or the strict rules of evidence;

27.2.4 the arbitrator shall be entitled:

27.2.4.1 to investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with the dispute and for that purpose shall have the widest powers of investigating all the books and records (relating or incidental to this transaction) of

any party to the dispute and the right to take copies or make extracts therefrom and the right to have them produced and/or delivered at any reasonable place required by him for the aforesaid purpose;

- 27.2.4.2 to interview and question under oath, representatives of any of the parties;
- 27.2.4.3 to decide the dispute according to what he considers just and equitable in the circumstances;
- 27.2.4.4 to make such award including an award for specific performance, an interdict, damages or a penalty or otherwise as he in his discretion may deem fit and appropriate;
- 27.2.4.5 to make such award as to costs of the arbitration as he in his discretion may deem fit and appropriate;

27.2.5 the arbitration shall be held as quickly as possible after it is demanded, with a view to its being completed within thirty (30) days after it has been so demanded and with a view to the arbitrator making his award within ten (10) days of the arbitration proceedings having been completed;

27.2.6 immediately after the arbitrator has been agreed upon or nominated in terms of sub-clause 27.2.2 any party shall be entitled to call upon the arbitrator to fix a date and place when and where the arbitration proceedings shall be held and to settle the procedure and manner in which the arbitration proceedings will be held.

27.2.7 the arbitrator's award shall be presented in a written document and state reasons for the decision.

27.3 Any award that may be made by the arbitrator,

27.3.1 shall be final and binding;

27.3.2 shall be carried into effect immediately; and

27.3.3 may be made an order of any court of competent jurisdiction.

28. **FOREIGNERS**

The parties to this Agreement warrant that they are not illegal foreigners (as defined in the Immigration Act 13 of 2002) and hereby undertake to provide a copy of their permit confirming the legitimacy of their presence in the Republic of South Africa on request by the SELLER's Conveyancers.

SIGNED at _____ by the SELLER on the _____ day of _____ 200
in the presence of the subscribing witnesses.

AS WITNESSES:

1. _____

2. _____

SELLER

SIGNED at _____ by the PURCHASER on the _____ day of _____ 200
in the presence of the subscribing witnesses.

AS WITNESSES:

1. _____

2. _____

PURCHASER

ASSISTED BY
(if a married woman)

PLANS SCHEDULE

CONTENTS:

- 1.
- 2.
- 3.
- 4.
- 5.

SPECIFICATION SCHEDULE

CONTENTS:

1. MINIMUM SPECIFICATIONS
2. SCHEDULE OF EXTRAS

REQUEST FOR EXTRAS/VARIATIONS

The Seller shall not be obliged at any stage to agree to any extras, omissions, variations or changes of any nature whatsoever to the unit as per clause 21 and 23 of the Deed of Sale.

UNIT NO. _____ PURCHASER _____

| EXTRA/VARIATION | QUANTITY | RATE | EXTRA COST |
|---------------------|----------|-------|------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| SUM TOTAL OF EXTRAS | | | _____ |

SIGNED _____ PURCHASER

SIGNED _____ SELLER

DATE _____

CLIENT INVESTMENT MANDATE

I/We, the undersigned _____
(the client)
of _____
do hereby authorise and empower **BUCHANAN BOYES ATTORNEYS** _____
(firm's name)
to make the following investments as my/our agent and my/our behalf –

1. TYPE OF INVESTMENTS

With a bank (subject to the conditions as set out at the bottom of this mandate).

2. TYPE OF MANDATE GIVEN

Discretionary.

3. REPORTING

On maturity.

4. GENERAL

4.1 Interest payments and charges to be accounted for on maturity and/or withdrawal of investment.

4.2 Other instructions

SIGNED AT..... ON THIS DAY OF 200...

Signature of Client