

# ***THE LYNX***

## **AGREEMENT OF SALE ENTERED INTO BY AND BETWEEN:**

### **PREAMBLE**

**SELLER: SIRENKO PROPRIETARY LIMITED  
REGISTRATION NUMBER: 2009/020910/07**

with address at c/o Hannes Gouws & Partners Inc, First Floor, Lobby 3, Brooklyn Forum Building, cnr Veale and Fehrsen Streets, New Muckleneuk, Pretoria, 0181

(hereinafter referred to as "the Seller")

### **PURCHASER:**

Individual/s

	PURCHASER 1	PURCHASER 2 (if applicable)
Full names		
Identity number		
Income tax number		
Marital status		
Marital property regime		
Date of marriage		
Place of marriage		
Full names of spouse		
Identity number of spouse		
Income tax no. of spouse		
VAT number		
Work number		
Home number		
Cell number		
Email address		

Residential address		
Postal address		

AND/OR

Juristic Person (Company / Close Corporation / Trust)

Registered name	
Registration number	
Representative's name	
Representative's identity number	
Entity income tax number	
Entity VAT number	
Contact number	
Email address	
Physical address	
Postal address	

(hereinafter referred to as "the Purchaser")

(hereinafter collectively referred to as "the parties")

in respect of

<b>Scheme Name</b>	<b>THE LYNX</b>
<b>Section Number</b>	

<b>Exclusive Use Area/s</b>	
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at a purchase price of

<b>Purchase Price (Vat inclusive)</b>	<b>R</b>
<b>Purchase Price in words</b>	

## 1 INTERPRETATION

1.1 In this Agreement, unless inconsistent with the context:

1.1.1 **Agreement** means this agreement of sale together with annexures (each an “Annexure”) hereto being:

- 1.1.1.1 draft sketch plans - Annexure “A”;
- 1.1.1.2 building specifications - Annexure “B”;
- 1.1.1.3 management rules - Annexure “C”; and
- 1.1.1.4 conduct rules – Annexure “D”.

1.1.2 **Body Corporate** means the body corporate as contemplated in section 36 of the STA and section 2(1) of the STSMA;

1.1.3 **Bond Originator** has the same meaning as the meaning assigned to the Property Practitioner;

1.1.4 **Building** means the building or buildings comprising the Scheme to be constructed on Erf 102 Woodmead, Registration Division I.R., Province of Gauteng;

1.1.5 **Common Property** means the land included in the Scheme, such parts of the Building which are not included in the Section and land referred to in section 26 of the STA and section 5(1)(d) of the STSMA;

1.1.6 **Completion Date** means the later of:

1.1.6.1 the date on which the Section is complete for beneficial occupation as certified by the Principal Agent, whose decision as to the date will be final and binding upon the parties;

and

1.1.6.2 the date on which a certificate of occupancy is issued in respect of the Property by the local authority;

1.1.7 **Consumer Protection Act** means the Consumer Protection Act 68 of 2008;

- 1.1.8 **Deposit** means the amount stipulated in clause 4.2.1 below;
- 1.1.9 **Independent Property Inspector** means SA Investor Rentals Proprietary Limited, Registration Number: 2014/186623/07, trading as IGrow Rentals whose representatives shall *inter alia* carry out inspections of all the sections in the Scheme and act as the liaison between the Purchaser and the Seller for the purposes as contemplated in this Agreement;
- 1.1.10 **Municipal Charges** means rates and taxes, imposts and other charges as may be levied by the local authority in respect of the Property with effect from the Transfer Date;
- 1.1.11 **Participation Quota** means, in relation to a section in the Scheme, the percentage determined in accordance with the provisions of section 32(1) or (2) of the STA in respect of that section for the purposes referred to in section 32(3) of the STA, and shown on the Sectional Plan in accordance with provisions 5(3)(g) of the STA;
- 1.1.12 **Principal Agent** means a qualified architect or senior architectural technologist or a member of The South African Council for the Architectural Profession to be appointed by the Seller;
- 1.1.13 **Property** means the Section in the Scheme as indicated above together with an undivided share in the Common Property in accordance with the Participation Quota as indicated on the Sectional Plan and where applicable, the Exclusive Use Area(s) stated in the preamble above;
- 1.1.14 **Property Practitioner** means means Igrow Wealth Investments Proprietary Limited, Registration Number: 2015/093828/07, with address at Barinor's Vineyard North, Vineyards Office Estate, 99 Jip de Jager Drive, Durbanville, 7550, telephone number: 021 979 2501 and fax number: 021 979 2505;
- 1.1.15 **Purchaser** means the Purchaser as indicated above;
- 1.1.16 **Purchase Price** means the VAT inclusive amount as indicated above;
- 1.1.17 **Register** means the sectional title register opened in respect of the land and Building comprising the Scheme in terms of the STA in the relevant deeds registry;
- 1.1.18 **Rules** mean the management and conduct rules attached hereto as Annexures "C" and "D";
- 1.1.19 **Scheme** means the sectional title scheme to be known as **THE LYNX** to be developed on Erf 102 Woodmead, Registration Division I.R., Province of Gauteng;
- 1.1.20 **Section** means the Property stated in the preamble above and depicted on the architect's sketch plans attached hereto as Annexure "A";
- 1.1.21 **Sectional Plan** means the sectional plan in respect of the Scheme to be approved by the Surveyor-General and to be registered in the relevant deeds registry;
- 1.1.22 **Seller** means the Seller as indicated above;
- 1.1.23 **Signature Date** means the date on which this Agreement is signed by the latter of the Seller or the Purchaser;
- 1.1.24 **STA** means the Sectional Titles Act 95 of 1986, as amended and include the Regulations issued under the said Act;
- 1.1.25 **STSMA** means the Sectional Titles Schemes Management Act 8 of 2011, as amended and include the Regulations issued under the said Act;

- 1.1.26 **Transfer Date** means the date on which the Property is registered in the name of the Purchaser in the relevant deeds registry;
- 1.1.27 **Transferring Attorney** means Hannes Gouws & Partners Inc, First Floor, Lobby 3, Brooklyn Forum Building, cnr Veale and Fehrsen Streets, New Muckleneuk, Pretoria, 0181, Tel: 012 321 1008; and
- 1.1.28 **Trust Account** means the trust account of the Transferring Attorney held with The Standard Bank of South Africa Limited, account number: 011616156, branch code: 051001.
- 1.2 Words and expressions defined in the STA and the STSMA will have the meanings ascribed to them therein.
- 1.3 Words importing the singular will include the plural and vice versa and words importing the masculine gender will include the female gender and words importing persons shall include partnerships and legal persons and vice versa.
- 1.4 The head notes to the clauses of this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.5 The Purchaser's attention is drawn to the provisions of section 49 of the Consumer Protection Act ("section 49"). The Purchaser acknowledges:
- 1.5.1 that the Property Practitioner has satisfactorily explained the effect and consequences of the provisions of section 49 in relation to this Agreement and the Property to him in detail; and
- 1.5.2 that this Agreement contains certain terms and conditions which limit the risk or liability of the Seller, which constitute an assumption of risk and liability on the Purchaser's part, which impose an obligation on the Purchaser to indemnify the Seller and/or which constitute an acknowledgment of facts by the Purchaser.
- 1.6 The parties furthermore acknowledge that none of the terms of this Agreement, despite the express reference to the Consumer Protection Act, should be construed as an acknowledgement that the Consumer Protection Act applies to this transaction in circumstances where the same is not applicable to this transaction.
- 1.7 Reference to "days" shall be construed as calendar days unless qualified by the word "business day", which shall mean any day other than a Saturday, Sunday or public holiday gazetted by the Government of the Republic of South Africa from time to time. Any reference to "business hours" shall be construed as being the hours between 8.30am and 16.30pm on any business day. Any reference to time shall be based upon South African Standard Time.
- 1.8 Reference to any legislation in this Agreement will include legislation passed in substitution thereof.

## **2 ACKNOWLEDGEMENTS BY PURCHASER**

The Purchaser acknowledges and declares:

- 2.1 that the meanings and consequences of the provisions of this Agreement have been satisfactorily explained to him by the Property Practitioner;
- 2.2 that he is fully aware that the Sectional Plan has not been prepared or approved as yet, as it can only be prepared once the construction of the Building has reached such an advanced stage which allows the surveyor to prepare the Sectional Plan, and that the exact and final boundaries and area of the Section will be as indicated on the approved Sectional Plan;

- 2.3 that he shall not be entitled to cancel this Agreement or to any reduction in the Purchase Price by reason of any changes to the numbering of the Section and/or the Exclusive Use Area(s) necessary to be effected by the surveyor during the drafting of the Sectional Plan and the Purchaser undertakes to accept transfer of the Property and cession of the Exclusive Use Area(s) as re-numbered on the approved Sectional Plan;
- 2.4 that he is fully aware that the Sectional Plan will be registered in the relevant deeds registry as soon as it is reasonably possible after the Completion Date and that transfer of the Property shall preferably take place simultaneously with or as soon as possible after the registration of the Sectional Plan;
- 2.5 that the investing of any funds by the Transferring Attorney in terms of section 86(4) of the Legal Practice Act 28 of 2014 ("the Legal Practice Act") is subject to the provisions of section 86(5)(b) thereof, which provides that 5% of the interest accrued on funds so invested must be paid to the Legal Practitioners' Fidelity Fund;
- 2.6 that he will accept transfer of the Property subject to all conditions and servitudes benefiting or burdening the Property, including such conditions and servitudes already in existence and all such conditions and servitudes as may be imposed by any competent authority or by the Seller. The Purchaser acknowledges having made himself fully acquainted with the Section, its nature, location and extent, the draft sketch plans attached hereto as Annexure "A" and the building specifications attached hereto as Annexure "B";
- 2.7 that, save as specifically set out in this Agreement, he acknowledges that the Seller or the Property Practitioner has made no representations and given no warranties in respect of the Property, the Building or in respect of anything relating thereto; and

2.8

**that by his signature of this Agreement that he has read and understand the Rules attached hereto as Annexures "C" and "D."**

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### 3 SALE

The Seller hereby sells to the Purchaser who hereby purchases from the Seller the Property as depicted on Annexure "A". Since the Purchaser is purchasing the Property from the draft sketch plans attached hereto as Annexure "A", provision is made as follows in the event that the extent of the Section as depicted on Annexure "A" differs from the actual measured extent as per the Sectional Plan to be approved by the Surveyor-General:

- 3.1 in the event of a deviation in the said extent in excess of 5%, but less than 8%, a proportionate increase or decrease in the Purchase Price will be effected, which is hereby accepted by the parties;
- 3.2 in the event of a deviation of less than 5%, such deviation is hereby accepted by the Purchaser and the Purchase Price will remain the same; and
- 3.3 in the event of a deviation of more than 8%, this Agreement will lapse at the option of either party if either party so elects in writing within a period of 10 (ten) days after the deviation has been communicated in writing to the Purchaser.

### 4 PURCHASE PRICE

- 4.1 The Purchase Price payable by the Purchaser to the Seller on the Transfer Date is the amount stated above, which amount is inclusive of Value Added Tax ("VAT") at the applicable rate from time to time.
- 4.2 The Purchaser shall pay the Purchase Price to the Seller as follows:

## 4.2.1 a Deposit of

<b>Deposit Amount</b>	<b>R20,000.00</b>
<b>Deposit Amount in words</b>	<b>Twenty Thousand Rand</b>

will be paid 5 (five) business days upon the Signature Date into the Trust Account of the Transferring Attorney; and

## 4.2.2 the balance of the Purchase Price shall:

4.2.2.1 if the Purchaser does not require mortgage finance as contemplated in clause 18 below, be paid into the Trust Account within 5 (five) business days of being requested to do so by the Transferring Attorney, which amount shall be invested by the Transferring Attorney for the credit of the Purchaser in an interest-bearing account as contemplated in section 86(4) of the Legal Practice Act until the Transfer Date, alternatively and at the option of the Purchaser the balance of the Purchase Price shall be secured by the delivery of a bank guarantee acceptable to the Seller made payable on the Transfer Date within 5 (five) business days of request by the Transferring Attorney; and

4.2.2.2 if the Purchaser requires mortgage finance as contemplated in clause 18 below, be secured by the delivery of bank guarantees acceptable to the Seller made payable on the Transfer Date within 14 (fourteen) days after fulfilment of the suspensive condition contemplated in clause 18 below or by a combination of cash and guarantees.

4.3 The Purchaser confirms that this Agreement constitutes the Purchaser's written consent and instruction to the Transferring Attorney to invest any funds paid by the Purchaser in respect of the Purchase Price into the Trust Account in terms of section 86(4) of the Legal Practice Act, but further confirms that he is aware that the Transferring Attorney may require a separate authorisation to be signed by the Purchaser to invest the funds as such and undertake to furnish the Transferring Attorney on request with such authorisation together with such documentation under the Financial Intelligence Centre Act 38 of 2001 ("FICA") or other documentation as the Transferring Attorney may require, and that the Transferring Attorney is entitled to a professional fee and costs for administering such investment of funds.

4.4 All the monies payable by the Purchaser in terms of this Agreement which remains unpaid on the due date shall bear interest at the rate of 5% (five percent) per annum above the prime lending rate of The Standard Bank of South Africa from time to time and shall be calculated from the due date to the date of payment.

4.5 All payments to be effected hereunder shall be effected by the Purchaser to the Transferring Attorney without set-off or deduction and free of exchange.

4.6 Should the Purchaser make payment of the Deposit to the Transferring Attorney, as well as an additional amount to the Transferring Attorney towards payment of the Purchase Price and subsequently obtains mortgage finance for the full amount of the Purchase Price, it is agreed that any amount so paid by the Purchaser in excess of the Purchase Price will be repaid to the Purchaser by the Transferring Attorney after the Transfer Date and upon receipt of payment by the Transferring Attorney of the full mortgage finance proceeds.

## 5 TRANSFER

Transfer of the Property shall be passed by the Transferring Attorney to the Purchaser as soon as is reasonably possible after the Completion Date, provided that the Purchaser has complied in full with all his contractual obligations in terms of this Agreement.

## 6 POSSESSION AND OCCUPATION

6.1 The Purchaser will take occupation of the Property on the Transfer Date, from which date all risk in and benefit to the Property will pass to the Purchaser and from which date the Purchaser shall be liable for payment of the levies as contemplated in the STSMA and the Regulations issued in terms thereof as well as the Municipal Charges.

6.2 Notwithstanding the provisions of clause 6.1 above, the Purchaser may take occupation of the Property prior to the Transfer Date after issue of a certificate of occupancy by the local authority, provided that:

6.2.1 the Purchaser may not take occupation of the Property unless the full Purchase Price has been paid or secured as contemplated above and the Purchaser has signed all documents of whatsoever nature on request of the Transferring Attorney and the bond registration attorney (if applicable); and

6.2.2 occupational interest shall be payable by the Purchaser at the rate of 1.00% (one comma zero zero percent) of the Purchase Price per month, which amount is payable to the Trust Account monthly in advance on or before the first business day of every month.

6.3 It is anticipated that the Property will be ready for occupation on

<b>Anticipated occupation date</b>	<b>Mid 2025</b>
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("the specified date"). If, however, the Seller is of the opinion that, for whatever reason, the Property will not be sufficiently complete for beneficial occupation by the specified date, then the specified date shall automatically be extended by 9 (nine) months ("the extended date").

6.4 If the Property is not sufficiently complete for beneficial occupation by the extended date as provided for in clause 6.3 above, the Purchaser shall not have any claim of whatsoever nature or howsoever arising against the Seller for failing for any reason to give possession and occupation of the Property to the Purchaser timeously.

## 7 RECTIFICATION OF DEFECTS AND GUARANTEES

7.1 Prior to the occupation date, the Purchaser or his duly authorised representative shall, together with the duly authorised representative of the Seller, inspect the property on a date specified by the Seller or the Seller's representative.

7.2 The Purchaser or his duly authorised representative, shall within 3 (three) days after the inspection referred to in clause 7.1 above furnish the Seller's representative with a list of patent defects (visible to the eye), which patent defects will be rectified by the Seller at least 2 (two) weeks prior to the occupation date.

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

- 7.4 The Purchaser or his duly authorised representative, shall furthermore submit a list of latent defects (not visible to the eye at the time of the patent defect inspection) to the Seller's representative within a period of 90 (ninety) days from the date of occupation and the Seller undertakes to remedy such latent defects within 90 (ninety) days from the date on which the Seller receives the list of latent defects.
- 7.5 The Seller shall only be responsible for such defects listed in the patent and latent defects lists caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim and indemnifies the Seller in this respect.
- 7.6 The Purchaser accepts the appointment of the Independent Property Inspector to act as the exclusive liaison between the Purchaser and the Seller and undertakes not to contact the Seller directly.
- 7.7 In the event of a dispute arising as to whether any defect was duly brought to the attention of the Seller or whether the remedying of any defect has been undertaken to the reasonable satisfaction of the Purchaser or his representative, the decision of the Principal Agent will be final and binding on the parties after both parties have been requested to submit written submissions.
- 7.8 In the event that the Purchaser or his representative fails to furnish the lists as contemplated in clauses 7.2 and 7.4 above, the Purchaser will have no claim of whatsoever nature against the Seller for the remedying of such patent and/or latent defects.
- 7.9 Furthermore, notwithstanding anything previously provided, the Seller will under no circumstances be responsible for damage and/or loss caused by wear and tear, misuse, neglect, negligence, abuse or accidental damages caused by the Purchaser, his representative or his tenant and/or in the event of the late reporting of any defect causing further damage.
- 7.10 The Seller will ensure that its contractors comply with all applicable building regulations and conditions and that a Standard Home Builders Warranty be issued in accordance with legislation and the rules and practice of the National Home Builders Registration Council relating to the improvements on the Property. In the event that any portion of the Section has to be repainted due to a defect being reported, only that portion affected by the defect will be repainted.

## **8 UNDERTAKING BY THE SELLER**

The Seller undertakes that it will instruct its contractors to construct the Section substantially in accordance with the draft sketch plans attached hereto as Annexure "A".

## **9 CONDITIONS APPLICABLE PENDING TRANSFER AND ESTABLISHMENT OF THE BODY CORPORATE**

- 9.1 Should the Purchaser take occupation of the Property prior to the Transfer Date, the following provisions apply:
- 9.1.1 the Purchaser shall permit any person authorized in writing by the Seller or its agent/s or its employee/s at all reasonable hours on notice, except in the case of emergency (when no notice shall be required), to enter the Section and the Common Property for the purposes of inspecting, maintaining and repairing it, or for the purposes of ensuring that the provisions of the STA, the STSMA, the Rules and any other legislation are being observed;
- 9.1.2 the provisions of any legislation and local authority bylaws and regulations insofar as the same cast any duty upon the Purchaser or occupier of a property, shall bind the Purchaser and be enforceable by the Seller;
- 9.1.3 the Purchaser may not make any alterations or additions to the Section;
- 9.1.4 the Purchaser will maintain the interior of the Section;

- 9.1.5 the Purchaser will not sell, let or in any manner dispose of or part with (whether temporarily or otherwise) the Property or his rights of occupation thereof before the Transfer Date, except with the written consent of the Seller, which consent will not unreasonably be withheld; and
- 9.1.6 the Purchaser will not appoint or engage any estate agent or other person to market, advertise and/or sell the Property other than the Property Practitioner.

9.2 The Seller shall pending the establishment of the Body Corporate:

- 9.2.1 insure the Building and all improvements on the Common Property for the full replacement value thereof against such risks as the Seller may decide;
- 9.2.2 maintain the Building and the Common Property and keep it in a state of good and serviceable repair and in a neat, tidy and sanitary condition; and
- 9.2.3 administer the Building and the Common Property and make all payments in respect of rates, taxes and other imposts, electricity and water consumed upon the Common Property and all other charges in connection with the Building and the Common Property.

## 10 LEVIES AND CONTRIBUTION

The bona fide estimate of the monthly levy, pending the final determination thereof, is

<b>Estimated monthly levy</b>	
<b>Estimated monthly levy in words</b>	

## 11 MANAGING AGENT

The Seller will be entitled to appoint the first managing agent, which appointment shall be valid and binding on the Body Corporate for a period of 1 (one) year after the date of the first annual general meeting of the Body Corporate. Insofar as it may be necessary, the Purchaser hereby grants the Seller the irrevocable power to make such appointment.

## 12 DEFAULT

12.1 Subject to the provisions of clauses 12.5, 12.6, 15 and 17 below, if either party commits a breach of the terms and conditions of this Agreement or fails to comply with any of the provisions hereof, then the aggrieved party will be entitled to give the defaulting party 5 (five) business days' written notice, (unless the transaction has already been lodged at the relevant deeds registry, in which event the notice period will be reduced to 12 (twelve) hours) to remedy such breach, failing which the aggrieved party may, without prejudice to any other rights or remedies he may have in law:

- 12.1.1 cancel this Agreement and claim damages; or
- 12.1.2 claim specific performance of the terms and conditions of this Agreement.

- 12.2 Notwithstanding the provisions of clause 12.1 above, the parties specifically agree that the Purchaser shall forfeit all monies paid by him to the Transferring Attorney in the event that this Agreement is cancelled due to a breach by the Purchaser of the terms and conditions of this Agreement and the Transferring Attorney will be entitled to recover from the Purchaser its professional fee and costs as contemplated in clause 4.3 above together with other wasted costs. The bond registration attorney will likewise be entitled to recover wasted costs from the Purchaser.
- 12.3 Should either party dispute the other party's cancellation of this Agreement, then pending the determination of the dispute, the Purchaser will be obliged to continue with the payment of all amounts payable by him in terms of this Agreement on the due date thereof and the Seller will be entitled to recover and accept those payments without prejudice to any of the Seller's rights in terms of this Agreement.
- 12.4 Upon cancellation of this Agreement by either party, the Purchaser and all persons who occupy the Property with his consent, will vacate the Property within 24 (twenty four) hours of such cancellation and will return the Property to the Seller in the same good order and condition as it was handed over at the Completion Date.

12.5

<p><b>In the event that the Purchaser causes an unjustified delay in the registration of the Property and/or the registration of the bond, which delay results in the relevant documents not being lodged for registration in the relevant deeds registry, the Seller will have the right, without prejudice to any other right or remedy he may have in law (including but not limited to the right to claim damages) to either immediately cancel this Agreement or to claim specific performance of the terms and provisions of this Agreement. In the event that the Seller claims specific performance, the Purchaser shall in addition to the monthly levies as contemplated in clause 10 above and the monthly occupational interest contemplated in clause 6.2.2 above, also be liable for the payment of an amount of R10 000,00 (Ten Thousand Rand) per month from the date on which the documents pertaining to the registration of the Property and/or the registration of the bond could have been lodged in the relevant deeds registry until the actual date of lodgement thereof.</b></p>	<p>INITIAL HERE</p>
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- 12.6 Notwithstanding anything stated to the contrary herein, the Purchaser shall be entitled to cancel this Agreement by written notice to the Seller if the Seller fails to pass transfer of the Property into the name of the Purchaser within a period of 30 (thirty) months from the Signature Date.

**13 JURISDICTION**

The Purchaser consents in terms of the Magistrates' Court Act 32 of 1944 to the jurisdiction of any court having jurisdiction in terms of sections 28 and 29 of the said Act in any action instituted by the Seller arising out of this Agreement, provided that the Seller will at all times be entitled to institute any action arising out of this Agreement against the Purchaser in any High Court of competent jurisdiction.

**14 COSTS**

14.1

<p><b>The Seller shall be liable to pay the fees and disbursements of the Transferring Attorney and the bond registration attorney. However, should the financial institution which approves the Purchaser's loan application on its own accord or at the request of the Purchaser appoint an attorney other than the Transferring Attorney to attend to the registration of the bond, the Purchaser shall be liable for the payment of the bond registration costs to such attorney.</b></p>	<p>INITIAL HERE</p>
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14.2

<p><b>Notwithstanding the provisions of clause 14.1 above, the Purchaser will be liable for the payment of all fees and disbursements incurred or to be incurred by the Transferring Attorney and the bond registration attorney in the signing of the transfer and/or bond documents with any correspondent attorney. No such fees will be payable by the Purchaser if the transfer and mortgage bond documents are signed at the offices of the Transferring Attorney at First Floor, Lobby 3, Brooklyn Forum Building, cnr Veale and Fehrsen Streets, New Muckleneuk, Pretoria.</b></p>	<b>INITIAL HERE</b>
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14.3

<p><b>Notwithstanding the provisions of clause 14.1 above, the Purchaser will be liable for the payment of the costs relating to the issue of the insurance certificate in respect of the Property, as well as the initiation fees and/or valuation fees levied by the financial institution who approves his loan application in the event that the same is not debited against the home loan account with the said institution on the Transfer Date.</b></p>	<b>INITIAL HERE</b>
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## 15 TAX AFFAIRS

The Purchaser declares that his personal income tax and/or VAT affairs are in order and any resultant delay in the transfer of the Property in the name of the Purchaser, if this appears not to be the case, will be a material breach of this Agreement which will entitle the Seller to the immediate cancellation of this Agreement.

## 16 NOTICES AND DOMICILIA

- 16.1 Each of the parties chooses as his *domicilium citandi et executandi* ("domicilium") for the serving of any process their respective physical addresses as stated above.
- 16.2 Each of the parties will be entitled from time to time, by written notice to the other party to change his domicilium to any other address within the Republic of South Africa which is not a post office box or poste restante.
- 16.3 Any notice given by a party to the other ("the recipient") which:
- 16.3.1 is delivered by hand during business hours will be presumed to have been received by the recipient at the time of delivery, until the contrary is proved by the recipient; or
  - 16.3.2 is posted by prepaid registered post from an address within the Republic of South Africa, will be presumed to have been received by the recipient on the fourth business day after the date of posting; or
  - 16.3.3 is sent by email will be deemed to have been received by the recipient on the first business day after the date it was sent.
- 16.4 Where in terms of this Agreement any communications are required to be in writing the term writing will include communications by email.

## 17 MORTGAGE BOND AND BOND ORIGINATOR

### 17.1

This Agreement is subject to the suspensive condition that the Purchaser obtains a loan to be secured by the registration of a mortgage bond over the Property or over another property registered in the name of the Purchaser from a recognised bank or other financial institution for the difference between the Purchase Price and the Deposit, or such other amount as may be acceptable to the Purchaser, within a period of 21 (twenty one) days from the Signature Date; provided, however, that the said 21 day period shall automatically be extended with a further 21 day period if the loan is not approved within the first mentioned 21 day period. In the event of such loan not being granted within the periods prescribed herein, this Agreement shall automatically lapse in which event neither party shall have any claim of whatsoever nature against the other. The date on which a quotation in terms of section 92 of the National Credit Act 34 of 2005 is issued will constitute the date of fulfilment of this suspensive condition, irrespective of the conditions contained therein and the Purchaser undertakes not to incur any further debt from this date up to the Transfer Date.

THIS CLAUSE MUST BE DELETED IF  
THE PURCHASER DOES NOT  
REQUIRE MORTGAGE FINANCE

17.2 The Purchaser is aware of the fact that the Scheme consists of multiple units and that the Seller preferably requires the transfer of all such units simultaneously with the registration of the Sectional Plan. The parties therefor agree that it is imperative that the bank or other financial institution at which the Purchaser applies for finance do not impose onerous conditions which may result in this not happening and, if such onerous conditions are imposed, the Purchaser warrants that he shall accept and comply with such conditions expeditiously, failing which the Seller may at his option, immediately cancel this Agreement. For clarity purposes, the following serves as an example:

The bank or other financial institution requires that the Purchaser takes out risk insurance or life insurance and includes the monthly premiums in the cost of credit. Even if the Purchaser could obtain such insurance at reduced costs from third party insurance companies, the Purchaser shall nevertheless accept the said monthly premiums in respect of such insurance as quoted by the bank or financial institution in order to ensure that registration is effected expeditiously, as the Purchaser may subsequent to the Transfer Date cancel such insurance and replace the same with insurance of his own choice. Should the Purchaser, however, insist on the obtaining of insurance from third party insurance companies prior to registration, such insistence may delay the contemplated simultaneous registration alluded to above, in which event the Seller may cancel this Agreement.

- 17.3 Subject to clause 17.4 below, the Purchaser is not allowed to apply for the loan contemplated in clause 17.1 above other than through the Bond Originator.
- 17.4 The Purchaser hereby authorises the Bond Originator to lodge the abovementioned loan application on his behalf and to sign on his behalf all such documentation as may be required by the bank or other financial institution.
- 17.5 The Purchaser undertakes to provide, on request of the Transferring Attorney, the Property Practitioner, the Bond Originator or the bond registration attorney all financial and other information required by the bank or other financial institution within a period of 5 (five) days from the date on which he is requested to do so.
- 17.6 In the event that the Purchaser's loan application is approved as per clause 17.1 above and the bond is withdrawn prior to the Transfer Date by the bank or other financial institution, whether upon the instructions of the Purchaser or otherwise, the Purchaser records that he is aware that this Agreement has become unconditional when such loan was granted and that he will in such event be in breach of the terms and conditions of this Agreement should guarantees for the balance of the Purchase Price not be furnished or payment of the balance of the Purchase Price not be effected into the Trust Account within 14 (fourteen) days from the date that the bond is so withdrawn.

## **18 VARIATIONS OF SPECIFICATIONS AND PROPERTY**

- 18.1 The Property will be built substantially in accordance with the draft sketch plans annexed hereto as Annexure "A" and the building specifications attached hereto as annexure "B", provided that the Seller shall be entitled to substitute items of a similar standard and quality for any specified item. The Purchaser acknowledges that no request for any variations to the Property and or the building specifications will be entertained. Moreover, the Seller shall be entitled to vary the plans for the Building and/or the Property, should the Seller consider the same reasonably necessary for technical or aesthetic reasons.
- 18.2 If any dispute should arise between the parties regarding the changes effected by the Seller as contemplated in clause 18.1 above, the decision of the Seller's Principal Agent will be final and binding as to whether or not there has been substantial compliance by the Seller of its obligations after the Principal Agent has requested written submissions from both the Purchaser and the Seller. Should the dispute be determined in favour of the Purchaser, then the Purchaser shall be entitled to cancel this Agreement.

## **19 NO INTERFERENCE**

The Purchaser will not in any way interfere with, or give instructions to any of the Seller's agents, employees, contractors or subcontractors. The Purchaser will not be allowed to enter the Property unless the prior written consent of the Seller is first had and obtained, in which event the Purchaser must be accompanied by the Independent Property Inspector or his representative.

## **20 OFFER**

The Purchaser's signature to this document constitutes an offer to the Seller, which offer will be deemed to be irrevocable for a period of 30 (thirty) days from such signature.

## **21 RESOLUTIVE CONDITIONS**

- 21.1 The Purchaser acknowledges that the financial viability of the development of the Scheme depends largely on the response by the purchasing public to the advertising campaign launched by the Seller and/or the Property Practitioner in respect of the development. In the event that the Seller is of the opinion that the development will not be financially viable or if the Seller has not managed to successfully sell a sufficient number of units in the Scheme, the Seller may give notice of the termination of this Agreement, in which event this Agreement shall immediately terminate and be null and void.
- 21.2 The Purchaser further acknowledges that in the event that the performance of this Agreement, or any obligation hereunder is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or like acts of God, wars, revolution, infectious or contagious disease, Government regulation or Act, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, or any other circumstances beyond the reasonable control and without the fault or negligence of the Seller, the Seller shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference, provided that the Seller shall use diligent efforts to avoid or remove such causes of non-performance and provided further that if any of the said events negatively affects the financial viability of the development of the Scheme, the Seller may give notice of the termination of this Agreement, in which event this Agreement shall immediately terminate and be null and void.
- 21.3 With reference to clauses 21.1 and 21.2 above, the notice to the Purchaser will be given by the Transferring Attorney on behalf of the Seller by way of email or any other form of electronic message.

## **22 PROPERTY PRACTITIONER'S COMMISSION**

- 22.1 The parties warrant that the Property Practitioner was the effective cause of this Agreement and that no other person or property practitioner introduced the Purchaser to the Property or the Purchaser to the Seller, and the Seller shall be liable to effect payment of the Property Practitioner's commission as agreed to in this Agreement.
- 22.2 The Transferring Attorney shall after the Transfer Date pay to the Property Practitioner the Property Practitioner's commission.

## **23 REFUND TO THE PURCHASER**

- 23.1 The Purchaser shall be entitled to a refund of all amounts paid in lieu of the Deposit and the balance of the purchase price as contemplated in clause 24.2 below should this Agreement:
- 23.1.1 lapse as contemplated in clauses 3.3 and 17.1 above; or
  - 23.1.2 terminate as contemplated in clauses 21.1 and 21.2 above; or
  - 23.1.3 be cancelled due to a breach of this Agreement by the Seller; or
  - 23.1.4 be cancelled as contemplated in clauses 12.6 and 18.2 above.
- 23.2 The Transferring Attorney shall refund to the Purchaser's nominated bank account all such amounts held in trust with the Transferring Attorney after deduction of portion of the interest accrued as contemplated in clause 2.7 above and the Transferring Attorney's professional fee and costs as contemplated in clause 4.3 above. The Purchaser shall have no recourse against the Seller for the reimbursement of any monies paid to the Transferring Attorney.

## **24 RENTAL MANAGEMENT**

- 24.1 Subject to the terms and conditions of this clause 24, the Seller hereby consents that the Property may be let to a suitable tenant with effect from the Completion Date if the Purchaser does not intend occupying the Property himself.
- 24.2 The Purchaser hereby appoints the Independent Property Inspector as its sole and exclusive agent to procure and place tenants in the Property and act as his rental agent for a period of 3 (three) years from the Completion Date on the terms and conditions of the Independent Property Inspector's standard rental management agreement from time to time.

## **25 COMPANY / CLOSE CORPORATION / TRUST**

In the event of the Purchaser being a Company, Close Corporation or a Trust, the person signing this Agreement on behalf of the Purchaser shall be deemed to have bound himself/herself/themselves as surety(ies) and co-principal debtor(s) for all the obligations of the Purchaser (and, if applicable, jointly and severally with any other persons signing this Agreement on behalf of the Purchaser), such surety(ies) hereby renouncing the benefits of excussion and division the effect of which he/she/they acknowledge himself/ herself/ themselves to be aware of.

## **26 DIRECT MARKETING AND COOLING OFF**

- 26.1 In terms of section 16 of the Consumer Protection Act, if this Agreement has been entered into as a result of direct marketing, meaning that the Purchaser was directly or indirectly approached either in person or by mail or electronic communication by the Seller or the Property Practitioner for the purpose of promoting or offering to supply, in the ordinary course of business, the sale of the Property hereby sold, the Purchaser would have been entitled to cancel this Agreement without reason or penalty by written notice within 5 (five) days after the Signature Date, or within 5 (five) business days after delivery of the Property.

- 26.2 The Seller is therefore not prepared to enter into any agreement with the Purchaser if such agreement would have resulted from such direct marketing. The Purchaser therefore warrants that this transaction is not entered into as a result of such direct marketing conducted by the Seller and the Seller enters into this Agreement relying entirely upon such warranty.
- 26.3 If after delivery of the Property, the Purchaser is successful in cancelling this Agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the Consumer Protection Act, the Purchaser shall be liable for damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of this warranty.

## **27 GENERAL**

- 27.1 This Agreement is the sole agreement between the parties hereto and no amendment, variation or consensual cancellation hereof will be valid unless such amendment, variation or consensual cancellation has been reduced to writing and signed by the parties or their duly authorised representatives hereto.
- 27.2 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party under this Agreement, nor will it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.
- 27.3 Each of the parties shall furnish and sign all documentation of whatsoever nature as may be required to enable the Transferring Attorney to effect the registration of the transfer of the Property in the name of the Purchaser and/or to enable the bond registration attorney to effect the registration of the mortgage bond as contemplated in clause 17.1 above and/or as may be required to comply with the requirements of FICA, within 5 (five) business days after being called upon to do so by the Transferring Attorney, the bond registration attorney, the Property Practitioner, a bond originator or the financial institution which approves the Purchaser's mortgage finance, including but not limited to all documentation as may be required for re-assessment of the Purchaser's mortgage finance and the upliftment of amounts under retention to enable the bond registration attorney to issue a bank guarantee as contemplated in clause 4.2.2 above.
- 27.4 If there is more than one Purchaser in terms of this Agreement, the liability of each of the Purchasers will be joint and several.
- 27.5 Save as otherwise agreed to in this Agreement, the Purchaser will not be relieved of any of his obligations under this Agreement or be entitled to any reduction of the Purchase Price or any other amount due in terms hereof in the event that the Seller fails to obtain, or delay in obtaining, any approval of whatsoever nature which may be required for the development to be completed from any governmental authority or if the opening of the Register is delayed for reasons beyond the control of the Seller.
- 27.6 This Agreement may be executed in counterparts, which shall together constitute one agreement. Any party may enter into this Agreement by signing any such counterpart.
- 27.7 The Purchaser acknowledges by his signature hereto that the Seller has provided him with sufficient time and opportunity to obtain independent legal advice and to comprehend the nature and effect of the provisions of this Agreement.

## **28 PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013**

- 28.1 The Purchaser by his signature of this Agreement give his consent to the Transferring Attorney, the Property Practitioner, the Bond Originator and the bond registration attorney to lawfully process his personal information as contemplated in the Protection of Personal Information Act 4 of 2013 ("POPI") for purposes of any registration to be effected in the relevant deeds registry and all matters ancillary thereto, including but not limited to reporting and the re-assessment of mortgage finance, and for any transaction in respect of which the

Transferring Attorney, the Property Practitioner, the Bond Originator and the bond registration attorney have been or will be mandated to attend to and/or such transaction/s involving the Purchaser in respect of which the bond registration attorney have been or will be mandated by a Bank as defined in the Banks Act 94 of 1990 to attend to and/or such transaction to which the Purchaser is otherwise a party to and all matters related to such transaction/s (“the Purpose”).

28.2 The Purchaser by his signature of this Agreement hereby:

- (a) acknowledges his right to privacy and the right to have personal information processed in accordance with the requirements for the lawful processing of personal information;
- (b) acknowledges that he fully understands the Purpose for which his personal information is required and for which it will be used and consent to the sharing of his personal information with any relevant third party for purposes of the Purpose;
- (c) acknowledges that his personal information which he provides will be held and/or stored securely;
- (d) declares that his personal information furnished is accurate, current, not misleading and that it is complete in all respects; and
- (e) undertakes to immediately advise the Transferring Attorney, the Property Practitioner, the Bond Originator and the bond registration attorney should there be a change in any of the personal information furnished.

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

1. \_\_\_\_\_ **PURCHASER 1**

2. \_\_\_\_\_ **PURCHASER 2**

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

1. \_\_\_\_\_ **SELLER**

2. \_\_\_\_\_

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

1. \_\_\_\_\_

\_\_\_\_\_  
**PROPERTY PRACTITIONER**

2. \_\_\_\_\_

The Property Practitioner by signature hereto accepts the benefits and obligations imposed in terms of this Agreement.