



AGREEMENT OF SALE

BEFORE OPENING OF A SECTIONAL TITLE REGISTER

Between

Imonetix (Pty) Ltd
Registration Number:2012/079572/07
("Seller")

And

("Purchaser")

Sale of Sectional Title Unit	
Unit No.	: _____
Garage No.	: _____
Parking Bay No.	: _____
Estate Agent	: _____
Estate Agent No.	: _____

Prepared by:
Mostert and Bosman
3rd Floor, MSP Chambers, Cnr of Carl Cronje & Tygerfalls Boulevard, Tygerfalls
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Reference:

COVERING SCHEDULE

1. PARTIES			
1.1. Seller:	Imonetix (Pty) Ltd Registration Number: 2012/079572/07		
Address:			
1.2. Purchaser (full names):			
Identity No. / Registration No. / Date of Birth:			
Purchaser's Income Tax Reference No.:			
Representative's full names (if signing on behalf of a legal entity) :			
Residential Address (street address):			
Postal Address:			
Telephone No: (Home)			
(Work)			
(Cell)			
Fax:			
E-mail Address:			
Marital Status:	Single		Married
(How married?)	in community of property		
	out of community of property without accrual		
	out of community of property with accrual		
	Married by Customary Law:		
	foreign marriage		
If foreign marriage, governed by the laws of:	(state country)		
Names Full of Spouse:			
Name of alternative contact person:			
Telephone No: (Home)			
(Work)			
(Cell)			
Fax:			
E-mail address:			
2. SUBJECT MATTER			
2.1. Sections:			
2.1.1. Unit: (Residential Section)	Unit No:		
	Extent:	(approx.)	
2.1.2. Garage	Garage number:		
2.2. Parking Bays (Allocated in terms of Section 27A of the Rules):	Parking Bay number:		
2.3. Exclusive Use Areas:			
2.3.1. Parking Bays	Parking Bay number:		
2.3.2. Garden	Garden number:		

3. PURCHASE PRICE	
3.1. Purchase Price of the Property (Inclusive of VAT)	R
3.2. Deposit	R
3.3. Balance Purchase Price	R
3.3.1. Cash	R
3.3.2. Loan Amount	R
3.4. Date for payment of the Deposit	7 (Seven) days after the Signature Date
3.5. Date Loan must be granted by	Within 30 (Thirty) days after the Signature Date or such extended period as provided for in this Agreement
4. ESTIMATED OCCUPATION DATE	
Date:	
5. ESTIMATED TRANSFER DATE	
Date:	
6. ESTIMATED LEVY (EXCLUDING RATES)	
6.1. Unit:	
6.2. Parking bay:	
6.3. Total Estimated Levy (excluding rates):	
7. ESTIMATED RATES & TAXES	
Rates and taxes	To be determined by the Local Authority
8. TRANSFERRING ATTORNEY	
Name of Attorney:	Mostert & Bosman Attorneys, MSP Chambers, 4 Howick Close, Tygerfalls, Bellville, Att: Pieter Goosen, Tel no: 021 914 3322. Bank Account details: Mostert & Bosman Trust account, Absa Bank, Account No: 4049105047, Branch Code 632005, Reference No: (Unit number) _____ client's surname
9. BOND BROKER	
Name of Bond Broker:	Epangelo Bonds Danel Rossouw Danel@epangelo.com 021 883 8698
10. ESTATE AGENT	
Company:	
Agent:	
Address:	
Telephone number:	
Email:	

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1. PARTIES

1.1. SELLER

The Seller means the Party as more fully described in Clause 1.1 of the Covering Schedule.

1.2. PURCHASER

The Purchaser means the Party as more fully described in Clause 1.2 of the Covering Schedule.

2. INTERPRETATION

In this Agreement:

2.1. unless the context clearly indicates otherwise, words importing the singular shall include the plural, words importing the masculine, feminine or neuter shall include the others or such genders, and words importing persons shall include bodies corporate, and vice versa in each instance;

2.2. expressions with reference to writing shall be construed as including reference to printing, lithography, photography and other modes of representing or reproducing words in visible form;

2.3. when any number of days is prescribed, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;

2.4. where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail;

2.5. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any person, then, notwithstanding that it is only in the definition Clause of this Agreement, effect shall be given to it as if it were a substantive provision in the body of this Agreement.

2.6. the Annexures to this Agreement are deemed to be incorporated in and form part of the Agreement.

2.7. In this Agreement the following terms and conditions shall, unless inconsistent with the context, bear the meanings stated hereunder and cognate terms and expressions shall bear corresponding meanings:

2.7.1. Agent: means the Agent referred to in Clause 10 of the Covering Schedule;

2.7.2. the Annexures Agreement: means this Agreement together with all thereto;

2.7.3. Purchase Price described in Balance of the Purchase Price: means the Balance Clause 3.3 of the Covering Schedule;

2.7.4. respect of the Scheme to be Body Corporate: means the Body Corporate in established in respect of the Land and Building in terms of the provisions of Section 36(1) of the Sectional Titles Act;

2.7.5. in Clause 9 of the Bond Broker: means the Bond Broker referred to Covering Schedule;

2.7.6. Building: means the Building constructed or to be constructed on the Land as depicted on the Drawings and which will be constructed substantially in accordance with the Drawings and specifications;

2.7.7. Sunday or Business Day: means any Day except a Saturday, Officially proclaimed public holiday;

- 2.7.8. Land and such Common Property: means the land that comprises the parts of the Building that will not form part of a Section and that will be designated as such on the provisional Sectional Plan, which Common Property is in extent approximately _____square metres as indicated on the Drawings;
- 2.7.9. contained in the first Covering Schedule means the Covering Schedule part of this Agreement;
- 2.7.10. Inspection; Completion Date: means the date of the Handover
- 2.7.11. stipulated in Components: means the individual components Clause 2 of the Covering Schedule;
- 2.7.12. Number CPA means the Consumer Protection Act, 68/2008, as amended;
- 2.7.13. the Defects List: means the list of defects as agreed upon by Parties during the Hand-over Inspection;
- 2.7.14. of the Deposit: means the Deposit described in Clause 3.2 Covering Schedule;
- 2.7.15. in person or by Direct Marketing: means to approach a person, either mail or electronic communication for the direct or indirect purpose of promoting or offering to supply, the Property to that person;
- 2.7.16. this Drawings: means the Drawings that are annexed to Agreement as Annexure A, consisting of the Elevation and Building Floor Plan;
- 2.7.17. condition Due Date means the date for the fulfillment of any referred to in this Agreement or the date for the payments of any amounts due in terms of this Agreement, as the case may be;
- 2.7.18. stipulated in Clause Exclusive Use Area: means the Exclusive Use Area 2.3of the Covering Schedule, which forms part of the Common Property and will be reserved for the exclusive use of the owner of the Residential Section;
- 2.7.19. No.38 FICA: means the Financial Intelligence Centre Act of2001, as amended;
- 2.7.20. Corporate in First Meeting means the First Meeting of the Body terms of Section 36(7) of the Sectional Titles Act;
- 2.7.21. preliminary Floor Area: means the Floor Area shown on the participation quota as per Annexure D;
- 2.7.22. Garage means the Garage as described in Clause 2 of the Covering Schedule;

- 2.7.23. the Garden Area means the area described in Clause 2.3.2 of the Covering Schedule;
- 2.7.24. Property by the Seller or its representative, and the Purchaser, or its representative, after the Completion Date, but before the Occupation Date, at which inspection the Parties will agree to the Defects List; Hand-over Inspection means an inspection of the Defects List;
- 2.7.25. payable by the Initiation Fee: means the Initiation Fee due and Purchaser to the bank or other financial institution approving the loan referred to in Clause 9.3 of this Agreement;
- 2.7.26. payable by the Interim Levies: means the Levies that will be Purchaser to the Seller prior to the First Meeting;
- 2.7.27. Land: means Erf 3328, Stellenbosch, Western Cape Province;
- 2.7.28. Levies: means the Levies that will be payable by the Purchaser to the Body Corporate and/or the MHOA, as the case may be;
- 2.7.29. Clause 3.3.2 Loan Amount: means the amount as referred to in of the Covering Schedule;
- 2.7.30. jurisdiction over Local Authority: means the Local Authority having the Land, being at present the City of Cape Town, and shall include its successor in title;
- 2.7.31. No. 15 of LUPO: means the Land Use Planning Ordinance 1985, (Western Cape) as amended, and includes any superseding legislation or sub-ordinate legislation;
- 2.7.32. as amended; NCA: means the National Credit Act, No 34/2005,
- 2.7.33. and Tear ascribed to Normal Wear and Tear means the Normal Wear improvements to fixed property in general, including but not limited to touch-up paint of any nature, hairline cracks in the plaster work, any shrinkage/movement and expansion cracks between different components/materials used or cracking which might appear in control movement joints, any mould growth caused by a lack of ventilation and/or condensation, any doors and windows slamming in windy conditions or any damages caused thereby, wind and rain entering through open windows and doors and hot water cylinders which is covered by the guarantee issued by the supplier thereof;
- 2.7.34. to in Clause 4 of Occupation Date: means the estimated date referred the Covering Schedule;
- 2.7.35. Purchaser to the Occupational Interest: means the amount payable by the Seller calculated from the Occupation Date to the Transfer Date, calculated on the Purchase Price at the Prime Overdraft Rate;

2.7.36. in Clause 2 of	Parking Bay: means the Parking Bay as described in the Covering Schedule;
2.7.37. layout of all the	Parking Layout Plan means the plan which indicated the Parking Bays in the Scheme as well as the allocation of such parking bays to individual Units annexed to this Agreement as Annexure G;
2.7.38.	Parties: means the Seller and the Purchaser;
2.7.39. which is equal to Absa	Prime Overdraft Rate: means the rate of interest per year, Bank's Limited publicly quoted Prime Overdraft Rate;
2.7.40.	Property: means collectively all the Components;
2.7.41. described in Clause 3.1 of	Purchase Price: means the Purchase Price in the Covering Schedule;
2.7.42. 1.2 of the	Purchaser: means the Purchaser referred to in Clause 1.2 of the Covering Schedule;
2.7.43. the	QS means a professional Quantity Surveyor appointed by the Seller;
2.7.44. together with an	Residential Section: means the Residential Section undivided share in the Common Property apportioned to the Residential Section in accordance with the participation quota, as will be endorsed on the Sectional Plan;
2.7.45. Rules prescribed	Rules: means the Management and Conduct Rules prescribed by the Sectional Titles Act, as may be amended from time to time, or as may be amended by the Seller in terms of the provisions of the Sectional Titles Act, available on the Website or on request from the Agent;
2.7.46.	SARS: means the South African Revenue Services;
2.7.47. come into	Scheme: means the Sectional Title Scheme that will be on registration of the Sectional Plan in terms of the provisions of the Sectional Title Act in respect of the Sections reflected thereon and which will be known as Zevenvallei;
2.7.48. Plan, to be	SDP: means the provisional Site Development Plan approved by the Local Authority;
2.7.49. No. 95 of 1986	Sectional Titles Act: means the Sectional Titles Act, Act No. 95 of 1986 or any amendment thereto and includes the regulations promulgated thereunder, from time to time;
2.7.50. Register in respect of the	Sectional Titles Register: means the Sectional Titles Register in respect of the Land and the Building to be registered and opened in terms of the Sectional Titles Act;
2.7.51. Plan to be drawn in	Sectional Plan: means the provisional Sectional Plan to be drawn in terms of the Sectional Titles Act;

respect of the Land and Building in terms of the provisions of the Sectional Titles Act and which is to be approved by the Surveyor General;

- 2.7.52. of the Seller: means the Seller as described in Clause 1.1 Covering Schedule;
- 2.7.53. for the Signatory: means the person who signs this Agreement benefit of a Company, Close Corporation, Trust or other legal person formed or as Trustee for a Company not yet incorporated;
- 2.7.54. signs the Agreement; Signature Date: means the date on which the Seller
- 2.7.55. Attorneys as referred to in Clause Transferring Attorneys: means the Transferring 8 of the Covering Schedule;
- 2.7.56. registered in favour of Transfer Date: means the date that the Property is the Purchaser, which is estimated to be the date referred to in Clause 4 of the Covering Schedule;
- 2.7.57. Unit: means the Residential Section;
- 2.7.58. the VAT: means Value Added Tax payable in terms of VAT Act;
- 2.7.59. 1991; VAT Act: means The Value Added Tax Act No 89 of
- 2.7.60. Development available on Website: means the Website of the the internet at the following website address: www._____.co.za.

3. RECORDAL

- 3.1. The Seller wishes to develop the Land by the construction of the Building thereon.
- 3.2. The Seller has procured the completion of the Drawings.
- 3.3. The Seller wishes to sell the Property prior to the commencement of the construction of the Building.
- 3.4. The Building has not been completed and the Sectional Plan not yet drawn nor registered and accordingly the exact and final boundaries of the Components will only be reflected on the approved Sectional Title Plan.

4. SALE

The Seller sells to the Purchaser who hereby purchases -

- 4.1. the Property subject to the terms and conditions contained in this Agreement and the Annexures.
- 4.2. The Property is more fully described on the Drawings and will be finally described on the Sectional Plan.
- 4.3. **The Purchaser hereby confirms that he has inspected the Land.**

5. PURCHASE PRICE

- 5.1. The Purchase Price payable by the Purchaser to the Seller for the Property shall be the amount described in Clause 3.1 of the Covering Schedule, which amount is inclusive of Value Added Tax and which amount is payable as follows:

- 5.1.1. the Purchaser shall pay the Deposit in cash, on the date set in Clause 3.4 of the Covering Schedule, to the Transferring Attorneys, which Deposit will be held in trust by the Transferring Attorneys to be invested by them in terms of section 78(2A) of the Attorneys Act, until the Transfer Date. The interest of the above, less an administration fee of 1(One) % per year in respect of management and/or administration fees payable by the bank to the Transferring Attorneys, will accrue to the Purchaser. The Transferring Attorneys will not be able to invest the Deposit unless the Purchaser has furnished the Transferring Attorneys with:
- 5.1.1.1. all the FICA documentation and information required by the Transferring Attorneys to open an investment account, as may be applicable on the Purchaser as per Annexure D and the Purchaser agrees to grant the Transferring Attorneys full co-operation and disclosure to comply with the FICA requirements and the Attorneys Act, which documentation must be supplied by the Purchaser to the Transferring Attorneys or before the Signature Date, and
- 5.1.1.2. payment confirmation which must clearly state the reference number, Residential Section Number and contact details of the Purchaser concerned. The Purchaser shall not be entitled to any interest on the Deposit until the documentation has been provided to the Transferring Attorneys and proof of receipt thereof was acknowledged by the Transferring Attorneys, and
- 5.1.2. the Purchaser shall within 14 (fourteen) days after fulfillment of the condition precedent referred to in Clause 6 of this Agreement, or, if this Agreement is not subject to the condition precedent referred to in Clause 6, within 30 (Thirty) days after the Signature Date, furnish the Transferring Attorneys with a guarantee issued in favour of the Transferring Attorneys for the Balance of the Purchase Price, in favour of the Seller or a payee nominated by the Transferring Attorneys. The guarantee is to be issued by a bank and must be payable against registration of transfer of the Property into the name of the Purchaser, or the Purchaser may elect to pay such amount in cash in which instance the amount must be paid to the Transferring Attorneys, which amount must be invested by them, subject to the terms and conditions provided for in Clause 5.1.1 above.
- 5.2. **All monies due by the Purchaser in terms of this Agreement, and unpaid on the Due Date, shall bear interest at Prime Overdraft Rate for the first 3 (Three) months after the Due Date, and interest at the Prime Overdraft Rate plus 2 (Two) percent for any period exceeding the initial 3 (Three) month period, calculated from the Due Date to the actual date of payment thereof.**
- 5.3. All or any payments to be effected hereunder shall be effected by the Purchaser to the Transferring Attorneys free of exchange at Cape Town and without deduction or set off.
- 5.4. **In the event that the VAT rate in effect on the Signature Date is at any time after the Signature Date increased or reduced in such a manner that the VAT payable on the supply of the Property is increased or reduced, the Seller may give the Purchaser notice of its intention to increase or decrease the Purchase Price according to the amendment in the VAT rate. If the Purchaser does not accept such amendment, the Seller may withdraw the above notice and notify the Purchaser of its intention to revert to the original Purchase Price, failing to do so this Agreement will lapse and be of no further force of effect.**
- 6. CONDITION PRECEDENT - LOAN**
- 6.1. In the event of an amount having been inserted in Clause 3.3.2 of the Covering Schedule, this Agreement is subject to the condition precedent that the Purchaser is granted a loan within the period specified in Clause 3.5 of the Covering Schedule from a bank or financial institution in the amount specified in Clause 3.3.2 of the Covering Schedule on the terms that the aforesaid bank or financial institution normally approves mortgage loans for the purchase of Sectional Title Residential Sections.
- 6.2. **In the event of the aforesaid condition not being fulfilled within the abovementioned time period, the time period will automatically be extended with a maximum period of 60 (Sixty) days after the Due Date, or such shorter/longer period as the Parties may agree to in writing.**
- 6.3. The condition set out in Clause 6.1 above will be deemed fulfilled once the aforesaid bank or financial institution to which application has been made for the loan has issued a quotation in terms of Section 92(2) of the National Credit Act to the effect that the application has been approved notwithstanding the fact that such an approval is granted subject to the fulfillment of a condition or conditions or subject to the reservation of the right by such a bank or other financial institution to, at any time prior to payment of the proceeds of the loan to the Purchaser, withdraw such approval.

- 6.4. If the loan is approved for an amount less than the amount stipulated in Clause 3.3.2 of the Covering Schedule and the Purchaser accepts such lower amount in writing by his signature to the quotation as referred to in clause 6.3 above, this condition will be deemed to be fulfilled.
- 6.5. The Purchaser expressly authorizes the Bond Broker as its agent to submit a mortgage bond application on the Purchaser's behalf to any financial institution, based on the economic benefit and convenience to the Purchaser. The Purchaser agrees and undertakes to sign all necessary documents and to supply the Bond Broker with any information and/or document/s which is/are required for this purpose. **The Purchaser hereby warrants that the information so provided shall be true, accurate and correct.**
- 6.6. It is recorded that the abovementioned condition precedent is inserted solely for the benefit of the Purchaser. The Purchaser may waive the benefit of this condition by communicating such waiver to the Seller in writing at any time before the expiry of the abovementioned time limit. In the event of the waiver by the Purchaser as aforesaid, this Agreement will not lapse despite the fact that the Purchaser was not successful in the fulfilment of the abovementioned condition.
- 6.7. The parties agree that should the abovementioned condition precedent not be fulfilled or waived timeously, then in that instance this Agreement will lapse, be of no further force or effect and the parties will be restored in the position that they were in when they entered into this Agreement.

7. VAT

Except for the Purchase Price, or where expressly set out to the contrary, all other amounts payable by the Purchaser are described as excluding VAT and the Purchaser shall where applicable pay such amounts plus VAT calculated at the rate then applicable, to the Seller or any other party to whom such payment is due.

8. CANCELLATION

- 8.1. **Should the Seller prior to the fulfillment of the condition precedent as referred to in Clause 6 of this Agreement, receive another offer which it, in its sole discretion, wishes to accept, then the Seller shall be obliged to notify the Purchaser of its intention in writing. The Purchaser shall then have 3 (Three) Business Days after the sending of such notification, to waive in writing the benefit of the condition precedent as referred to in Clause 6 of this Agreement, thereby binding himself unconditionally and declaring himself financially able to fulfill all its obligations provided for in this Agreement, failing which this Agreement shall lapse, be of no further force or effect and whereafter the Parties will be restored in the position that they were in when they entered into this Agreement.**
- 8.2. In the event of this Agreement lapsing by reason of the condition in Clause 8.1, the Seller will:
- 8.2.1. immediately instruct the Transferring Attorneys to repay the Deposit plus interest earned thereon to the Purchaser; and
- 8.2.2. **neither the Seller nor the Purchaser will have any claim for damages or for any other amount or any other claim whatsoever against the other party arising from this Agreement.**

9. TRANSFER AND TRANSFER COSTS

- 9.1. Provided the Purchaser has complied with all his obligations as set out in this Agreement and in particular has paid the Deposit, delivered the guarantee referred to in Clause 5.1.2 above and paid Occupational Interest, Interim Levies, Levies and any other amounts owing in terms of this Agreement, registration of transfer of the Property shall be given by the Seller and taken by the Purchaser as close as possible to the Transfer Date.
- 9.2. **In the event that registration of transfer of the Property and/or, where applicable, registration of a mortgage bond, is delayed or frustrated by any act or omission of the Purchaser, the Purchaser shall pay to the Seller interest calculated at the Prime Overdraft Rate plus 2 (Two)% calculated on the Purchase Price from the date on which the transfer would, but for such delay, otherwise have been registered up to the Transfer Date.**
- 9.3. The Seller shall be liable for and shall on demand pay to the Transferring Attorneys any transfer fees plus VAT that may be payable by reason of this Agreement. If the Purchaser has to register a mortgage bond over the Property the Seller shall pay all costs in respect of the registration of such a mortgage bond, excluding the Initiation Fee as referred to in Clause 2.7.25 of this Agreement, which fee will be for the account of the Purchaser, subject to the following conditions:

- 9.3.1. the mortgage bond is granted by ABSA Bank Ltd, Firstrand Bank Ltd, NedcorBank Ltd or Standard Bank Ltd as the Purchaser's financial institution of choice, and
- 9.3.2. the registration of the mortgage bond is effected by the Transferring Attorneys, and
- 9.3.3. the mortgage bond was procured by the Bond Broker,
- 9.4. **If Clauses 9.3.1 to 9.3.3 are not complied with, all transfer and bond registration fees will be for the account of the Purchaser.**
- 9.5. **The Purchaser shall not be entitled to delay transfer or withhold any monies by virtue of the fact that any of the Sections in or portion of the Building, or any portion of the Common Property, are not fully completed on the date that transfer is tendered to him.**
- 9.6. **The Parties irrevocably authorizes the Transferring Attorneys to sign all necessary declarations and applications on their behalf to enable them to obtain the necessary transfer duty exemptions as well as the opening of the Sectional Title Register for the Development in the Cape Town Deeds Registry.**
- 10. CO-OPERATION TO EXPEDITE TRANSFER**
- 10.1. The Purchaser will sign all documents necessary to effect transfer of the Property, will attend the Hand-over Inspection and sign the Defects List, and return same and all other documents, resolutions, certificates and payment of the transfer costs and fees as determined by the Transferring Attorneys, to the Transferring Attorneys, and attend the Hand Over Inspection, within 5 (Five) Business Days after having been requested to do so.
- 10.2. **The Purchaser acknowledges and accepts that the Purchaser has bought Property in a development where a development mortgage bond is or will be registered. Transfer of the Property will occur simultaneous with transfers to other Purchasers necessitated by the Property sold having to be released from the operation of the mortgage bond. As a result of the above, lodgment of the Purchaser's transfer documents at the Deeds Office may be delayed. The Purchaser's obligations to pay Occupational Interest, Interim Levies and Levies, as the case may be, shall remain, and be unaffected by any delay occasioned by the above.**
- 11. EXTENT, ONEROUS CONDITIONS AND WARRANTIES**
- 11.1. **The Property is sold on the basis that the extent of the Sections is as set out in Clause 2.1 of the Covering Schedule. This extent is a provisional one. The aforesaid extent might change when the Sections are finally measured on completion and depicted on the Sectional Plan. The Seller shall have no claim for any additional consideration should the extent of the Sections, as finally surveyed, be more than the aforesaid extent.**
- 11.2. **The Purchaser will have no claim if the final extent, determined as aforesaid, is less than the extent described in Clause 2.1 of the Covering Schedule. If the extent of the Sections as depicted on the Sectional Plan is more than 10 (Ten)% less than the extent described in Clause 2.2 of the Covering Schedule, the Parties will endeavor to agree on an amendment to the Purchase Price, failing do so, either Party will have the right to cancel this Agreement by written notice to the other Party.**
- 11.3. **The Property is sold subject to all conditions and servitudes pertaining thereto, imposed by any competent authority, the Local Authority, the Seller, any professional consultant of the Seller or in terms of LUPO. The Seller may amend the lay-out of the Development, as indicated on the SDP, if required by any competent authority, the Local Authority or in terms of LUPO.**
- 11.4. **The various budgets presented to the Purchaser are estimates of income and expenditure as at the time of conclusion of this Agreement.**
- 11.5. **The Purchaser acknowledges that he has not been influenced into entering into this Agreement by any express or implied information, statement or representation given or made by or on behalf of the Seller, and that fixtures, fittings or extras displayed by the Seller in the Show Flat, does not form part of the improvements on or to the Property, unless same is expressly and specifically recorded in this Agreement. The Purchaser hereby waives in favour of the Seller any rights whatsoever which he otherwise may have obtained against the Seller as result of any such information, statement or representation given or made by on behalf of the Seller which is not so expressly and specifically recorded. It is recorded that all artistic, architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets and the show unit used by the Seller or its Agents in the marketing and selling of the Section/s or Exclusive Use Areas hereby purchased and sold, have been prepared and distributed as advertising material only; and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby; and that no representation is thereby**

made by the Seller, and that the Parties shall be bound by the terms contained in this Agreement only.

- 11.6. **The Purchaser acknowledges that he is aware that the view currently enjoyed and/or the projected view from the Property hereby sold, may be affected by the development of the Scheme and/or the construction of any further buildings on the Land or any adjacent plot/development in the vicinity of the Property. The Purchaser accordingly acknowledges and agrees that the Purchaser shall have no claim or right of action whatsoever against the Seller arising from such impact on or impairment of the view from the Property, or any derogation from the value thereof, as a result of any such ongoing development or further buildings.**

12. POSSESSION AND OCCUPATION

- 12.1. **The earliest date of possession and occupation will be the date as referred to in Clause 4 of the Covering Schedule. In the event that the Seller anticipates that the actual Occupation Date will not be the aforesaid date, it shall give notice to the Purchaser, at least 30 (Thirty) days prior to the Occupation Date, of the new expected date of occupation. The Purchaser shall have no claim against the Seller for damages or for compensation of any other nature by reason of the Occupation Date having been amended.**

- 12.2. Provided the Purchaser has complied with all his obligations in terms of this Agreement, including, without limiting the generality of the foregoing, payment of the Deposit and due delivery of a valid guarantee for the Balance of the Purchase Price, occupation of the Property shall be given by the Seller and taken by the Purchaser on the Occupation Date.

- 12.3. **Where the Occupation Date is a date prior to the Transfer Date, risk in the Property will pass to the Purchaser on the Transfer Date.**

- 12.4. **The right to rent the Property passes to the Purchaser on the Transfer Date.**

- 12.5. **The Purchaser shall not be entitled to make any alterations or modifications of any nature to the Property between the Occupation Date and the Transfer Date.**

- 12.6. Occupational Interest calculated at 1% (One) of the Purchase Price per month is payable by the Purchaser if the Transfer Date is after the Occupation Date, whether or not occupation has actually been given to and taken by the Purchaser.

12.6.1 The Purchaser shall pay the Occupational Interest to the Seller monthly in advance and thereafter on the first day each subsequent month.

12.6.2 The Purchaser shall, on the Transfer Date, be refunded a pro rata share of any Occupational Interest that has been paid in advance in respect of the period after the Transfer Date.

- 12.7. **The Purchaser acknowledges that on the Occupation Date construction of parts of the Building and the Common Property may not yet have been completed. The Purchaser accordingly hereby acknowledges that he might be subjected to nuisance, noise and other inconvenience from whatsoever cause arising and howsoever arising.**

- 12.8. **Between the Occupation Date and the Transfer Date the provisions the Rules will be binding on the Purchaser.**

13. UNIT LAY OUT AND SPECIFICATIONS

- 13.1. The Building and the Property shall be built substantially in accordance with the Drawings and the specifications and finished in accordance with the specifications.

- 13.2. The Seller shall be entitled to vary the name of the Scheme and the numbers allocated to the Property on the Drawings.

14. COMPLETION AND HAND OVER

- 14.1. The Parties or their representatives shall be obliged to attend the Hand-over Inspection at any pre-arranged time, during which inspection the Parties shall agree to the Defects List.

- 14.2. If the Purchaser fails to attend a Hand-over Inspection within a reasonable period after having received written notice thereof by the Seller, then the Completion Date will be determined by the QS.

- 14.3. The Seller shall remedy the defects on the Defects List as soon as reasonably possible.

14.4. Notwithstanding the provisions of this Clause 14, the Seller shall strictly enforce, for the benefit of the Purchaser, any guarantee or warranty which it may enjoy. To the extent that such guarantee or warranty relates to the Property, the Seller hereby cedes all its rights in terms thereof to the Purchaser and/or the Body Corporate.

14.5. **All undertakings and commitments given by the Seller to the Purchaser in terms of this Agreement are personal to the Purchaser who shall not be entitled to cede, assign or make over its rights thereto.**

15. DEFECTS AND VOETSTOOTS

15.1. The Seller shall remedy any material patent and latent defect in the Property due to faulty workmanship or materials, manifesting itself within 6 (Six) months of the Transfer Date, provided that the Purchaser notifies the Seller thereof in writing within the said period of 6 (Six) months.

15.2. **In the absence of notice as referred to in Clause 15.1 above, the Purchaser shall be deemed to have accepted the Property in a fit and proper condition and be deemed to have acknowledged that the Seller has fully complied with its obligations as set out in the aforesaid Clause and the purchase of the Property will become "voetstoots". The Seller, other than as provided for herein, shall not be liable for any defects in the Property or in respect of anything relating thereto, whether patent or latent after expiry of the period as referred to in Clause 15.1.**

15.3. In addition to the obligation of the Seller in Clause 12.1 to remedy patent and latent defects, the Seller shall in terms of the NHBRC requirements be obliged to:-

15.3.1. remedy any material latent defect in the Property due to faulty workmanship or materials, manifesting itself within 90 (Ninety) days of the Occupation Date, provided that the Purchaser notifies the Seller thereof in writing within the said period of 90 (Ninety) days;

15.3.2. at its own expense repair any roof leaks that occur in respect of the Property within the first 12 (Twelve) months of the Occupation Date, provided that the Purchaser notifies the Seller thereof in writing within the said period of 12 (Twelve) months;

15.3.3. rectify any defect of a patent or latent nature in respect of the substructure, the superstructure and the roof structure of the Property for a period of 5 (Five) years of the Occupation Date, provided the Purchaser notifies the Seller in writing thereof within the said 5 (Five) year period.

15.4. **The Seller shall not be liable for any defects in the Property in respect of Normal Wear and Tear or any defects or damages caused by the conduct of the Purchaser, whether wilfully or by his negligence.**

15.5. **The Purchaser shall be obliged to give the Seller, its Agents and Contractors all access reasonably required to remedy the patent or latent defects that are required to be remedied in terms of Clauses 14 or 15.**

16. CONDITIONS APPLICABLE PENDING TRANSFER

The following conditions will apply to the Purchaser from the Occupation Date up to the Transfer Date:

16.1. **The Purchaser will comply with all the duties on an owner as described in Section 44(1) of the Sectional Titles Act;**

16.2. **The provisions of the Rules insofar as they cast any duty upon the owner or occupier of a Residential Section, shall bind the Purchaser, who will fully comply therewith;**

16.3. **The Purchaser may not make any additions to the Property;**

16.4. **The Purchaser shall be obliged to maintain the Property in a fit and proper condition and properly painted and shall also maintain the geyser of the Property;**

16.5. **The Purchaser shall not be entitled to subdivide any component for the purpose of selling, donating or in any other manner alienating or disposing of the Purchaser's rights of occupancy or any portion thereof to any other person;**

16.6. **The Purchaser shall be liable for all water and electricity consumed in respect of the Property from the Occupation Date.**

17. PHASED DEVELOPMENT

- 17.1. The Seller reserves to itself, and to its successors in title as Developer, all such rights as are provided for in Section 25 of the Sectional Titles Act, to erect and complete a phased development on the Land from time to time, by not later than 50 (Fifty) years from the date of opening of the Sectional Title Register, for its personal account. The phased development may consist of a further Building or Buildings, a horizontal extension of an existing Building, or a vertical extension of an existing Building. The Seller shall be entitled to divide such Buildings into a section or sections and Common Property and to confer the right of exclusive use over parts of such Common Property upon the owner or owners of one or more such sections. After completion of the extension to the Scheme as aforementioned, the participation quotas of all the Sections in the Scheme will be recalculated in accordance with the provisions of Section 32 of the Sectional Titles Act.
- 17.2. From the date of the establishment of the Body Corporate to the date of registration of the Sectional Plan in respect of the extension envisaged in Clause 17.1, the Seller shall be responsible for the upkeep, control, management and administration of that portion of the Common Property upon which such additional Buildings or extension of existing Buildings are to be erected.
- 17.3. The right of the Seller reserved in terms of this Clause may be exercised by the Seller or its successors in title to such right even though the Seller or such successors in title, as the case may be, provided that the exercise of such right is in accordance with the Sectional Titles Act.

18. NATIONAL CREDIT ACT AND OUTSTANDING TAXES

In the event that this Agreement is subject to the National Credit Act, Act 34 of 2005, then the Purchaser warrants that:

- 18.1. Once the bond as referred to in Clause 6 is approved and the pre-agreement and quotation is accepted, the Purchaser shall not do anything that may cause the Purchaser to become over-indebted in terms of the National Credit Act or cause the bank to withdraw the bond.
- 18.2. The Purchaser shall not do anything between the date of acceptance of the pre-agreement and quotation, and registration of the bond, which may cause the Purchaser's financial position to deteriorate.
- 18.2.1. At the time of the Signature Date, the Purchaser is not:
- 18.2.2. over-indebted; and/or
- 18.2.3. subject to debt review; and/or
- 18.2.4. subject to an administration order.
- 18.3. The Purchaser does not and will not be, on the Signature Date and until the Transfer Date, in default of any income or other tax law obligations to the South African Revenue Services which will serve to delay the obtaining of transfer duty receipts or exemption certificates from the South African Revenue Services or not do anything or omit to do anything that will or can cause such a delay.

19. CAPACITY OF PURCHASER

- 19.1. If more than one Purchaser signs this Agreement, the Purchasers will be jointly and severally liable for the due performance of the terms and conditions of this Agreement.
- 19.2. The Signatory shall in his personal capacity be liable for the due fulfilment of all the terms and conditions of this Agreement.
- 19.3. If the Signatory has signed this agreement on behalf of a Company to be founded and the company is not founded within 30 (Thirty) days after the Signature Date, or if the company is founded, but does not ratify this Agreement, or if the company does not comply with the terms and conditions of this Agreement, then in that instance the Signatory will be liable to perform all terms and conditions of this Agreement in his personal capacity.

20. BODY CORPORATE

- 20.1. The Purchaser will become a member of the Body Corporate and become obliged to comply with all the obligations imposed upon him by the Rules and Sectional Titles Act from the Transfer Date.

20.2. **The Seller reserves the right to substitute and/or amend the Rules in terms of Section 35 of the Sectional Titles Act.**

20.3. The provisions of Clause 15.1 of this Agreement will apply to the Common Property from the date of opening of the Sectional Title Register in the Cape Town Deeds Registry.

21. PARTICIPATION QUOTAS

21.1. The participation quotas of the Sections will, subject to Clause 21.2 hereunder, be as set out in Annexure D hereto. The total of the said participation quotas are also set out on Annexure D hereto.

21.2. **It is recorded by the Seller that the participation quotas were calculated from the Drawings, and the Parties agree that it may change after approval of the Sectional Title Plan.**

22. INTERIM LEVIES AND LEVIES

22.1. The Seller shall, until the date of opening of the Sectional Title Register in the Cape Town Deeds Registry:

22.1.1. keep the Building insured for its replacement value against all risks mentioned in the Rules and against any other risk against which the Seller may deem it prudent;

22.1.2. maintain the Common Property and to keep it in a state of good and serviceable repair;

22.1.3. keep in a state of good and serviceable repair and maintain the plant, machinery, fixtures and fittings used in connection with the Common Property;

22.1.4. administer 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 Common Property.

22.1.5. **If the Seller incurs any expenditure between the date of the opening of the Sectional Title Register and the First Meeting, it shall recover such expenditure by way of the Interim Levies, as follows:**

22.1.5.1. **the Interim Levies will be calculated by dividing the monthly expenditure as described in Clauses 22.1.1 to 22.1.4 above between the various Sections comprising the Scheme in accordance with the Participation Quotas of the Sections;**

22.1.5.2. **the Interim Levy is payable, monthly in advance, from the Occupation Date until the Transfer Date or the date of the First Meeting, whichever is the latest;**

22.1.5.3. **it is expected that the Interim Levy may not be equal to the amount described in Clause 6 of the Covering Schedule. The Purchaser will remain obliged to pay the Interim Levy as calculated in terms of this Clause 22 notwithstanding any difference in the amount.**

22.2. After the First Meeting, the Purchaser shall be liable to pay the Levies to the Body Corporate.

22.3. It is estimated that the Levy payable to the Body Corporate will approximately be equal to the amount described in Clause 6 of the Covering Schedule, and is calculated in terms of the Estimated Budget and Levies attached to this Agreement as Annexure F.

22.4. **The Levies will be payable monthly in advance on the 1st first day of the month, save for the first month after the Transfer Date, in which instance the Purchaser will pay for 2 (Two) months in advance.**

23. BROKERAGE

23.1. Commission in the amount agreed between the Seller and the Agent, shall be payable by the Seller to the Agent on the Transfer Date.

23.2. The said commission will be earned by the Agent upon signature of this Agreement by both the Purchaser and the Seller and the fulfillment (or waiver, as the case may be) of all conditions precedent contained herein.

23.3. **If this Agreement is cancelled as a result of a breach by either one of the Parties, the defaulting party will be liable for the payment of the Agent's commission.**

- 23.4. **The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any Agent other than the Selling Agent/s stipulated in Clause 10 of the Covering Schedule. The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against or suffered by the Seller arising out of a breach of this warranty.**

24. NUMBER CHANGES

The Seller shall be entitled to change the numbering of any or all of the Components of the Property should the number of any of these Components on the Drawings differ from the approved Sectional Plan. Should the Seller change the number of any component in terms of this Clause, the Purchaser shall sign all such documents as may be required.

25. BREACH

- 25.1. **If any party commits a breach of any of the provisions of this Agreement and fails to remedy such breach within 30 (thirty) days, or in the instance of any financial obligation or a breach in terms of clause 10.1 of this Agreement, within 7 (seven) days after receipt of written notice from the other party calling upon it to remedy such breach, then the innocent party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement and or at Law to:**

25.1.1. **cancel this Agreement and claim such damages as it may have sustained from the defaulting party; or**

25.1.2. **claim immediate performance by the defaulting party of all its obligations in terms of this Agreement whether or not the due date for performance shall otherwise have arrived;**

- 25.2. **The Seller may retain any cash payments made by the Purchaser prior to cancellation as liquidated damages, without prejudice to any other right that the Seller may have.**

- 25.3. **Upon cancellation of this Agreement for any reason whatsoever, the Purchaser hereby undertakes to vacate the Property forthwith, and to procure that the Property shall be vacated by any persons who occupy it through the Purchaser's title or by his permission. Occupation shall be redelivered in the same good order and condition as at the Occupation Date.**

- 25.4. **The defaulting party shall pay all legal and other costs, including costs on the attorney and client scale, incurred by the innocent party in successfully enforcing the provisions of this Agreement.**

- 25.5. **It is specifically recorded that should any breach by the Purchaser occur at a time critical to the registration procedure, the Seller shall be entitled to require the Purchaser to remedy such breach within a period of 24 (twenty four) hours, and not within the 7 (seven) days or 30 (thirty) days period provided for in clause 25.1**

- 25.6. **Where the Seller is entitled to retain any cash payments in terms of Clause 25.2, the Transferring Attorneys is hereby authorized to pay such amounts to the Seller on its request.**

- 25.7. **Should the Purchaser dispute the Seller's right to cancel this Agreement, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by him in terms of this Agreement which will include Levies and Interest on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any other rights of the Seller whatsoever. Failure to pay any of the aforesaid amounts will constitute a material breach of this Agreement.**

26. ADDRESSES FOR SERVICE AND DELIVERY OF LEGAL DOCUMENTS

- 26.1. **The Parties choose their addresses as set out on in Clause 1 of the Covering Schedule of this Agreement above to serve as their addresses for service and delivery of legal documents for all purposes of the Agreement, which includes the giving of notice and the serving of documents or process.**

- 26.2. **Any notice given in terms of the Agreement which is:**

26.2.1. **delivered by hand during normal business hours to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser at the time of delivery;**

- 26.2.2. posted by prepaid registered post to the Seller's or Purchaser's address for service and delivery of legal documents shall be deemed to have been received by the Seller or Purchaser on the 7th day after the day of its posting.
- 26.2.3. communicated by facsimile or e-mail, shall be deemed to have been received by the Seller or Purchaser on received confirmation of the successful transmission thereof.
- 26.3. Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by telex, facsimile or e-mail. Communications by telex, facsimile or e-mail shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee on the day of transmission provided that transmission occurred during business hours.

27. GENERAL

- 27.1. The Parties undertake to do all such things that may be necessary, incidental or conducive to the implementation of the terms, conditions and import of the Agreement.
- 27.2. The Agreement constitutes the sole and entire Agreement between the Parties and no other terms and conditions of whatsoever nature not contained or recorded herein, shall be of any force or effect.
- 27.3. No variation of the terms and conditions of this Agreement or any purported consensual cancellation thereof shall be of any force or effect unless reduced to writing and signed by the Parties or their duly authorized representative.
- 27.4. No indulgence which either party may grant to the other shall constitute a waiver of any of his rights and shall not thereby be precluded from exercising any of his rights which may have arisen in the past or which might arise in the future.
- 27.5. **The Purchaser warrants that all consents required in terms of the Matrimonial Property Act No. 88 of 1984 have been obtained.**
- 27.6. Each and any provision of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) shall be deemed to be separate and severable from the remaining provisions of the Agreement. If any of the provisions of this Agreement (excluding only those provisions which are essential at law for a valid and binding Agreement to be constituted) is found by any Court of competent jurisdiction to be invalid and or unenforceable then, notwithstanding such invalidity and or unenforceability, the remaining provisions of this Agreement shall be and remain of full force effect.

28. CONDITION PRECEDENT IN FAVOUR OF THE SELLER

28.1. MINIMUM SALES

- 28.1.1. It is recorded that the Scheme will comprise Residential Sections. This Agreement is made subject to the Seller selling Residential Sections in the Scheme to a value of at least ___% (_____) of the aggregate value of all Residential Sections in the Schemewithin __ (____) months after _____ or the date that marketing commenced. For purposes of this Clause "sell" will mean the coming into existence of a deed of sale between the Seller and the Purchaser, which is not subject to the condition precedent referred to in Clause 6 above, or in respect of which such condition precedent, if imposed, has been fulfilled.
- 28.1.2. In the event of the aforesaid condition not being fulfilled within the abovementioned time period, the time period will automatically be extended with a maximum period of __ (____) months after the Due Date for fulfillment thereof, or such period as the Parties may agree to in writing.
- 28.1.3. It is recorded that this condition precedent is inserted solely for the benefit of the Seller. The Seller may waive the benefit of thiscondition by communicating such waiver to the Purchaser in writing.
- 28.1.4. In the event of this condition not being fulfilled or waived, the Seller will refund the Purchaser all amounts paid in terms of this Agreement.

28.2. SECTIONAL TITLE REGISTER

- 28.2.1. This Agreement is subject to the condition precedent in that the Seller must be able to obtain approval of the Sectional Title Plan by the Surveyor-General as well as the opening of the Sectional Title Register in the Cape Town Deeds Registry on or before the Transfer Date.
- 28.2.2. In the event of this condition not being fulfilled, the Seller will refund the Purchaser all amounts paid in terms of this Agreement.

28.3. OWNERSHIP

28.3.1. This Agreement is subject to the condition precedent in favour of the Seller in that the Seller or its Nominee must become the registered owner of the Parent Property.

28.3.2. In the event of this condition not being fulfilled, the Seller will refund the Purchaser all amounts paid in terms of this Agreement.

29. COOLING-OFF IN TERMS OF THE CPA

If the Property was introduced to the Purchaser by means of Direct Marketing, then and in that instance the Purchaser may rescind this Agreement without reason or penalty, by giving written notice, or another recorded manner and form, to the Seller, within 5 (Five) Business Days after the Signature Date.

30. CONFIRMATION BY THE PURCHASER IN TERMS OF THE CPA

The Purchaser confirms that:

- 30.1. he has read this Agreement and understands the contents thereof YES / NO
- 30.2. that the Property was not introduced to him by means of Direct Marketing YES / NO
- 30.3. that he is aware and understands his right to the cooling-off period after Direct Marketing YES / NO
- 30.4. the Purchaser is a juristic person (Company, Close Corporation, Trust, Partnership, etc.) YES / NO
- 30.5. if the answer in clause 30.4 above is yes, it's annual turnover or asset value is more than R2 000 000.00 (Two Million Rand), as on the Signature Date (not applicable if Purchaser is a natural person) YES / NO
- 30.6. he has purchased and will use the Property only for residential purposes.

31. OFFER

The offer to the Seller constituted by the Purchaser having signed this Agreement shall be irrevocable and may not be withdrawn except by written notice sent to the Seller by registered post, which, in any event, may not be given prior to the expiry of a period of 30 (Thirty) Business Days from the date of signature by the Purchaser.

SIGNED by the Parties hereto on the dates and places hereinafter set forth.

BY THE SELLER

At _____ on the _____ day of _____ 20__

AS WITNESSES:

1. _____

2. _____

SELLER

INITIAL

BY THE PURCHASER

At _____ on the _____ day of _____ 20__

AS WITNESSES:

1. _____

2. _____

PURCHASER(1)

PURCHASER(2)

If Purchaser is a Company, Close Corporation or Trust: Name of Signatory:

Designation of Signatory:
