



SEATON

CONTRACT OF SALE

entered into by and between

SHERPA TRADE AND INVEST 31 (PTY) LTD

and

in respect of the purchase and sale of a
Single Residential (SR) site

1. **THE SCHEDULE**

1.1 **THE SELLER:** **Sherpa Trade and Invest 31 (Pty) Ltd**

Registration number: 2006/002292/07

VAT Registration Number: 4930227766

Physical Address: c/o Lester Hall, Fletcher Inc., 44 Old Main Road, Kloof, 3610

Postal Address: c/o Lester Hall, Fletcher Inc., Private Bag X7016, Hillcrest, 3650

Telephone number: 0861 2777 27

Email: saf@lesterhall.co.za

1.2 **THE PURCHASER:**

Name:

Identity Number/Registration Number:

VAT Registration Number:

Marital Status (for individual):

Physical address:

Postal address:

Contact number:

Email:

1.3 **THE PARENT PROPERTY**

- Portion 14 of the Farm Lot 69 No. 917;
 - Portion 21 of the Farm Lot 69 No. 917;
 - Portion 144 (of 143) of the Farm Lot 69 No. 917;
 - Portion 34 of the Farm Lot 69 No. 917;
 - Remainder of Portion 24 of the Farm Lot 69 No. 917;
 - Remainder of Portion 31 of the Farm Lot 69 No. 917;
 - Remainder of Portion 29 of the Farm Lot 69 No. 917;
 - Portion 37 of the Farm Lot 69 No. 917;
 - Remainder of Portion 33 of the Farm Lot 69 No. 917;
 - Remainder of Portion 26 of the Farm Lot 69 No. 917;
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Remainder of Portion 103 of the Farm Lot 69 No. 917;
Remainder of Portion 53 (of 42) of the Farm Lot 69 No. 917;
Portion 102 of the Farm Lot 69 No. 917;
Remainder of Portion 42 of the Farm Lot 69 No. 917;
Remainder of Portion 43 of the Farm Lot 69 No. 917;
Remainder of Portion 28 of the Farm Lot 69 No. 917;
Remainder of the Farm Lot 69 No. 917;
Remainder of Portion 143 of the Farm Lot 69 No. 917;
Portion 572 (of 22) of the Farm Lot 61 No. 1521;
Proposed Portion 248 (of 11) of the Farm Lot 69 No. 917;
Portion 2 of the farm Greywater No.18435

in extent approximately 414 hectares

as depicted on the Developer's Master Plan annexed hereto marked "B"

1.4 THE DEVELOPMENT

A portion of proposed Erf 806 Sheffield Manor, depicted as 4.2 on the Developer's Master Plan annexed hereto marked "B"

Proposed Erf 806 Sheffield Manor is a consolidation of Proposed Erf 805 (a re-designation of Portion 2 of the farm Greywater No.18435; and Proposed Erf 1 Sheffield Manor, being a consolidation of portions of or all of the following properties:-

Portion 572 (of 22) of the Farm Lot 61 No. 1521;
Remainder of Portion 24 of the Farm Lot 69 No. 917;
Remainder of Portion 43 of the Farm Lot 69 No. 917;
Remainder of Portion 103 of the Farm Lot 69 No. 917;
Remainder of Portion 31 of the Farm Lot 69 No. 917;
Remainder of Portion 33 of the Farm Lot 69 No. 917;
Remainder of Portion 42 of the Farm Lot 69 No. 917;
Portion 37 of the Farm Lot 69 No. 917;
Portion 102 of the Farm Lot 69 No. 917;
Remainder of Portion 53 (of 42) of the Farm Lot 69 No. 917;
Remainder of Portion 26 of the Farm Lot 69 No. 917;
Remainder of Portion 28 of the Farm Lot 69 No. 917;
Remainder of the Farm Lot 69 No. 917;

the extent of which is to be finally determined on survey.

1.5 DESCRIPTION OF PROPERTY:

- 1.5.1 Proposed Erf No _____ Sheffield Manor, Registration Division FU, in the Province of KwaZulu-Natal in extent approximately _____ m² as reflected on the Subdivisional Layout Plan annexed hereto marked "C".
- 1.5.2 Precinct B Site Constraints as contained in the Design Code apply to this Property. An extract from the Design Code headed "Site Constraints" is annexed hereto marked "E"
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1.6 **PURCHASE PRICE:**
The Purchase Price of the Property is the sum of: R _____
inclusive of VAT

1.7 **PAYMENT OF PURCHASE PRICE:**

1.7.1 **DEPOSIT:** R _____ 50 000.00
(See clause 3.1 of the Contract of Sale)

1.7.2 **FURTHER DEPOSIT** R _____
(See clause 3.2 of the Contract of Sale)
(1.7.1 and 1.7.2 must equal 10% of the Purchase Price)

1.7.3 **FURTHER DEPOSIT/GUARANTEE(S)** R _____
(See clause 3.6 of the Contract of Sale)

1.7.4 **LOAN/GUARANTEE(S)** R _____
(See clause 3.6 of the Contract of Sale
read with 2.1 of the Conditions of Sale)

1.7.5 **DEPOSIT FROM PRIOR SALE/
GUARANTEE(S)** R _____
(See clause 3.6 of the Contract of Sale
read with 2.2 of the Conditions of Sale)

1.8 **DESCRIPTION OF PURCHASER'S PROPERTY (PRIOR SALE):**

("the Purchaser's property")

1.9 **DATE OF OCCUPATION:** _____ Date of Transfer

1.10 **OCCUPATIONAL RENTAL:** _____ RN/A inclusive of VAT

1.11 **ESTIMATED MONTHLY LEVY PAYABLE:** R _____

1.12 **LEVY STABILISATION FUND CONTRIBUTION PAYABLE:** R50 000.00

(a percentage of which is payable by the Association to the Master Management Association)

- 1.13 **ESTATE AGENT:**
- 1.13.1 The estate agent _____
- 1.13.2 The estate agency appointed by the Seller namely: _____
- 1.13.3 The Commission payable by the Seller (inclusive of VAT) _____%

- 1.14 **ASSOCIATION:** Seaton Management Association (RF) NPC
(Registration No. 2019/287759/08)

1.15 **CONVEYANCERS:**

Lester Hall, Fletcher Inc. 44 Old Main Road, Kloof, 3610 Private Bag X7016, Hillcrest, 3650 Tel: 0861 2777 27 Email: saf@lesterhall.co.za	Lester Hall, Fletcher Inc. Trust Bank: Nedbank Account Number: 1339 378027 Branch: Pinetown Branch Code: 133926 Ref: Name and Erf No
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- 1.16 **DATE BY WHICH SELLER'S CONDITIONS PRECEDENT TO BE MET:** 30/04/2021

2. **SALE**

Subject to and in accordance with the provisions hereof and the Conditions of Sale annexed hereto as Annexure "A", the Seller sells and the Purchaser purchases the Property for the purchase price referred to in 1.6 above.

3. **PAYMENT OF PURCHASE PRICE**

- 3.1 The deposit referred to in clause 1.7.1 of the Contract of Sale shall be paid to the Conveyancers on signature of this Contract by the Purchaser. The deposit and accrued interest thereon is non-refundable in the event of a breach by the Purchaser and subsequent cancellation, the Purchaser agreeing that the aforesaid penalty is fair and reasonable as to an agreed pre-estimate of losses that the Seller may suffer as a result of such cancellation to be finally quantified in accordance with clause 21.1.2 of the Conditions of Sale.
- 3.2 The further deposit referred to in clause 1.7.2 of the Contract of Sale shall be paid to the Conveyancers within 30 (thirty) days of signature of this Contract by the Purchaser
- 3.3 Such payments shall be invested by the Conveyancers in an interest-bearing account on behalf of the Purchaser until the Date of Transfer or cancellation by the Seller whereupon the Conveyancers shall release the capital to the Seller and all accrued interest earned in respect of such deposits, less 5% of the interest accrued which is payable to the Legal Practitioners'

- Fidelity Fund on a monthly basis in terms of Section 86(5)(b) of the Act, and the Conveyancer's usual fee, to the Purchaser.
- 3.4 The Purchaser hereby authorises the Conveyancers to invest such monies in an investment account as contemplated in section 86(4) of the Legal Practice Act.
- 3.5 The Purchaser acknowledges that:
- 3.5.1 the Conveyancers are designated as an "accountable institution" in terms of the Financial Intelligence Centre Act No. 46 of 2001 ("FICA");
- 3.5.2 certain obligations are placed on the Conveyancers in terms of FICA and the Prevention of Organised Crime Act No. 21 of 1998 ("POCA") and the Regulations promulgated in terms thereof;
- 3.5.3 the Conveyancers are not able to invest any amounts paid into trust with them on the Purchaser's behalf until such time as the Purchaser has complied with the requirements of FICA and has signed the necessary investment mandate, both of which the Purchaser undertakes to do as soon as possible after request therefor by the Conveyancers.
- 3.6 The Purchaser shall secure the due payment of the amounts referred to in clauses 1.7.3, 1.7.4 and/or 1.7.5 above by furnishing the Conveyancers with a guarantee/s from a registered South African commercial bank, in a form and on terms acceptable to the Conveyancers for such amount. Such guarantee/s shall be furnished by the Purchaser within 30 (thirty) days of request therefor by the Conveyancers, provided that
- 3.6.1 if the Purchaser requires a loan for the amount stated in clause 1.7.4 above, such guarantee shall also not be called for until the loan has been granted in accordance with the condition precedent contained in clause 2.1.1 of the Conditions of Sale; and
- 3.6.2 if a guarantee is to come from the sale of the Purchaser's property as stated in clause 1.7.5 above, such guarantee shall not be called for until fulfilment of the condition precedent contained in clause 2.2.1 of the Conditions of Sale.
- 3.7 Alternatively, the Purchaser shall be entitled to pay the amount(s) referred to in clause 1.7.3 and/or 1.7.5 above to the Conveyancers in cash, which amount shall be invested by the Conveyancers in accordance with the provisions of clause 3.23 above.
- 3.8 The Purchaser shall pay the amount referred to in clause 1.12 above to the Conveyancers within 7 (seven) days of request for such payment by the Conveyancers, which request shall not be made until the Approval Date. Such payments shall be invested by the Conveyancers in an interest-bearing account on behalf of the Purchaser until the Date of Transfer whereupon the Conveyancers shall release the capital to the Association and all accrued interest earned in respect of such payment, less 5% of the interest accrued which is payable to the Legal Practitioners' Fidelity Fund on a monthly basis in terms of Section 86(5)(b) of the Act, and the Conveyancer's usual fee, to the Purchaser.
- 3.9 Notwithstanding anything to the contrary herein contained, inasmuch as the total Purchase Price is a Value Added Tax ("VAT") inclusive price determined at the current rate of 15% (fifteen percent) then, in the event of the rate at which VAT is chargeable being amended after the Date of Signature hereof by the Purchaser, but in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same net purchase price after payment of VAT

regardless of the rate at which VAT is payable.

- 3.10 Unless otherwise provided, all payments hereunder shall be made without set-off, deduction or demand to the Seller at the offices of the Conveyancers. All bank charges incurred by the Conveyancers in connection with this transaction, shall be for the account of the Purchaser.

4. **CONDITIONS PRECEDENT**

- 4.1 The Contract is subject to and conditional upon the Seller securing: -

4.1.1 approval by the Municipality (or Municipal Planning Tribunal) of the proposed township as per the Subdivisional Layout Plan and the issue of acceptable conditions of establishment in accordance with the Seller's SPLUMA application in respect thereof; and

4.1.2 the necessary finance to commence the infrastructure on the Development Property as defined in 1.4 of the Contract of Sale,

all by no later than the date referred to in clause 1.16 above.

- 4.2 Should the aforesaid conditions not be met timeously, then in that event, this entire Contract shall lapse and be of no further force and effect between the Parties save that the Conveyancers shall refund to the Purchaser any amount paid by the Purchaser to the Conveyancers in respect of the purchase price together with all interest that may have accrued thereon while invested with the Conveyancers, less 5% of the interest accrued which is payable to the Legal Practitioners' Fidelity Fund on a monthly basis in terms of Section 86(5)(b) of the Act, and the Conveyancers usual fee.

- 4.3 It is recorded that the aforesaid conditions have been inserted solely for the benefit of the Seller, who may waive compliance with one or all of the aforesaid conditions within the time period afforded to the Seller in clause 4.1 above.

5. **SUBDIVISIONAL LAYOUT PLAN**

5.1 The Purchaser acknowledges that the Property and the approximate area, boundaries and description of the Property are as depicted on the Subdivisional Layout Plan annexed hereto.

5.2 The Purchaser acknowledges that the Seller is in the process of preparing the Draft General Plan for approval by the Surveyor General. The Draft General Plan will be lodged with the Surveyor General once the Municipal Planning Tribunal has issued the Record of Decision approving the Development. The Draft General Plan as finally determined and approved by the Surveyor-General shall be binding upon the parties, provided always that the area of the Property shall be within 5% (five percent) of the area stated in 1.5 above.

6. **MEMBERSHIP OF SEATON MANAGEMENT ASSOCIATION (RF) NPC**

By virtue of the purchase of the Property, the Purchaser shall be obliged to become, and remain for the duration of his ownership of the Property, a member of the Association within the meaning of and subject to the conditions set out in the Association's MOI and undertakes that he and all persons deriving use of Seaton or any part thereof through him shall, from the Date of Occupation, duly comply with all the obligations imposed upon members under the Association's MOI including the obligation to abide by the Rules of the Association and to pay a monthly levy to the Association, the amount of which is to be determined, from time to time,

by the directors of the Association as contemplated in the MOI. In no way detracting from the generality of the aforesaid, the Purchaser undertakes to sign the Association's Membership Application, Debit Order Authorisation Form, Nomination form, if applicable and Undertaking to the Master Management Association, if applicable, and do whatever else may be required in order for the Purchaser to become a member of the Association. If there is any conflict between what is set out above and the final provisions of the Association's MOI, the latter shall prevail and the Seller shall not incur any liability, of any nature whatsoever, in this regard.

7. **CONSUMER PROTECTION ACT (delete whichever is not applicable)**

Delete
if not
applicable

7.1 The Purchaser, who is a Juristic Person, warrants to the Seller that its asset value or annual turnover, at the Date of Signature and the Date of Transfer, shall equal or exceed the threshold determined by the Minister in terms of section 6 of the CPA (namely, R2,000,000.00 (two million rand)) and, as a consequence, the sale of the Property to the Purchaser in terms of this Contract, is exempt from the provisions of the CPA (save for the provisions of section 60 and 61 of the CPA). It is recorded that the aforesaid warranty is material to the Seller in entering into this Contract of Sale. The Purchaser undertakes, within 7 (seven) days of being requested to do so by the Seller, to furnish the Seller with its last audited financial accounts, and such other financial information in respect to the Purchaser as the Seller may reasonably require, in order to confirm that the Purchaser's asset value and/or turnover is as warranted.

Delete
either
7.2 or 7.3

7.2 It is recorded that the Seller is not disposing of the Property in the "ordinary course of business", as contemplated in the CPA, and therefore the provisions of the CPA shall not apply to the sale of the Property In terms of this Contract.

7.3 It is recorded that as the Seller is disposing of the Property in the "ordinary course of business", as contemplated in the CPA, the provisions of the CPA shall apply to the sale of the Property in terms of this Contract.

READ ONLY

OFFER AND ACCEPTANCE

The Purchaser acknowledges that this offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller for a period of 21 (twenty-one) days after the Date of Signature of the Purchaser.

DATED atthis day of20.....

AS WITNESS:

Seller

DATED atthis day of20.....

AS WITNESS:

Purchaser: Who acknowledges that he /she is acquainted with and understands the contents of the Contract and that all the annexures referred to in the Contract were attached hereto when he/ she signed same

Purchaser's spouse, where applicable

DATED atthis day of20.....

Agent: Who accepts any benefits conferred in terms of the Contract.

GUARANTOR

This portion to be signed by the member / director/ trustee in the event of the Purchaser being a close corporation / company / trust.

(Full names) _____

of _____

(Full address and telephone number)

hereby consents to the conclusion of the Contract and guarantees and binds himself as surety for and co-principal debtor *in solidum* with the Purchaser to the Seller for the due and punctual fulfilment and discharge of all the conditions and obligations undertaken by the Purchaser to the Seller pursuant to the Contract, under renunciation of the benefits of excussion and division with the meaning and effect of which benefits and the renunciation thereof he acknowledges himself to be acquainted. No variation or amendment or novation of the Contract shall prejudice the suretyship obligations hereby undertaken by the aforesaid guarantor, the object being that he shall remain liable at all times as surety and co-principal debtor, even if the Contract is varied or amended or novated and even if the aforesaid Purchaser is granted an indulgence by the Seller.

Signed by the Guarantor at..... on this..... day of.....20.....

AS WITNESS:

Guarantor

CONDITIONS OF SALE**1. DEFINITIONS AND INTERPRETATION:**

The following words and expressions shall, unless the context otherwise requires, have the meanings assigned to them respectively, namely:

- 1.1 "Approval Date" means the date that the Municipality issues the certificate in terms of Section 53 of SPLUMA in respect of the Property, rendering the Property transferable;
- 1.2 "Association" means the Association described in clause 1.14 of the Contract of Sale, a non-profit company to be incorporated by the Seller in terms of the Companies Act No. 71 of 2008;
- 1.3 "Basic Services" means the supply of electricity, water, sewerage, stormwater, drainage and road access, in accordance with the requirements of the Municipality;
- 1.4 "Clubhouse" means the clubhouse situated at The Club Seaton or the clubhouse situated at The Bay Seaton, as defined in the Association's MOI and this Contract, owned by the Association and operated by it or its agents, and "Clubhouses" means both of them;
- 1.5 "Conditions of Sale" means these conditions of sale;
- 1.6 "Contract" means the Contract of Sale and all annexures thereto;
- 1.7 "Contract of Sale" means the contract of sale to which these conditions of sale are Annexure "A"
- 1.8 "Conveyancers" means conveyancers nominated by the Seller in terms of clause 1.15 of the Contract of Sale;
- 1.9 "CPA" means the Consumer Protection Act No 68 of 2008, as amended, and regulations in force thereunder;
- 1.10 "Date of Occupation" means the date specified in clause 1.9 of the Contract of Sale, subject to the provisions of clause 6 of the Conditions of Sale;
- 1.11 "Date of Signature" means the date of signature of the Contract by the last signing of the Seller or Purchaser;
- 1.12 "Date of Transfer" means the date of registration of transfer of the Property into the name of the Purchaser in the Deeds Registry in Pietermaritzburg;
- 1.13 "Design Code" means the design code of the Association or the Master Management Association, as the case may be, as amended from time to time, a copy of which is available

- upon request from the Developer;
- 1.14 “Design Review Committee” means the Design Review Committee of the Association or the Master Management Association, as the case may be, as provided for and defined in the Master Management Association’s memorandum of incorporation;
- 1.15 “Developer” means the Sherpa Trade and Invest 31 (Pty) Ltd Registration number: 2006/002292/07;
- 1.16 “Developers and Contractors Protocol” means the developers and contractors protocol of the Association or the Master Management Association, as the case may be, as amended from time to time, a copy of which is available upon request from the Developer;
- 1.17 “Development” means the property as defined in clause 1.4 of the Contract of Sale;
- 1.18 “Development Approval” means the final written approval by the Design Review Committee of the completed Dwelling on the Property. It is recorded that such approval may only be given once, *inter alia*, in the opinion of the Design Review Committee, a Dwelling and all other structures and landscaping on the Property have been constructed and completed in accordance with plans approved by the Design Review Committee;
- 1.19 “Developer’s Area Plan” means the area plan showing the Parent Property annexed to the Contract of Sale and marked Annexure B;
- 1.20 “Development Manual” means the development manual as defined in the MOI;
- 1.21 “Draft General Plan” means the general plan, which is in the process of being approved, depicting the Property;
- 1.22 “Dwelling” means the dwelling and other structures to be erected on the Property in accordance with the Scheme and Design Code;
- 1.23 “Environmental Management Restrictions” means the environmental management restrictions as defined in the MOI which incorporates the environmental management plan, as amended from time to time, and the record(s) of decision issued by the KZN Agricultural and Environmental Affairs Department, copies of which are available upon request from the Developer;
- 1.24 “Equestrian Facilities” means but is not limited to, stables, arenas, paddocks and pastures;
- 1.25 “Estate Agent” means the agent described in clause 1.13 of the Contract of Sale;
- 1.26 “Juristic Person” means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;
- 1.27 “Municipality” means the KwaDukuza Municipality, its successors in title or assigns;

- 1.28 “Master Management Association” means the North Coast Master Management Association RF NPC, Registration No. 2019/287759/08;
- 1.29 “MOI” means the Memorandum of Incorporation for the time being of the Association as amended from time to time, a copy of which is available upon request from the Developer;
- 1.30 “Nature and Landscape Code” means the nature and landscape code of the Association or the Master Management Association, as the case may be, as amended from time to time, a copy of which is available upon request from the Developer;
- 1.31 “Parent Property” means the parent property as described in clause 1.3 of the Contract of Sale and depicted on the Developer’s Area Plan;
- 1.32 “Property” means the property described in clause 1.5 of the Contract of Sale;
- 1.33 “Purchaser” means the party referred to in clause 1.2 of the Contract of Sale, its successors in title or assigns in the case of a Company, Close Corporation or Trust and its successors in title, heirs, administrators or executors in the case of a natural person;
- 1.34 “Rules” means the rules of the Association as amended from time to time, a copy of which is available upon request from the Developer;
- 1.35 “Scheme” means the KwaDukuza Town Planning Scheme;
- 1.36 “Seaton” means the Development together with any additional land which the Seller may determine be incorporated within the Development as provided for in Article 39 of the MOI;
- 1.37 “Security Protocol” means the security protocol of the Association or the Master Management Association, as the case may be, as amended from time to time, a copy of which is available upon request from the Developer;
- 1.38 “Seller” means the party referred to in clause 1.1 of the Contract of Sale, its successors in title or assigns;
- 1.39 “Site Constraints” means the extract from the Design Code reflecting the site constraints applicable to the Property and annexed to the Contract of Sale and marked Annexure “E”;
- 1.40 “SPLUMA” means the Spatial Planning and Land Use Management Act No. 16 of 2013 as amended, and regulations in force thereunder;
- 1.41 “Subdivisional Layout Plan” means the layout plan annexed to the Contract of Sale and marked Annexure “C”;
- 1.42 words importing a gender shall include all genders and the singular shall include the plural and vice versa;

- 1.43 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;
- 1.44 if the Purchaser consists of more than one person, such persons shall be jointly and severally liable *in solidum* for all their obligations in terms of this Contract;
- 1.45 no indulgence or relaxation which the Seller may allow to the Purchaser in regard to the carrying out of the Purchaser's obligations in terms of or pursuant to the Contract shall prejudice the Seller's rights under the Contract in any manner whatsoever, or be regarded as a waiver of the Seller's rights in terms of the Contract, or be construed to act as an estoppel against the Seller to otherwise strictly enforce compliance of the Purchaser's obligations in terms of the Contract;
- 1.46 any reference to a natural person shall include a Juristic Person and vice versa;
- 1.47 where an expression has been defined, and such definition contains a provision conferring rights or imposing obligations on any party, effect shall be given to the provision as if it was a substantive provision contained in the body of the Contract;
- 1.48 if a number is reflected in numerals and words, the words shall prevail in the event of any conflict between the two; and
- 1.49 where a number of days are prescribed, they shall consist of all days (i.e. including Saturday, Sunday and Public Holidays) and shall exclude the first day and include the last day;
- 1.50 in interpreting this Contract, no provision shall be construed in a limiting fashion or in accordance with the *Eiusdem Generis* Rule (i.e. a specific provision of this Contract on any particular issue, shall not be deemed in any way to detract from any general provision in respect to the same issue);
- 1.51 any reference to any statute, legislation or regulations shall be deemed to include any lawful amendments thereto or re-enactments thereof;
- 1.52 the provisions of this Contract shall be governed by and construed according to the Laws of the Republic of South Africa;
- 1.53 the expiration or termination of the Contract shall not affect those provisions of the Contract which expressly provide that they will operate after any such expiration or termination or, which out of necessity must continue to have effect after such expiration, notwithstanding the fact that the clauses do not expressly provide this;
- 1.54 the Contract shall be binding on and enforceable by the administrators, trustees, successors in title, successors in office, assigns or liquidators of the parties as fully and effectually as if they had signed the Contract in the first instance and reference to any party shall be deemed to include such party's administrators, trustees, successors in title, successors in office, assigns or liquidators, as the case may be;
- 1.55 nothing in the Contract shall be construed as binding the Seller and the Purchaser to the provisions of the CPA in instances where the CPA would not otherwise be binding on them.

Where the CPA is applicable, the provisions of the Contract shall be read in conjunction with the provisions of the CPA, and insofar as the provisions of the Contract are inconsistent with the provisions of the CPA, the provisions of the CPA shall prevail;

- 1.56 a fully executed facsimile copy of the Contract shall be accepted as an original and the Contract may be signed in counterparts and will be effective as such, each of which will be deemed an original and all of which together shall constitute one and the same Contract as at the Date of Signature;
- 1.57 the Contract incorporates annexures by reference, which annexures shall have the same force and effect as the provisions set out in the body of the Contract. The various documents forming part of the Contract are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the Contract will prevail.

2. SUSPENSIVE CONDITIONS

2.1 Mortgage Bond

- 2.1.1 If the Contract reflects a loan in terms of clause 1.7.4 of the Contract of Sale, then the Contract is subject to and conditional upon the Purchaser obtaining a loan in principle for the amount set out in in terms of clause 1.7.4 of the Contract of Sale from a recognized financial institution and the Seller receiving a copy of the written approval of such loan in principle by the aforesaid financial institution within 30 (thirty) days from the Date of Signature of the Contract or within such further period of time that the Seller, entirely in its own discretion, may grant to the Purchaser in writing.
- 2.1.2 The Purchaser, who is not a private bank client, undertakes to utilize one of the Seller's accredited bond originators in making application for the aforesaid loan.
- 2.1.3 In order to expedite the transfer of the Property to the Purchaser it is the intention of the Seller and the Purchaser that the Conveyancers be appointed by the financial institution to attend to the registration of the loan over the Property in favour of the aforesaid financial institution on Date of Transfer. The Purchaser undertakes to utilise his best endeavours to prevail upon the aforesaid financial institution to appoint the Conveyancers in this regard.
- 2.1.4 The Purchaser warrants that:
- 2.1.4.1 he is aware of the financial requirements of financial institutions relating to the loan that is to be applied for and undertakes to the best of his ability to immediately provide and sign, upon request by the relevant financial institution concerned, all information and documentation which may be required by it in order to apply for and approve his loan application;
- 2.1.4.2 there are no existing judgements noted against his name which would preclude any financial institution from approving his loan application.

2.2 Sale of property (delete where not applicable)

2.2.1 Purchase Price to come from the sale of the Purchaser's property already sold

The Purchaser warrants that he has sold his existing property as provided for in clause 1.8 of the Contract of Sale, which sale is not subject to any suspensive conditions.

OR

2.2.1 Purchase Price to come from the conditional sale of the Purchaser's property already sold

The Purchaser warrants that he has sold his existing property as provided for in clause 1.8 of the Contract of Sale, subject however to certain suspensive conditions which shall be required to be fulfilled within 45 (forty five) days after the Date of Signature. If the sale of the Purchaser's existing property is dependent on prior transfers, then the suspensive conditions relating to the sale of the Purchaser's existing property shall only be deemed to have been fulfilled when such prior transfers have been registered.

OR

2.2.1 Sale subject to the Sale of the Purchaser's property

This sale is conditional upon the sale of the Purchaser's property, as provided for in clause 1.8 of the Contract of Sale, which the Purchaser undertakes to actively market and to ensure the fulfilment of all suspensive conditions contained in that sale agreement within 90 (ninety) days after the Date of Signature. If the sale of the Purchaser's existing property is dependent on prior transfers, then the suspensive conditions relating to the sale of the Purchaser's existing property shall only be deemed to have been fulfilled when such prior transfers have been registered.

2.2.2 This Contract is also subject to the Purchaser's conveyancers effecting registration of transfer of the existing property within 60 (sixty) days of the sale becoming a conclusive sale.

2.2.3 In the event of the Seller receiving any other written offer which is not subject to the sale of another property from a bona fide third party, before the sale of the Purchaser's existing property becomes conclusive, which offer the Seller wishes to accept, the Seller shall by written notice advise the Purchaser of such offer and the Purchaser shall within 48 (forty eight) hours of receipt of such notice waive the suspensive conditions in this clause in writing to the Conveyancers failing which the Seller shall be entitled to accept the offer from the new Purchaser in which event this offer shall fall away and be of no further force or effect.

2.3 It is recorded that the suspensive condition contained in 2.1 and/or 2.2 was inserted for the benefit of the Purchaser.

2.3.1 The Purchaser may elect to waive compliance with the suspensive condition by giving written notice to the Seller within the time period afforded to the Purchaser as referred to in 2.1 and/or 2.2 above.

2.3.2 Upon delivery of such notice of waiver, the suspensive condition shall be deemed to have

been fulfilled and the Contract shall be of full force and effect.

- 2.3.3 Should the suspensive condition referred to in 2.1 and/or 2.2 not be fulfilled within the prescribed time periods aforesaid and the period for fulfilment thereof not be extended in writing by the parties, then the Contract shall lapse and in that event the parties shall be obliged to restore each other to the status quo ante as at the Date of Signature.

3 CONDITIONS OF TITLE AND OWNERSHIP

- 3.1 The Property is purchased as vacant land by the Purchaser for the purpose of erecting a residential dwelling thereon.
- 3.2 Insofar as is allowed by the CPA, the property is sold voetstoots.
- 3.3 The Property is sold subject to all conditions and servitudes contained in the existing title deeds and any conditions and servitudes imposed by the Developer, Master Management Association, if applicable, Association, Municipality or any other authority in approving the Property as a separate subdivision.
- 3.4 The Purchaser shall be obliged to accept transfer of the Property subject, *inter alia*, to: -
- 3.4.1 the conditions, reservations and servitudes which burden the Property;
- 3.4.2 any change in the description of the Property;
- 3.4.3 a condition registered against the title deed to the Property to the effect that the Property, or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the Association and the Master Management Association, if applicable, first having been obtained (provided that the Association's and Master Management Association's, if applicable, consent shall not be required for the first transfer of any property from the Seller nor for the simultaneous mortgage of any such property).
- 3.4.4 the conditions in favour of the Developer and the Association and any supplier of services to Seaton and/or Seaton as set out in this Contract as the Seller may in its sole discretion require and in such form as the Registrar of Deeds may permit.
- 3.5 The Purchaser acknowledges that he has satisfied himself as to the nature, locality and extent of the Property and the Seller shall not be liable for any deficiency in the extent therefore nor shall it benefit by any surplus.
- 3.6 The Purchaser further acknowledges that in obtaining township establishment approvals a general geotechnical report has been obtained for Seaton. However, it shall be incumbent upon the Purchaser, at the Purchaser's cost, to obtain a geotechnical report relating specifically to the Property prior to commencement of building operations.
- 3.7 The Purchaser acknowledges that during the course of installation of infrastructure and services to Seaton and the Property, the natural ground levels may have been or may be altered and cut and fill methods adopted. The Purchaser undertakes to take this into account in the planning, design and construction of buildings to be erected on the Property. The Purchaser shall have no claim or rights of action against the Seller in respect of any infrastructure, installation, altered natural ground levels or cut and fill methods adopted.

- 3.8 In no way detracting from the generality of the aforesaid or any other provision contained in this Contract, it is specifically recorded that the Seller does not warrant that the Property is suitable for the Purchaser's proposed use thereof.
- 3.9 In no way detracting from the generality of the aforesaid or any other provision contained in this Contract, it is specifically recorded that there shall be no obligation on the Seller to clear any vegetation on the Property.

4 **POSSESSION**

- 4.1 The Purchaser shall take possession of the Property from the Date of Occupation stipulated in clause 1.9 of the Contract of Sale, from which date the risk in the Property shall pass to the Purchaser and from which date the Purchaser shall be liable for the payment of all rates, levies and other outgoings attributable to the Property.
- 4.2 From Date of Occupation until the Date of Transfer (both days inclusive), the Purchaser shall pay to the Seller monthly occupational rental as stipulated in clause 1.10 of the Contract of Sale. Such occupational rental shall be payable monthly in advance on the 1st (first) day of each and every month. In addition, the Purchaser shall be liable for VAT at the prescribed rate in respect of Occupational Rental and also for payment of the levy as provided for in clause 1.11 of the Contract of Sale. All payments in terms of this clause are to be made payable to the Conveyancers upon demand.
- 4.3 The Purchaser undertakes, in the event of this Contract being cancelled or lapsing for any reason whatsoever to restore the Property to the same good order and condition in which it was at the Date of Occupation. In either event, the Purchaser shall not be entitled to any compensation for any improvements of whatever nature he may have effected to the Property while in occupation thereof.

5 **RIGHTS AND OBLIGATIONS IN RESPECT OF OCCUPATION**

- 5.1 The Purchaser acknowledges that on the Date of Occupation Seaton may be incomplete and that he and every person claiming occupation and use through him may suffer inconvenience from building operations and from noise and dust resulting therefrom and the Purchaser shall have no claim whatsoever against the Seller or its contractors by reason of any such inconvenience. Notwithstanding the foregoing the Seller undertakes to use its best endeavours to keep the noise, disturbance and inconvenience to reasonably acceptable levels.
- 5.2 From the Date of Occupation, the Purchaser –
- 5.2.1 shall be entitled to beneficial occupation of the Property and the Property shall be used for residential purposes only and for no other purpose whatsoever;
- 5.2.2 shall be liable for the payment of all services provided to the Property in the form of water supply, sewerage, electricity, gas, telecommunications radio and television and any connection fees and deposits payable with respect to the supply of any such services;
- 5.2.3 waives (except to the extent that Section 61 of the CPA may apply) all claims against the Seller for any loss or damage to property or any injury to person which the Purchaser may sustain in or about the Property, or on any other portion of Seaton and indemnifies the Seller against any such claim (other than one arising from gross negligence of the Seller)

that may be made against the Seller by a member of the Purchaser's family or any tenant, employee, invitee or any other person who occupies the Property and/or goes upon Seaton by virtue of the Purchaser's rights thereto, for any loss or damage to property or injury to person suffered in or about the Property, or any other part of Seaton howsoever such loss or damage to property or injury to person may be caused.

6 LEVY AND OTHER CHARGES

- 6.1 The Purchaser accepts liability from the Date of Occupation for the payment of a monthly levy referred to in 1.11 of the Contract of Sale in respect of those items and amounts payable in terms of the MOI of the Association. (It is specifically recorded that the Purchaser shall be required to sign a debit order on an account with a South African registered commercial bank in favour of the Association in order to ensure that the aforesaid monthly levy is paid timeously).
- 6.2 The amount as determined in clause 1.11 of the Contract of Sale is an estimation of the monthly levies payable by the Purchaser to the Association, made in good faith by the Seller and the Seller shall not be responsible for any inaccuracy in this estimation.
- 6.3 In addition to the monthly levy, the Purchaser shall make payment of the amount referred to in item 1.12 of the Contract of Sale to the Levy Stabilization Fund established in terms of the Association's MOI.
- 6.4 The Purchaser agrees that he shall have no right to reclaim from the Association any amount paid by way of a monthly levy or special levy, save as may be provided herein.
- 6.5 Should the Purchaser fail to have commenced the erection of a Dwelling on the Property within a period of 36 (thirty six) months from the Date of Transfer then, in that event, the Purchaser shall, in addition to payment of the levy be required to pay a penalty levy to the Association equal to 50% (fifty percent) of the levy. The aforesaid penalty levy shall be payable from the aforesaid date, 36 (thirty-six) months from the Date of Transfer until such time as the Purchaser has commenced the erection of a Dwelling on the Property.
- 6.6 Should the Purchaser have commenced the erection of a Dwelling on the Property, however not have completed same and obtained Development Approval in respect thereof, within a period of 18 (eighteen) months from the actual commencement date then, in that event, the Purchaser shall, in addition to payment of the levy be required to pay a penalty levy to the Association equal to 100% (one hundred percent) of the levy. The aforesaid penalty levy shall be payable from the aforesaid date 18 (eighteen) months from the actual commencement date until such time as the Purchaser has completed the erection of a Dwelling on the Property and obtained Development Approval in respect of same.

7 SERVICING OF THE PROPERTY

- 7.1 The Seller warrants that the Basic Services shall be installed to the Property, to the satisfaction of the Municipality, by no later than Date of Transfer. It is recorded that the Seller may elect to provide the relevant authorities with guarantees to ensure the installation of Basic Services to the Development. Should the Seller elect to provide the relevant authorities with guarantees in order for the relevant certificates to be issued in respect of the Property, then, in that event, the Purchaser agrees to take transfer of the Property notwithstanding that said services have not been installed. In this event, the Seller warrants that the aforesaid services shall be installed within 8 (eight) months of the Date of Transfer (although the Seller warrants that the aforesaid

service connections shall provide a mechanism for connecting the Property to the Municipality and/or any other such service providers, and although the Municipality and/or any other service providers have confirmed that such services will be available, the Seller gives no warranty of any nature whatsoever that any such services will be provided by the Municipality and/or any other service providers).

7.2 The Seller hereby discloses, and the Purchaser understands that transfer of the Property is not registerable until after the Approval Date.

7.3 It is specifically recorded that the Seller makes no warranty that any temporary services to the Property shall be in place from the Date of Occupation to the Date of Transfer should the two dates not coincide.

7.4 In the event of the Approval Date not having been achieved within a period of 30 (thirty) months from Date of Signature of this Contract by the Seller, the Purchaser having secured payment of the purchase price as envisaged in clause 3 of the Contract of Sale and the purchaser not being in breach of the Contract of Sale, then in that event the Purchaser shall be entitled to give the Seller written notice to have the required certificate issued within a period of 60 (sixty) days from the date of receipt of such notice by the Seller, failing which the Purchaser shall be entitled to resile from the Contract by giving the Seller a further written notice to that effect, provided such notice is given within 10 (ten) days of expiry of the aforesaid 60 (sixty) day period, in which event this Contract shall be deemed null and void and shall be of no further force and effect between the parties.

8 **TRANSFER**

8.1 The Conveyancers shall pass transfer of the Property to the Purchaser as soon as is reasonably practicable after the Approval Date, provided the Purchaser has secured the payment of the purchase price, paid the transfer and bond costs, if applicable, and any occupational rental and/or levies and levy stabilization fund contributions and/or other charges due prior to transfer, or has secured payment to the reasonable satisfaction of the Seller.

8.2 The Purchaser shall, within 7 (seven) days of being called upon to do so by the Conveyancers:-

8.2.1 pay to the Conveyancers all costs and disbursements incidental to the passing of transfer to the Purchaser, including bond costs, bank charges, and a pro rata share of the rates and levies; and

8.2.2 furnish all necessary information and documentation and sign all such documentation as is required to prepare for and effect registration of transfer into the name of the Purchaser.

8.3 No liability of any nature whatsoever shall attach to the Seller arising out of any delays in effecting transfer of the Property to the Purchaser.

8.4 It is recorded that in order to effect transfer of the Property, the Conveyancers shall be required to lodge, *inter alia*, a transfer duty exemption certificate issues by the South African Revenue Services ("SARS") with the Deeds Registry. It is further recorded that SARS have adopted a policy of not issuing the aforesaid certificate in the event of any party to the transaction in question being in arrears with the payment of any amounts SARS believes is due to it or

otherwise not being in compliance with Tax Laws. Should SARS refuse to issue a transfer duty exemption certificate in respect of the sale of the Property, in terms of this contract, due to the fact that the Purchaser is in arrears with any payments to SARS or has otherwise not complied with any Tax Laws, then in that event, the Purchaser shall be deemed to be in breach of the Contract of Sale and the Seller shall be entitled to cancel this Contract should the Purchaser not rectify such breach as contemplated in clause 21 of the Conditions of Sale. Further, should there be any delay in the issue of the aforesaid transfer duty exemption certificate by SARS for either of the aforesaid reasons, then in that event, the Purchaser shall be deemed to be delaying the registration of transfer which shall entitle the Seller to claim mora interest as contemplated in clause 21 of the Conditions of Sale.

8.5 The Purchaser acknowledges that:

8.5.1 the documentation necessary to effect transfer of the Property to the Purchaser may be lodged with the Deeds Registry as part of a set including the transfer of other properties and that no documentation in the set, including the documentation relating to the transfer of the Property, can be withdrawn from the Deeds Registry without the entire set being withdrawn;

8.5.2 if it becomes necessary to withdraw the aforesaid set from the Deeds Registry, due to the fact that the Purchaser has not complied with all its obligations under this Contract, the Seller shall suffer damages, including but in no way limited to the loss of interest that would have accrued to the Seller on the purchase price of the properties in the set, from date of the withdrawal of the set until the date of its relodgement and registration;

8.5.3 the Seller shall be entitled to recover from the Purchaser all damages the Seller may have suffered (including the aforesaid interest) as a result of the aforesaid set having to be withdrawn and all transfers in the set having been delayed by virtue of the Purchaser's failure to comply with the provisions of this Contract.

9 **ASSOCIATION**

9.1 The Purchaser acknowledges that the Association may accept the benefits conferred upon it in terms of this Contract at any time prior to transfer of the Property to the Purchaser.

9.2 By virtue of the purchase of the Property, the Purchaser shall be obliged to become, and to remain for the duration of his ownership of the Property, a member of the Association within the meaning of and subject to the conditions set out in the Association's MOI and undertakes that he and all persons deriving use of Seaton or any part thereof through him will, from the Date of Occupation, duly comply with all the obligations imposed upon members under the Association's MOI.

9.3 The Purchaser shall be obliged to accept transfer of the Property, subject to a condition registered against the title deed to the Property to the effect that the Property, or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the Association first having been obtained (provided that the Association's consent shall not be required for the first transfer of any property from the Seller nor for the simultaneous mortgage of any such property).

9.4 The Purchaser shall not be entitled to sell or otherwise transfer ownership of the Property unless it is a suspensive condition of such sale or transfer that the transferee, in a manner acceptable

to the Association, agrees to become a member and is admitted as a member of the Association.

9.5 In no way detracting from the generality of the aforesaid, it is specifically recorded that the Association's MOI provides: -

9.5.1 for the Developer's right to appoint the majority of directors to the Board of Directors of the Association during the "Development Period" as defined in the Association's MOI;

9.5.2 that during the Development Period, for purposes of voting on any proposed resolution at a meeting of the members of the Association, the Developer shall be deemed to have the higher of the actual number of votes vested in the Developer or the number of votes as are held, in aggregate, by all other members present in proxy or person at such meeting; and

9.5.3 that the Developer shall not be required to pay levies to the Association in respect of unsold property and the Purchaser unequivocally and unconditionally agrees to the aforesaid.

10 **MASTER MANAGEMENT ASSOCIATION (if applicable)**

10.1 The Purchaser acknowledges that the Association shall be obliged to become and remain a member of the Master Management Association and shall be obliged to make payment of a levy to the Master Management Association (which shall include a contribution to the Master Management Association's expenses).

10.2 The Purchaser, although not a direct member of the Master Management Association, shall at all times be obliged to comply with the provisions of the Master Management Association's memorandum of incorporation and the rules made in terms thereof. The Purchaser shall sign an undertaking in favour of the Master Management Association agreeing to comply with its memorandum of incorporation and rules and to pay that portion of the Purchaser's levy payable by the Association to the Master Management Association, directly to the Master Management Association, in the event of the Association failing to make payment of the total monthly levy to the Master Management Association timeously.

10.3 The Purchaser shall be obliged to accept transfer of the Property, subject to a condition registered against the title deed to the Property to the effect that the Property, or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the Master Management Association first having been obtained (provided that the Master Management Association's consent shall not be required for the first transfer of any property from the Seller nor for the simultaneous mortgage of any such property).

11 **RULES**

11.1 The Purchaser acknowledges that, subject to the provisions of this Contract, the directors of the Association shall be entitled at all times to lay down Rules in regard to –

11.1.1 the preservation of the natural environment;

- 11.1.2 vegetation and flora and fauna in Seaton (including, but in no way limited to, the use of exotic and indigenous plants);
- 11.1.3 the right to keep any animal, reptile or bird;
- 11.1.4 the placing of movable objects upon or outside the buildings including the power to remove any such objects;
- 11.1.5 the use of the Clubhouses and their amenities and the right to make a reasonable charge for such use;
- 11.1.6 the use of Equestrian Facilities and the right to make a reasonable charge for such use;
- 11.1.7 recycling, water harvesting and grey water, and sustainable energy;
- 11.1.8 the storing of flammable and other harmful substances;
- 11.1.9 the conduct of any persons within Seaton and the prevention of nuisance of any nature to any owner of Property in the Association;
- 11.1.10 the imposition of fines and other penalties to be paid by members of the Association and persons accredited to work on Seaton;
- 11.1.11 the management, administration and control of the Association property;
- 11.1.12 the establishment, installation and maintenance of gardens, both public and private (including the accreditation of landscape architects, landscape contractors and garden maintenance personnel);
- 11.1.13 the accreditation of estate agents and letting agents (insofar as this does not conflict with the rights of the Developer) in respect of property on Seaton;
- 11.1.14 the accreditation of managing agents authorised to manage sectional title bodies corporate with the Association;
- 11.1.15 the use of property within Seaton;
- 11.1.16 the use of roads, pathways and parking areas;
- 11.1.17 accreditation of contractors and architects for Seaton;
- 11.1.18 security, and
- 11.1.19 any other matter which the directors of the Association from time to time consider appropriate and the Purchaser undertakes and shall be obliged, with effect from the Date of Occupation, to abide by such Rules as if he was the owner of the Property and to ensure

that all tenants, nominees, invitees and other persons who occupy the Property and/or go upon Seaton by virtue of the Purchaser's rights thereto, do likewise.

- 11.2 The Purchaser shall ensure that the Rules are brought to the attention of any tenant or occupier of the Property and the Purchaser's contractor.

12 **CLUBHOUSES AND ASSOCIATED AMENITIES**

- 12.1 It is recorded that the Seller intends erecting Clubhouses on Seaton for the use and enjoyment of all owners of property on Seaton.

- 12.2 The aforesaid Clubhouses shall be owned by the Association and operated by the Association or its agents.

- 12.3 The Clubhouses may be opened to the public in the discretion of the Association.

- 12.4 The Purchaser shall be entitled to access the Clubhouses subject to the Rules of the Association and the operator and this may include –

- 12.4.1 the right to become a member of any such club operated from the Clubhouses, subject to such club's constitution and rules, which may include the obligation to pay membership fees as determined by such club; and

- 12.4.2 the right of reasonable access to property owned by the Master Management Association and any other property over which servitudes are registered in favour of the Master Management Association for this purpose.

13 **EQUESTRIAN FACILITIES**

- 13.1 It is recorded that the Equestrian facilities on Seaton are for the enjoyment of all owners of property on Seaton.

- 13.2 The Purchaser shall be entitled to access the Equestrian Facilities subject to the Rules of the Association and the operator and this may include –

- 13.2.1 the right to become a member of any such club operated from the Clubhouses and/or Equestrian Facilities, subject to such club's constitution and rules, which may include the obligation to pay membership fees as determined by such club; and

- 13.3.1 the right of reasonable access to property owned by the Master Management Association and any other property over which servitudes are registered in favour of the Master Management Association for this purpose.

14 **ARCHITECTURAL AND ENVIRONMENTAL CONTROLS**

- 14.1 In order to maintain high standards and with a view to ensuring an attractive and harmonious development within Seaton, all purchasers of property within Seaton shall be required to adhere to the Design Code, Nature and Landscape Code, Developers and Contractors Protocol, Security Protocol, the Environmental Management Restrictions and any other codes or

- protocols as may be issued by the Association and/or the Master Management Association from time to time.
- 14.2 Notwithstanding the provisions of clause 14.1 above or anything to the contrary herein or elsewhere contained, any Dwelling shall be erected strictly in accordance with building plans which have been submitted to the Design Review Committee and approved of in writing by it and Municipality or any other competent authority and no work whatsoever shall commence on the Property until such time as the relevant approvals have been obtained. The Purchaser shall not be entitled to submit building plans for approval to the relevant Municipality until such time as the Design Review Committee's approval has been obtained. The decision of the Design Review Committee in approving or not approving such building plans shall be final and binding on the Purchaser.
- 14.3 It is recorded that the Seller is agreeable to the Purchaser submitting its building plans in respect of the development of the Property to the Design Review Committee and the Municipality prior to Date of Transfer, provided the Seller incurs no liability, of any nature whatsoever, in this regard and such submission is not made prior to the Approval Date.
- 14.4 To enable the Design Review Committee to consider any such request for approval the Purchaser shall comply with the Design Code and Nature and Landscape Code and pay a scrutiny fee set by the Master Management Association to peruse the plans (which fee shall be set by the Master Management Association in its sole and absolute discretion).
- 14.5 The Purchaser shall ensure that: -
- 14.5.1 all construction on the Property is done in accordance with the Developers and Contractors Protocol;
- 14.5.2 the Developers and Contractors Protocol is made available to any contractor engaged to attend any construction work on the Property; and
- 14.5.3 such contractor undertakes to comply with the provisions of the Developers and Contractors Protocol.
- 14.6 The Design Review Committee shall be entitled to condemn any work which is in his opinion sub-standard, in which event, the Purchaser shall, at its cost, make good such substandard work to a standard acceptable to the Design Review Committee.
- 14.7 Notwithstanding anything contained herein or elsewhere, and in no way detracting from the generality of the provisions of this Contract, the Purchaser shall, under no circumstances whatsoever, remove or in any way damage the trees on the Property.
- 14.8 The Purchaser shall, from the Date of Occupation, at all times comply with the stormwater requirements of the Municipality, a summary of which is outlined in the Environmental Management Restrictions.
- 14.9 The Seller reserves the right, at any time, to cede its rights and obligations in terms of this clause, to any person whomsoever (without requiring the consent of the Purchaser, any subsequent owner of the Property, or any other party whomsoever) or to waive any of its rights in terms of this clause.
- 14.10 No building or other structure on the Property shall exceed the height restrictions set out in the Design Code.

- 14.11 It is recorded that no Dwelling erected on the Property shall be less than 150 (one hundred and fifty) m² in extent (excluding garages and verandas).
- 14.12 In no way detracting from the generality of any provision of this Contract, the Purchaser specifically acknowledges being aware of the fact that the Property and Seaton may include sensitive development areas as specified in the Environmental Management Restrictions which impose restrictions on the use of such areas.
- 14.13 The Purchaser shall ensure that the Property shall not be developed or utilised in any manner whatsoever other than in accordance with the Environmental Management Restrictions.
- 14.14 In no way detracting from the generality of any other provision of this Contract, it is specifically recorded that the Purchaser and all its contractors and subcontractors, shall at all times comply with the provisions of the Environmental Management Restrictions. In the event of the Purchaser, its contractor, subcontractors or agents breaching the provisions of the Environmental Management Restrictions, then in that event, the Seller shall be entitled, without prejudice to any rights it may have in terms of clause 21 of the Conditions of Sale, the balance of the Contract or at Law, claim from the Purchaser all damages, including consequential damages, the Seller may suffer as a result of the Purchaser's breach of the provisions of the Environmental Management Restrictions. In addition, should the Purchaser, its contractors, subcontractors, employees or agents breach the provisions of the Environmental Management Restrictions, the Purchaser shall be liable for a fine imposed by the Association, which the Association in its sole and absolute discretion, deems fair in the circumstances.
- 14.15 Any material breach by the Purchaser of the terms and conditions of the Environmental Management Restrictions and the Scheme shall be deemed to be a material breach of the terms and conditions of this Contract.
- 14.16 The Purchaser shall ensure that the Association's Rules, the Design Code, Nature and Landscape Code and Environmental Management Restrictions are brought to the attention of any tenant or occupier of the Property and the Purchaser's contractor.
- 14.17 For the purposes of clarity, it is specifically recorded that the provisions of the Seller and the Association contained in this Contract are in addition to, and in no way, vary, the legal obligations of the Purchaser to the Municipality in respect of the development of the Property.

15 **BUILDING TIME PERIOD**

- 15.1 The Purchaser shall within a period of 36 (thirty six) months from the Date of Transfer have commenced the construction of the Dwelling on the Property with a minimum floor area of 150 (one hundred and fifty) m² (excluding garages and verandas).
- 15.2 The Purchaser shall within a period of 18 (eighteen months) months from the commencement of construction have completed the construction of the Dwelling on the Property with a minimum floor area of 150 (one hundred and fifty) m² (excluding garages and verandas).
- 15.3 Until such time as the Purchaser has completed a Dwelling and the landscaping on the Property, the Property or any portion thereof, or interest therein, shall not be alienated or otherwise transferred without the written consent of the Seller first having been obtained (which consent the Seller may in his sole and absolute discretion grant or refuse).

- 15.4 These conditions shall be registered in favour of the Seller against the title deeds of the Property in such form as the Registrar of Deeds may permit and the Seller may require.

16 **SUBDIVISION AND CONSOLIDATION**

The Property shall not be subdivided or consolidated with any adjoining property, save with the prior written consent of the Seller and the Association, which consent the Seller and the Association may, in their sole and absolute discretion, grant or refuse. It is recorded that this condition shall be registered against the title deeds of the Property on the Date of Transfer.

17 **SECURITY**

The Purchaser acknowledges that either the Master Management Association or the Association, as the case may be, will procure the provision of security services to Seaton and that on the Date of Transfer the security facilities may not yet have been installed. The Purchaser agrees that no liability shall rest upon the Seller, Developer, Master Management Association, if applicable, or the Association for any failure or any inefficiencies of any of the security facilities included in Seaton irrespective of the cause thereof, or any consequential damages the Purchaser may suffer by reason of such failure or inefficiency, other than arising from gross negligence of the Seller, Developer or the Association. The Purchaser shall at all times abide by the Security Protocol of the Master Management Association.

18 **SERVITUDES FOR SERVICES**

The Property shall be transferred to the Purchaser subject to a: -

- 18.1 general omnibus servitude for services in favour of the Association, in terms of which the Association and any service provider/s or other parties nominated by the Association has the right, without being required to pay compensation therefor to lay, maintain, use, remove or extend lines, cables, pipes and the like under, on and over the said land for the purpose of conveying stormwater drainage, water supply, sewerage, electricity, gas, telecommunications, radio and television services, under, on or over the land provided, that any damage done during the process of laying, maintaining, using, removing or extending such lines, cables, pipes and the like shall be made good by the Association. The owner also agrees that the Association by itself, and any service provider/s or other parties nominated by the Association, may enter upon the said property at all reasonable times for the purpose of enforcing the rights reserved and the obligations accepted in this clause.
- 18.2 a telecommunications servitude on the property in favour of PD Investments (Pty) Ltd, Registration Number 2017/393614/07, its successors in title or assigns or other nominee of the Developer, in terms of which it or other parties nominated by the Developer, shall have the right, without being required to pay compensation therefor, to lay, maintain, use, transmit data through, remove, replace or extend lines, cables, pipes, sleeves, conduits, routers, switches and the like under, on and over the said land for the purpose of conveying telecommunications, radio and television services, over or under the land, and shall have reasonable access to thereto for the purposes of maintenance, removal, replacement or extension of same provided that any damage done during the process of laying, maintaining, removing, replacing or extending lines, cables, pipes, sleeves, conduits, routers, switches and the like shall be made good by it. The Purchaser also agrees that PD Investments (Pty) Ltd, its successors in title or assigns or other nominee of the Developer may enter upon the said property at all reasonable times for the purpose of enforcing the rights reserved and the obligations accepted in this

clause.

19 **PURCHASER'S ACKNOWLEDGMENTS**

19.1 The Purchaser acknowledges that he is aware of the intended future development of the Parent Property by the Developer or its successor-in-title or nominee. Such development may involve the establishment of resorts, business and commercial premises, education facilities, multiple unit developments and high - quality residential units on various portions of the Parent Property so designed as to facilitate an aesthetic and harmonious style blending with the environment. The Purchaser hereby undertakes that he will, at all times, co-operate with the Developer or its successor-in-title or nominee, in an endeavour to facilitate the success of the development of the Parent Property. Also, in this respect, the Purchaser undertakes that he shall not unreasonably interfere with any such proposed development nor lodge an objection with any competent authority in respect of any such development. The Purchaser agrees he will not object to any application made by or on behalf of the Developer, its successors-in-title, its nominee or agent for:

- 19.1.1 any rezoning or change of use or additional use in respect of any property;
 - 19.1.2 special consent usages;
 - 19.1.3 the amendment or partial amendment of the Developer's Area Plan;
 - 19.1.4 removal of restrictive conditions of title;
 - 19.1.5 subdivisional/consolidation applications;
 - 19.1.6 the closing of roads; and
 - 19.1.7 the incorporation of any additional land which the Developer may determine be incorporated;
- either within Seaton or in respect of the Parent Property.

19.2 The Purchaser hereby authorises the Developer to motivate and obtain approval of any amendments at any time (before or after Date of Transfer) to the Environmental Management Restrictions as the Developer in its sole discretion requires and insofar as is necessary the Purchaser hereby irrevocably appoints the Developer as his attorney and agent *in rem suam* to sign any documents as may be necessary to obtain such amendments.

19.3 The Purchaser specifically acknowledges that owners of properties surrounding the Property will be erecting buildings and other structures on the surrounding properties which may block or otherwise interfere with the views from the Property. The Purchaser agrees he shall have no right to object to the construction of any building or other structure on the properties on the basis that such building or other structure blocks or otherwise interferes with the views from the Property, nor will he have any claim for any alleged diminishment in the value of the Property arising out of any interference with the views from the Property by reason of the construction of any such building or other structure.

19.4 The Purchaser acknowledges that no building or other structure may be erected on the Property and further, no alteration or extension may be made to any existing building or other structure, save in accordance with building plans that have been approved by the Design Review Committee and the Municipality. Furthermore, the Purchaser agrees that he will have no claim

whatsoever, arising out of whatever cause, against the Master Management Association, Association, any members of the Design Review Committee and the Seller for refusing to approve or delaying the approval of any plans submitted by the Purchaser save where the Purchaser can prove mala fides on the part of the Design Review Committee.

- 19.5 The Purchaser shall not be entitled to make application to rezone the Property or to change its use from that currently specified in the Scheme without the consent of the Developer.
- 19.6 In no way detracting from the generality of any other provision of this Contract it is recorded that the design and layout of Seaton may vary as Seaton is developed and the Developer shall in no way be bound to its current plans for the design and layout of Seaton.
- 19.7 It is recorded that the Association shall be entitled to cede any of its rights in terms of this Contract to the Master Management Association and vice-a-versa. In addition, the Master Management Association shall be entitled (but not obliged) to appoint the Association to represent it and to exercise its rights in respect of the building plan approval process and assume its other rights and duties.
- 19.8 The Purchaser acknowledges that:
- 19.8.1 for reasons of security on Seaton and due to the nature of the proposed development of Seaton and the various matters about which any purchaser should become aware when buying into Seaton, if the Purchaser wishes to dispose of the Property, or any share therein or any subdivision thereof, or any sectional title unit erected thereon or any real right thereon, he shall, to the extent that he requires the services of an estate agent in regard to such disposal, do so in accordance with this clause;
- 19.8.2 this clause is inserted for the benefit of the Seller, who shall be entitled to enforce its terms by law;
- 19.8.3 any owner who acquires the Property and who thereafter wishes to dispose of the Property, shall –
- 19.8.3.1 to extent that he requires the services of an estate agent, do so exclusively through an estate agent accredited by the Seller;
- 19.8.3.2 whether or not he utilises the services of an estate agent, include a clause in any document pursuant by which he disposes of the Property on the same terms precisely as this clause so that the Seller shall always have the right to accredit the estate agent when the Property is sold or otherwise disposed of.
- 19.9 The Purchaser further acknowledges that in the event of the Purchaser being an artificial person, such as a close corporation, company or trust, and in the event of the member, director, shareholder, trustee or beneficiary of the Purchaser (as the case may be) wishing to dispose of the member's interest, shares or beneficial interest in the Purchaser (as the case may be) he shall to the extent that he requires the services of an estate agent in regard to such disposal, comply with the provisions of paragraph 19.8 of the Conditions of Sale *mutatis mutandis*.
- 19.10 The Purchaser acknowledges that in the event of the Purchaser disposing of the Property, or in the event of the Purchaser being an artificial person, such as a close corporation, company or trust and the member's interest, shares or beneficial interest (as the case may be) being disposed of, privately, (i.e. without the assistance of an estate agent), then in that event, the Purchaser acknowledges that he shall be responsible for payment of a fee charged by the

- Developer as a contribution towards, inter alia, the marketing of Seaton. The aforesaid fee charged by the Developer shall be in the sole discretion of the Developer, but shall not exceed 1% (one percent) of the purchase price (plus Value Added Tax thereon) of the Property, member's interest, shares or beneficial interest (as the case may be) or in the event of the Property, member's interest, shares or beneficial interest (as the case may be) not being sold, shall not exceed 1% (one percent) of the market value of the Property, member's interest, shares or beneficial interest (as the case may be) at the date of transfer or cession of same (plus Value Added Tax thereon).
- 19.11 When selling, or letting the Property, the Purchaser shall utilise such documentation (including the standard sale or lease agreement), prescribed by the Association.
- 19.12 It is recorded that the estate agent shall be required to pay a portion of its commission, to the Developer as a contribution towards, inter alia, the marketing of Seaton. The contribution will be an amount determined by the Developer from time to time currently 15% (fifteen percent) (plus Value Added Tax thereon) of the commission payable to such estate agent.
- 19.13 The Purchaser shall not be entitled to sell or otherwise transfer ownership of the Property unless it is a suspensive condition of such sale or other transfer that the transferee, in a manner acceptable to the Association, agrees to become a member and is admitted as a member of the Association. In no way detracting from the generality of the aforesaid, it is specifically recorded that the Association shall not give its consent in this regard if, *inter alia*, any levies, or other amounts payable to the Association by the Purchaser are outstanding or if there are any outstanding issues in respect of the Property or in the event of the final completion occupation certificate not having been issued by the Municipality or the Design Review Committee not having given Development Approval.
- 19.14 In the event of a breach of any of clauses 19.8 – 19.13, the Seller shall be entitled in its absolute discretion to refuse its written approval as required to the sale and transfer of the Property until the provisions of any of clauses 19.8 – 19.13 are complied with and no party to this Contract of Sale shall have any claim for damages arising out of the Seller's refusal to give such written approval.
- 19.15 In order to protect the Seller's rights in this regard, the Property shall be transferred to the Purchaser, subject to a condition in the title deeds to the Property to the effect that the Property, or any portion thereof or interest therein shall not be alienated or otherwise transferred without the prior written consent of the Seller first being had and obtained, which consent the Seller shall grant provided the provisions of any of clauses 19.8 – 19.13 have been complied with.
- 19.16 All the Seller's rights and obligations in terms of this clause 19 shall be ceded and assigned to the Association when the "Development Period" (as defined in the MOI) ends, which cession and assignment the Purchaser agrees to, as far as needs be.
- 19.17 The Purchaser shall at all times ensure that the Property is kept in a neat and tidy condition from Date of Occupation.
- 19.18 The Purchaser acknowledges and agrees that: -
- 19.18.1 it is the Purchaser's responsibility to investigate all matters effecting the Property;
- 19.18.2 as at the Date of Signature, the beacons marking the boundaries of the Property are in place. The Purchaser undertakes to make immediate arrangements with the Seller, or its agent, to inspect the beacons, whereafter, the Seller shall have no further obligation to the Purchaser to either point out or establish any beacons in relation to the boundaries of the Property.
- 19.18.3 the Purchaser has inspected the Property and satisfied itself in regard to everything pertaining to the Property including, but in no way limited to, the extent and locality of the

Property as well as the subsoil conditions prevailing upon the Property and the permitted use of the Property in terms of the zoning thereof under the Scheme and all other matters affecting the development thereof;

- 19.18.4 the Purchaser is responsible for applying to the appropriate authorities and/or any supplier of services for water, sewerage, electricity or gas connection to the Property (and all fees, deposits and other application costs in this regard shall be for the account of the Purchaser) and for submitting plans for approval in respect of any buildings or other structures to be erected on the Property, the Seller and its agents being entirely free from all liability in respect of such matters.
- 19.19 The Purchaser shall not be permitted, nor shall it discharge, noxious effluent into the Municipality sewerage system or any other drainage system and warrants that, in conducting its operations on the Property, the disposal of any effluent from the Property will be in accordance with all the requirements of the Municipality or any other responsible authority.
- 19.20 It is recorded that the Seller is in the process of procuring the installation of the necessary infrastructure required to provide connectivity to the Property for electronic mail and broadband internet access, fixed line telephone communication, intercom operations and satellite television. The Purchaser acknowledges and agrees that he shall be liable to pay connection fees to connect the Property to the aforesaid systems. The aforesaid fees shall be payable to the Seller's service provider and shall be paid by the Purchaser when the Property is connected to the aforesaid systems (which shall not be prior to the completion of the Dwelling on the Property if this has not already occurred). In addition, the Purchaser shall be obliged, once the aforesaid connections have been made and the systems are operational, to enter into service contracts with the service providers appointed by the Seller's service provider to operate the aforesaid communication systems, which will entail the payment of monthly fees by the Purchaser.
- 19.21 The Purchaser acknowledges that the Association has entered into an agreement with a service provider in respect of the supply of electricity to residents of the Estate. The Purchaser agrees to make payment to this service provider (or such other party as the Association may contract from time to time, in this regard) directly in respect of electricity it uses. Further in this regard, it is recorded that the Purchaser shall be liable to make payment of a once off capital contribution to this service provider (or such other party as the Association may contract from time to time, in this regard) in respect of the installation of various infrastructure. The aforesaid amount shall be paid when construction of the Dwelling on the Property commences.
- 19.22 It is recorded that the Developer and the developer of the neighbouring Zululami Estate have concluded a reciprocity agreement for the entrenchment of reciprocal traversing rights over the private open spaces of both Seaton and Zululami Estate for the benefit of Members of both Estates. The purpose of this agreement is for residents of both Estates to enjoy the benefit of the private open spaces, including, but not limited to, traversing the foot paths, mountain bike trails, golf cart paths and bridle paths, and access to, and the use and enjoyment of, the clubhouses on Seaton and Zululami Estate. Neither association shall be obliged to provide monetary compensation to the other for this reciprocal right. These traversing rights shall be entrenched by way of notarial deeds of servitude over the private open spaces of Seaton and Zululami Estate.
- 19.23 It is recorded that the Purchaser shall be obliged to insure the Property with the insurance company nominated by the Seller (as defined in the MOI).
- 19.24 The Purchaser acknowledges that he understands the English language and considers itself fluent therein;
- 19.25 The Purchaser acknowledges that he has had an opportunity to carefully read and consider the

provisions of the Contract and that he has been free to secure independent legal advice in respect of the provisions of same;

- 19.26 The Purchaser acknowledges that the Seller undertook that the Seller or the Conveyancers, would explain any provisions of the Contract which the Purchaser may not have understood fully and, to the extent that the Purchaser made the Seller aware of any provisions of the Contract it did not understand, such provisions were fully explained to the Purchaser.

20 **AGENT'S COMMISSION**

- 20.1 The Purchaser warrants that he was introduced to the Property by the Estate Agent referred to in clause 1.13.1 of the Contract of Sale who, it is recorded, was the effective cause of the sale in terms of the Contract. The Seller shall pay a selling commission to the agency referred to in clause 1.13.2 of the Contract of Sale in the amount referred to in clause 1.13.3 of the Contract of Sale. The aforesaid commission shall be deemed to have been earned and shall be payable on the Date of Transfer.

- 20.2 In such circumstances, the Purchaser warrants that:

- 20.2.1 the Estate Agent was the sole effective cause of the sale,
- 20.2.2 he was not introduced to the Property and/or the Contract, by any agent other than the Estate Agent named in clause 1.13.1 of the Contract of Sale as aforesaid; and
- 20.2.3 no commission shall become payable by the Seller to any agent other than the Estate Agent named in clause 1.13.1 of the Contract of Sale as aforesaid.

- 20.3 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/suffered by the Seller arising out of breach of any of the foregoing warranties.

- 20.4 Should this sale be cancelled by the Seller as a result of any failure by the Purchaser to carry out his obligations in terms of the Contract, or should the Purchaser resale from the Contract for any reason whatsoever, then the Purchaser shall be liable for the payment of agent's commission and the Seller shall have no liability whatsoever for the payment thereof.

21 **BREACH**

- 21.1 If the Purchaser:

- 21.1.1 fails to pay any amount in terms of the Contract, or commits any breach of the remaining conditions of the Contract or of the Master Management Association's memorandum and rules or the Association's MOI or of the Rules, and should the Purchaser fail to remedy such breach within 7 (seven) days of receipt of a written notice calling on him to remedy such breach, or
- 21.1.2 commits a repetition of such breach within a period of two months after having been warned by the Seller to desist therefrom,

the Seller shall be entitled, without prejudice to any other rights which it may have at law or in terms hereof and at the Seller's election to -

- a) cancel the Contract, and retake possession of the Property, in which event, should the Seller so elect, it may recover any damages however incurred as a result of such cancellation (including any loss and expenses on a resale, whether by public auction or private treaty), in which case the amount or amounts paid to the Seller or the Conveyancers (including any amount held in trust by the Conveyancers or any interest thereon) may be retained by the Seller by way of set off or partial set off against the damages claimed by the Seller (it being recorded that damages that the Seller may suffer in this regard may include, inter alia, lost interest, agents commission and other professional fees incurred, holding costs incurred in respect of the Property, including but in no way limited to, rates and levies payable in respect of the Property, and should the Property subsequently be resold for a lower purchase price than that referred to in the Contract, the difference in such purchase price) or
- b) claim immediate performance by the Purchaser of all his obligations in terms of the Contract whether or not the due date for the performance shall otherwise have arrived.

21.2 For the purposes of the Contract any act or omission on the part of any tenant, nominee or other person who occupies the Property or invitee of the Purchaser who goes upon the Property shall be deemed to be an act or omission of the Purchaser.

21.3 If the Contract is cancelled as hereinbefore provided, then pending the determination of that dispute, the Purchaser shall continue to pay all amounts payable in terms of the Contract on the due date thereof, and to comply with all the terms hereof, and the Seller shall be entitled to recover and accept such payments and/or other performance without prejudice to the Seller's claim to have exercised its rights in terms hereof, and in the event of the Seller succeeding in such dispute, the Seller shall be entitled to retain such amounts received in the interim as payment for the occupational rights exercised and/or enjoyed by the Purchaser in the interim.

22 **MORA INTEREST**

In the event of the Purchaser failing to comply with any of his obligations or any terms or conditions of the Contract on due date or in the event of there being any delay in connection with the registration of transfer for which the Purchaser is responsible, the Purchaser hereby undertakes to pay interest on the full purchase price at the prime overdraft rate charged from time to time by the Seller's bank plus 2%, calculated from the date upon which the Purchaser is notified in writing by the Seller, or the Seller's agent, as being in mora, to the date upon which the Purchaser ceased being in mora, both days inclusive. The Purchaser shall be obliged to pay such penalty interest to the Conveyancers before registration of transfer. A certificate signed by the conveyancers confirming the amount of such interest shall be conclusive proof of the amount owing by the Purchaser to the Seller.

23 **AMOUNT IN ARREARS**

Any amounts in arrears in terms of this Contract shall bear interest at the prime overdraft rate charged from time to time by the Seller's bank, plus 2 percentage points, which interest shall be calculated from the date upon which such amount became due to date of payment, both days inclusive. A certificate by the manager of the bank confirming the prime overdraft rate shall

be *prima facie* proof of such rate.

24 **DOMICILIUM**

24.1 The Parties chose as their respective *domicilia citandi et executandi* (the address nominated by the Parties where notices may be sent) the physical, postal address and/or email address stated in clauses 1.1 and 1.2 of the Contract of Sale.

24.2 Either party shall be entitled to change the *domicilium* address by giving written notice thereof to the other which may be delivered by hand, by facsimile, by email or by prepaid registered post.

24.3 Any notice which is given by either party to the other party's *domicilium* address, being the physical, postal, email addresses or facsimile number stated in clauses 1.1 and 1.2 of the Contract of Sale, shall be deemed to have been duly given:

24.3.1 if hand delivered; on the day on which hand delivery takes place, either by handing such notice to the party concerned or by placing/affixing it in a prominent place at the party's *domicilium*;

24.3.2 if posted by pre-paid registered post; on the fourth day following the date of posting of such notice;

24.3.3 where sent by email to the stated email address; on the day on which the email is actually sent which date shall be established by reference to the aforesaid machine's activity report used to send such notice.

24.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by either party shall be an adequate written notice to it notwithstanding that it was not sent or delivered to its chosen *domicilium citandi et executandi*.

25 **JURISDICTION AND COSTS**

25.1 The parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of Magistrate Court Act of 1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said court's jurisdiction; this clause shall constitute the required written consent conferring jurisdiction upon the said court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.

25.2 Notwithstanding anything to the contrary herein contained either party hereto shall have the right at its sole option and discretion to institute proceedings in any other court which might otherwise have jurisdiction.

25.3 All legal costs incurred either party in consequence of any default of the provisions of the Contract by the other, shall be payable by the defaulting party on demand to the maximum amount permitted by law and shall include collection charges, the cost incurred by the aggrieved party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgment awarded in

favour of the aggrieved party in relation to, in terms of or arising out of the Contract in respect of any legal proceedings arising out of the Contract.

26 **TRUSTEE FOR A COMPANY TO BE FORMED**

26.1 In the event of the signatory to the Contract having concluded the Contract in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in this clause 26 referred to as the "Signatory"), then the Signatory by his signature hereto warrants that the said company:

26.1.1 will be formed;

26.1.2 will ratify and adopt the terms and conditions of the Contract; and

26.1.3 will provide the Seller with written proof thereof;

all within a period of 30 days from the Date of Signature of the Contract by the Signatory.

26.2 The Signatory, in his personal capacity hereby under renunciation of the benefits of excussion and division with the full meaning and effect of which he declares himself to be fully acquainted, binds himself and agrees to bind himself as surety and co-principal debtor *in solidum* with the company to be formed by him in favour of the Seller for the due and punctual performance of such company's obligations to the Seller in terms of the Contract.

26.3 If the terms and conditions of Clause 26.1 above are not fulfilled, then the Signatory will by his signature to the Contract be deemed ipso facto to have concluded the Contract in his personal capacity as Purchaser.

27 **COSTS**

Each party shall bear its own costs in connection with the preparation and execution of this Contract.

28 **CESSION**

The Purchaser shall not sell, assign, cede or dispose of the Purchaser's rights under this Contract without the prior written consent of the Seller. In the event of the Purchaser being an artificial person, such as a company, close corporation or trust, the Purchaser shall not agree to sell or otherwise alienate the shares, members interest or beneficial interest (as the case may be) in such Purchaser prior to Date of Transfer without the prior written consent of the Seller, which consent the Seller may in its sole and absolute discretion grant or refuse.

29 **JOINT AND SEVERAL LIABILITY**

Should the Contract be signed by more than one person as Purchaser the obligations of all the signatories shall be joint and several.

30 WAIVER

No latitude or extension of time which may be allowed by the Seller in respect of any payment provided for herein, or any matter or thing which the Purchaser is bound to perform or observe in terms hereof shall under any circumstances be deemed to be a waiver of the seller's rights at any time and without notice, to require strict and punctual compliance with each and every provision or term hereof.

31 INDEMNITY

The Seller does not warrant any information given in respect of the Property, whether this information is given prior to or subsequent of the Contract, save for the information in respect of the Property specifically warranted in the Contract. The Seller shall not be liable for any claim of any nature whatsoever that may arise due to any inaccuracies in information given in good faith by the Seller or the agent to the Purchaser in respect of the Property, or contained in any marketing material, and the Purchaser hereby indemnifies the Seller and holds it harmless against and in respect of any injury, loss or damage however caused which the Purchaser may suffer as a result of any inaccuracies in any information given by the Seller in good faith (save for the information specifically warranted in the Contract).

32 ANNEXURES

The Purchaser acknowledges that the following annexures which are annexed to the Conditions of Sale also form an integral part of the Conditions of Sale:

- "A" - Conditions of Sale
- "B" - Developer's Master Plan
- "C" - Subdivisional Layout Plan
- "D" - Extract of Subdivisional Layout Plan applicable to the Property
- "E" - Site Constraints (extract from Design Code)

33 ENTIRE CONTRACT

The Purchaser acknowledges that the Contract constitutes the sole basis of the contract between himself and the Seller, and that he has not been induced to enter into such contract by any representations or warranties (including, but in no way limited to, any artist's impression of the Scheme, whether contained in any letter, brochure, advertising material or otherwise) other than those contained herein and he shall be deemed to have satisfied himself in regard to all other relevant matters of whatsoever nature not specially dealt with herein. Any mutual agreement between the Purchaser and the Seller to cancel, alter or add to the Contract shall not be binding and shall be of no force or effect unless reduced to writing and signed by the parties hereto, or by their agents acting on their written instructions.