

# CLIFFORD 7

## AGREEMENT OF SALE

entered into between

**DENIZEN REAL ESTATE (PTY) LTD**  
**Registration Number: 2013/016487/07**

(hereinafter referred to as the "Seller")

**and**

---

(hereinafter referred to as the "Purchaser")

## CONTENTS

<b>The Schedule</b>	Page 3
<b>Standard Terms and Conditions of Sale</b>	Page 7
<b>Annexure “A”: Entire Floor Plan Including Section Floor Plan</b>	Page 36
<b>Annexure “B”: Parking and Storeroom Layout Plan</b>	Page 37
<b>Annexure “C”: Elevation of the Building</b>	Page 38
<b>Annexure “D”: Specifications and Schedule of Finishes</b>	Page 39
<b>Annexure “E”: The Provisions of section 13(1) of the STSMA</b>	Page 40
<b>Annexure “F”: Selection of Finishes for Unit</b>	Page 41
<b>Annexure “G”: Conduct Rules and Proposed Amendments thereto</b>	Page 42

### THE SCHEDULE

<b>1.</b>	<b><u>PARTIES</u></b>		
<b>1.1</b>	<b>SELLER</b>	DENIZEN REAL ESTATE (PTY) LTD	
	REGISTRATION NUMBER	2013/016487/07	
	ADDRESS	3 Morley Road, Observatory, 7925	
	TELEPHONE NUMBER	087 470 0621	
	TELEFAX NUMBER	086 575 5360	
	E-MAIL ADDRESS	<a href="mailto:sales@denizen.co.za">sales@denizen.co.za</a>	
<b>1.2</b>	<b>PURCHASER</b>		
	COMPANY/CLOSE CORPORATION/TRUST NAME		
	NAME OF DULY AUTHORISED REPRESENTATIVE OF COMPANY/CLOSE CORPORATION/TRUST NAME		
	REGISTRATION NUMBER		
	NATURAL PERSON NAME		
	IDENTITY NUMBER/DATE OF BIRTH		
	FOREIGNER	YES:	NO:
	MARITAL STATUS	MARRIED IN COMMUNITY OF PROPERTY:	MARRIED OUT OF COMMUNITY OF PROPERTY:
		MARRIED BY FOREIGN LAW:	UNMARRIED:
		MARRIED BY MUSLIM RITES:	MARRIED BY HINDU RITES:
		MARRIED BY JEWISH RITES:	MARRIED BY CUSTOMARY LAW:
	INCOME TAX NUMBER		

	REGISTERED/RESIDENTIAL ADDRESS	
	TELEPHONE NUMBER (WORK)	
	TELEPHONE NUMBER (HOME)	
	TELEFAX NUMBER	
	CELL PHONE NUMBER	
	E-MAIL ADDRESS	
<b>2.</b>	<b><u>THE PROPERTY</u></b>	
	APARTMENT/DOOR NUMBER(S)	
	SECTION NUMBER(S)	
	PARTICIPATION QUOTA	
	APPROXIMATE SIZE(S)	
	PARKING BAY(S) TO BE ALLOCATED AND CEDED IN TERMS OF SECTION 27 (1) (a) OF THE ACT	PARKING BAY NO/S:
	STOREROOM(S) TO BE ALLOCATED AND CEDED IN TERMS OF SECTION 27 (1) (a) OF THE ACT	STOREROOM NO/S:
	TOGETHER WITH AN UNDIVIDED SHARE IN THE COMMON PROPERTY FORMING PART OF THE PROPOSED SECTIONAL SCHEME AS DETERMINED IN TERMS OF THE ACT.	
<b>3.</b>	<b><u>PURCHASE PRICE</u></b>	
<b>3.1.</b>	TOTAL PURCHASE PRICE  (INCLUSIVE OF VAT AT 15%)	
<b>3.2.</b>	DEPOSIT BY PURCHASER  (10% / 30% DUE ON SIGNATURE HEREOF BY PURCHASER)	

3.3.	BALANCE PURCHASE PRICE DUE ON TRANSFER	
4.	<b><u>MORTGAGE BOND</u></b>	
	INDICATE IF REQUIRED	YES NO
	AMOUNT	R
	DATE BY WHICH BOND MUST BE GRANTED	<b>30</b> CALENDAR DAYS FROM DATE OF THIS AGREEMENT OR SUCH EXTENDED DATE AS THE SELLER MAY APPROVE IN TERMS OF CLAUSE 7 OF THE AGREEMENT
5.	<b><u>ATTORNEYS</u></b>	
5.1.	NAME OF ATTORNEYS	STBB, SMITH TABATA BUCHANAN BOYES, 8 <sup>TH</sup> FLOOR, 5 ST. GEORGE'S MALL, CAPE TOWN, CONTACT PERSON: CHARNE SYMINGTON, TELEPHONE NUMBER: (021) 406 9100, E-MAIL: <a href="mailto:charnes@stbb.co.za">charnes@stbb.co.za</a>
5.2.	ATTORNEYS' TRUST ACCOUNT	BANK: NEDBANK LIMITED, BRANCH: CAPE TOWN, ACCOUNT NUMBER: 1009624202, BRANCH CODE: 100909, REFERENCE: CHARNES/APARTMENT_CLIFFORD7
6.	<b><u>SURETY</u></b>	
	FULL NAMES	
	IDENTITY NUMBER	
	MARITAL STATUS	
	DETAILS OF SURETY'S SPOUSE	
	FULL NAME	
	IDENTITY NUMBER	
	<i>DOMICILIUM</i> STREET OR BUSINESS ADDRESS	
	CELL PHONE NUMBER	

	E-MAIL ADDRESS	
<b>7.</b>	<b><u>NOMINEE</u></b>	
	NAME	
	DATE OF NOMINATION	By midnight on the date of signature hereof.
<b>8.</b>	<b><u>ESTIMATED OCCUPATION DATE (READ WITH CLAUSE 9 OF THE STANDARD TERMS AND CONDITIONS OF SALE)</u></b>	<b>October 2019</b>
<b>9.</b>	<b><u>ESTIMATED TRANSFER DATE (READ WITH CLAUSE 8 OF THE STANDARD TERMS AND CONDITIONS OF SALE)</u></b>	<b>October 2019</b>
<b>10.</b>	<b><u>ESTIMATED LEVY AMOUNT</u></b>	
<b>11.</b>	<b><u>SELLING AGENCY</u></b>	
	NAME	
	AGENT NAME	
<b>12.</b>	<b><u>SPECIAL CONDITIONS</u></b>	

**STANDARD TERMS AND CONDITIONS OF SALE**

**1. INTERPRETATION**

1.1 In this agreement, unless the context otherwise indicates:

STBB | Smith Tabata Buchanan Boyes Attorneys  
8<sup>th</sup> Floor, 5 St Georges Building, St George's Mall  
Cape Town, 8001  
Tel: 021 406 9100

**STBB** | SMITH TABATA  
BUCHANAN BOYES

- 1.1.1 “Act” means the Sectional Titles Act No 95 of 1986, as amended;
- 1.1.2 “Agreement” means the Schedule, this Standard Terms and Conditions of Sale, Annexures “A” to “H” and any addenda entered into or to be entered into between the Seller and Purchaser, each forming an integral part of this Agreement entered into by the Seller and the Purchaser;
- 1.1.3 “Architect” means Urban Citizen (Pty) Ltd, Registration Number 2013/231221/07, or such other firm(s) as may be appointed by the Seller from time to time;
- 1.1.4 “Attorneys” means Smith Tabata Buchanan Boyes of 8<sup>th</sup> Floor, 5 St Georges Mall, Cape Town (Reference: C Symington);
- 1.1.5 “Body Corporate” means the controlling body of the scheme as contemplated in terms of Section 2 of the STSMA;
- 1.1.6 “Building” means the new building to be constructed on the Property, to be known as Clifford 7, situate at 7 Clifford Street, Sea Point, comprising 6 (six) sectional title apartments, 10 (ten) parking bays and 6 (six) storerooms, as will appear more fully from the Plans;
- 1.1.7 “Business Day” means any day other than a Sunday, Saturday or public holiday;
- 1.1.8 “Common Property” means the Property and such parts of the Building which do not form part of a Section and it shall at all times be in the sole and unfettered discretion of the Seller as to:
- 1.1.8.1 the use to which the Common Property may be put;  
or
- 1.1.8.2 the nature of the exclusive use rights which will be granted in respect of the Common Property,
- provided only that such use is disclosed in the Sectional Plan;
- 1.1.9 “Completion Date” means the date upon which the Building and the Section have in the opinion of the Principal Agent reached the state of completion where they or it can effectively be used for the purpose intended notwithstanding that material defects as contemplated in clause 11.3.1 and 11.3.2 may still require to be remedied. The decision of the Principal Agent

shall be final and binding upon the parties. This date shall be treated as the date in which the Section is complete for beneficial occupation;

- 1.1.10 “Exclusive Use Areas” means the rights to the exclusive use area and enjoyment of Exclusive Use Areas in the scheme referred to in paragraph 2 of the Schedule and further identified in the attached Plans;
- 1.1.11 “FICA Act” means the Financial Intelligence Centre Act No. 38 of 2001;
- 1.1.12 “Floor Area” in relation to a Section, means the floor area to the median line of the boundary walls of the Section;
- 1.1.13 “Land Surveyor” means Vroom & Associates of 12 Highwick Drive, Kenilworth, Cape Town, 7709, or such other firm as may be appointed by the Seller from time to time;
- 1.1.14 “Occupation Date” means the Completion Date;
- 1.1.15 “Parking Bays” means the parking bay(s) to be acquired by the Purchaser, as more fully described in paragraph 2 of the Schedule and further identified on the attached Plans;
- 1.1.16 “Participation Quota” means, in relation to a Section, the decimal fraction allocated thereto in the Sectional Plan and which is calculated in terms of Section 32(1) of the Act;
- 1.1.17 “Plans” means collectively, drawings prepared by the Architect for the purposes of sale agreements being:
  - 1.1.17.1 a floor plan of the Section which incorporates drawings on a smaller scale (plan and elevation) indicating the citing of the Section on each floor and in relation to the Building on the elevation, as per the attached plans, marked annexure “A”;
  - 1.1.17.2 a plan of the entire floor on which the section is situated, as per the attached plans, marked annexure “A”;
  - 1.1.17.3 a parking and storeroom layout plan on which the Parking Bays and Storerooms are delineated in terms of section 27 (1) (a) of the Act, marked annexure “B”;  
and



- 1.1.17.4 an elevation of the Building, as per the attached plans, marked annexure “C”;
- 1.1.18 “Prime Rate” means the prime rate of interest (nominal annual compounded monthly) charged by Investec Bank Limited (“the Seller’s Bank”) on overdraft to first class corporate borrowers in the private sector on an unsecured basis from time to time, determined on the first day of each month and debited monthly in arrear. In the event of dispute between the parties as to such rate a certificate by any branch manager of the said bank, whose appointment need not be proved, shall be final and binding on the parties;
- 1.1.19 “Property” means Erf 604 Sea Point East, more commonly known as 7 Clifford Street, Sea Point;
- 1.1.20 “Purchaser” means the person whose details more fully appear in paragraph 1.2 in the Schedule;
- 1.1.21 “Register” means the sectional title register in respect of the Scheme to be opened in terms of the Act;
- 1.1.22 “Rules” means the management and conduct rules prescribed in terms of Section 10(2)(a) and 10(2)(b) of the Sectional Titles Schemes Management Act No. 8 of 2011 and as may be amended from time to time by the Seller when opening the Register or establishing the Body Corporate;
- 1.1.23 “Schedule” means the information schedule as set out on pages 3 to 6 of this Agreement, and which constitutes a substantive term of this Agreement;
- 1.1.24 “Schedule of Finishes” means the schedule of finishes as set out in annexure “D”, the construction details of which are capable of unilateral variation by the Seller, but the details of finishes in which, insofar as they relate to the Section, may be varied from time to time by the Seller, or in terms of the substitution provisions in clause 11.2;
- 1.1.25 “Scheme” means the proposed sectional title scheme in respect of the Building and the Property;
- 1.1.26 “Section” means the apartment in the Building more fully described in paragraph 2 of the Schedule which, on the opening of the Register will become a section for the purposes of the Act, together with its undivided share in Common

Property apportioned to the Section in accordance with its Participation Quota referred to in paragraph 2 of the Schedule;

- 1.1.27 “Sectional Plan” means the sectional plan in respect of the Scheme as approved by the Surveyor-General and registered by the Registrar of Deeds;
- 1.1.28 “Selection of Finishes for the Unit” means the details of the Section set out in Annexure “F”;
- 1.1.29 “Seller” means the person whose details more fully appear in paragraph 1.1 in the Schedule;
- 1.1.30 “Signature Date” means the date on which the Seller accepts the offer in terms of clause 32 below;
- 1.1.31 “Specifications” means the details of the Section and the Building set out in Annexure “D” and Annexure “F”;
- 1.1.32 “Standard Terms and Conditions of Sale” means this standard terms and conditions forming part of the Agreement;
- 1.1.33 “STSMA” means the Sectional Titles Schemes Management Act 8 of 2011 incorporating any amendments thereto;
- 1.1.34 “Surety” means the person as will more fully appear from paragraph 6 of the Schedule;
- 1.1.35 “Storeroom” means a storeroom to be acquired by the Purchaser, the numbers and siting of which more fully appears from paragraph 2 of the Schedule, read with the attached Plans;
- 1.1.36 “Transfer Date” means the date of registration of transfer of the Section and cession of the rights to the Exclusive Use Areas to the Purchaser;
- 1.1.37 “VAT” means value-added tax in terms of the Vat Act and includes any amendment thereto, including but not limited to the rate at which VAT is charged; and
- 1.1.38 “VAT Act” means the Value-Added Tax Act No. 89 of 1991.

- 1.2 Words importing the singular shall include the plural and *vice versa* and words importing the masculine gender shall include females and words importing persons shall include partnerships and bodies corporate and *vice versa*.

- 1.3 Reference to the Agreement means this Agreement, the Schedule, the Standard Terms and Conditions of Sale, Annexures “A” to “G” and any addenda entered into or to be entered into between the Seller and Purchaser.
- 1.4 The head notes to the paragraphs to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.5 This Agreement shall be binding on the estates, heirs, executors, administrators, liquidators, trustees or assigns of the parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any party shall be deemed to include such party’s estate, heirs, executors, administrators, trustees, assigns or liquidators, as the case may be.
- 1.6 If any provision in the Schedule to this Agreement and/or if any provision in this clause 1 is a substantive provision conferring rights or imposing obligations on any party, then notwithstanding that such provision is contained in the preamble and/or this clause 1, as the case may be, effect shall be given thereto as if such provision were a substantive provision in the body of the Agreement.
- 1.7 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.
- 1.8 Unless otherwise stated, all amounts referred to in this Agreement are exclusive of VAT and insofar as any VAT is payable on any such amounts, it shall be paid by the party making the payment in question.

## **2. CONDITIONS PRECEDENT**

- 2.1 Save for clause 1, this clause 2 and clauses 21 to 29 inclusive, which are of immediate and lasting effect, this Agreement is subject to the conditions precedent that:
- 2.1.1 the opening of the Register in respect of the Scheme is registered at the Deeds Registry Cape Town;
- 2.1.2 a binding agreement is concluded between the Seller and a South African registered commercial bank or such other bank that the Seller may decide on, in terms of which the South African registered commercial bank or such other bank, will

provide development finance for the construction of the Building, on such terms and conditions as the Seller and the said South African registered commercial bank or such other bank may agree on, including but not limited to the condition that the Seller achieve 80% (eighty) percent sales; and

failing which this Agreement will lapse and be *null and void*. The parties will in such event have no claims against each other and must be reinstated to their position before entering into this Agreement.

- 2.2 The conditions precedent in clauses 2.1.1 to 0 are not capable of waiver.
- 2.3 Should this Agreement become of no force and effect, then the parties shall be restored, as near as possible, to the position in which they would have been had this Agreement not been entered into and neither party shall have any claim against the other as a result of the failure of the conditions precedent in clause 2.1.1 to clause 0 above.
- 2.4 Unless the Purchaser is advised to the contrary prior to the abovementioned date referred to in clause 0 above, it will be assumed that the necessary approvals have been obtained.

### 3. RESOLUTIVE CONDITION

3.1 Notwithstanding any provision to the contrary in this Agreement, within 12 (twelve) months from the Signature Date, the Seller in its sole discretion, shall have the right to resile from this Agreement, should the Seller not:

3.1.1 have commenced with construction; or

3.1.2 achieved 80% (eighty percent) sales,

to proceed with the opening of the Scheme. Such aforementioned time period may be extended for a further period of 120 days, should the Seller require such extension of time, by the Seller giving the Purchaser notice to such effect before the expiry of the 12 (twelve) month period.

### 4. ACKNOWLEDGEMENTS BY PURCHASER

The Purchaser acknowledges that:

4.1 the Sectional Plan has not yet been prepared or approved and that accordingly the exact and final boundaries and areas of the Section and the Exclusive Use Areas, will be those shown on the Sectional Plan. The undivided share in the Common Property apportioned to the Section shall

- be in accordance with the Participation Quota, upon approval and registration of the Sectional Plan;
- 4.2 the Building has not yet been erected or completed as the case may be;
  - 4.3 the extent of the Section on the Sectional Plan will be measured by the Land Surveyor in terms of the Act;
  - 4.4 transfer of the Section and cession of the rights to the Exclusive Use Areas is able to take place only simultaneously with or forthwith after the opening of the Register;
  - 4.5 he has read and approved the Plans and the Specification and that he will be obliged to accept delivery of the Section and the Exclusive Use Areas:
    - 4.5.1 completed substantially according to the Plans and the Specification;
    - 4.5.2 as finally depicted and delineated on the Sectional Plan;
  - 4.6 the Plans and the Specification, insofar as they relate to the structure of the Building, including but not limited to all measurements and dimensions reflected in this Agreement, may be subject to variation (“the variations and specifications”),:
    - 4.6.1 as a result of the requirements of:
      - 4.6.1.1 all authorities having jurisdiction over the construction and finishing of the Building; and
      - 4.6.1.2 the Architect, engineer or any other member of the professional team appointed in relation to the Scheme, arising on either aesthetic, technical or construction grounds, or
    - 4.6.2 to such extent as may be reasonably necessary, to:
      - 4.6.2.1 comply with any special impediments such as water, sewer or electrical lines either above or underground or any rock or other soil condition;
      - 4.6.2.2 give effect to any changes in materials, finishes or fittings which the Seller considers to be appropriate or which may not be readily available at the time due to shortage in supply of such materials, finishes or

fittings, without however detracting from the quality of the Building and/or Section,

but that there will be no material change to the floor plan of the Section, nor to the Specification insofar as it relates to internal finishes in the Section other than with the prior written consent of the Purchaser, which consent shall not unreasonably be withheld or under the substitution provisions of clause 11.2;

- 4.7 any images reflected or displayed on the Seller's website, in any marketing brochures, pamphlets and any other advertising material, or as reflected in Annexures "E" and "G", are for illustrative purposes only and will not be binding on the Seller;
- 4.8 any model of the Section or the Building made by or on behalf of the Seller and any advertisement or other advertising material used for purposes of marketing the Scheme and/or the Section shall not constitute a representation by the Seller, and the Purchaser shall not be entitled to rely on any information therein;
- 4.9 he is aware that at the time of the opening of the Register or transfer of the Section into his name, it may not be possible to simultaneously cede the rights to the Exclusive Use Areas to him. In such an event, the cession of the rights to the Exclusive Use Areas, shall take place as soon as possible after the opening of the Register and the definition "Transfer Date" shall be interpreted accordingly;
- 4.10 on the Completion Date some portions of the Common Property and other sections in the Building may be incomplete and as a result:
- 4.10.1 he may suffer inconvenience from on-going building operations;
- 4.10.2 his peaceful use and enjoyment of and access to the Section, the Exclusive Use Area and the Common Property may be temporarily interrupted; and
- 4.10.3 noise and dust pollution may be caused,
- from time to time, during such on-going building operations;
- 4.11 he shall have no claim whatsoever against the Seller by reason of any such aforesaid inconvenience or interruptions, nor be entitled to withhold any payments to the Seller, nor be entitled to a reduction of the purchase price or interest thereon, as calculated in terms of clause 6.7 below, provided that the Seller shall use its best endeavours to complete all

aspects of the construction of the Building and the completion of the Scheme as soon as possible after the Completion Date;

- 4.12 he shall not dispose of the Section and/or Exclusive Use Area(s) without the prior written consent of the Seller, which consent may be withheld in the sole and unfettered discretion of the Seller until all the apartments in the Building have been sold by the Seller;
- 4.13 he is aware that he has bought a Section and Exclusive Use Areas in a Scheme and thus the registration of transfer of the said Section and Exclusive Use Areas into the name of the Purchaser will be simultaneous with the transfers to other purchasers, and he accordingly accepts and acknowledges that lodgement of the transfer and mortgage bond documents at the Cape Town Deeds Registry, shall be entirely in the discretion of the Attorneys and the Purchaser's obligation to pay the occupation consideration as referred to in clause 9.4 below shall remain and be unaffected by any delay occasioned by the above.

## 5. SALE

The Seller sells to the Purchaser who hereby purchases:

- 5.1 the Section;
- 5.2 an undivided share in the Common Property apportioned to the Section in terms of the Participation Quota of the Section; and
- 5.3 the right to the exclusive use of the Exclusive Use Areas;

all as more fully described in the Plans read with the Specification and as will be finally described in the Sectional Plan read with the Register, on the terms and conditions set forth in the Schedule, the Standard Terms and Conditions of Sale and Annexures "A" to "H", hereto, all of which the Purchaser acknowledges that he has read and understood.

## 6. PURCHASE PRICE

- 6.1 The purchase price of the Section and the Exclusive Use Areas is the amount specified in paragraph 3 of the Schedule, and is inclusive of VAT, which shall be paid by the Purchaser.
- 6.2 The Purchaser shall:
- 6.2.1 pay the purchase price to the Attorneys as follows:
- 6.2.1.1 a cash deposit as specified in paragraph 3.2 of the Schedule within 3 (three) days of the Signature Date,

to be paid into the Attorneys trust account to be invested by them in an interest bearing account for the benefit of the Purchaser, until the Transfer Date. The provisions of this clause 6.2 shall constitute authority to the Attorneys in terms of section 78(2A) of the Attorneys Act 53 of 1979;

6.2.1.2 the balance of the purchase price (“the balance purchase price”) in the amount recorded in paragraph 3.3 of the Schedule on the Transfer Date;

6.2.2 be required to comply with the FICA Act and consequently:

6.2.2.1 the deposit payable by the Purchaser as set out in paragraph 3.2 of the Schedule cannot be invested and accordingly, interest cannot accrue thereon, until such time as the said requirements have been met; and

6.2.2.2 the Purchaser hereby renounces any claim for interest, where the claim arises from the Attorneys being unable to invest the deposit as a result of the Purchaser not having properly complied with the FICA Act.

6.3 the Purchaser shall secure the balance purchase price:

6.3.1 in the event of the Purchaser not requiring loan finance to be secured by a mortgage bond, by furnishing the Seller with either:

6.3.1.1 an irrevocable bank guarantee issued by a South African registered commercial bank, which shall be subject only to the registration of transfer of the Section and the Exclusive Use Areas into the name of the Purchaser; or alternatively

6.3.1.2 a cash payment into the Attorneys’ trust account,

within 30 (thirty) days of the date of signature hereof, or such extended period as the Seller, in its sole discretion, may allow.

6.3.2 in the event of the Purchaser requiring loan finance to be secured by a mortgage bond, by furnishing the Seller within 30 (thirty) days of the Signature Date, with a written confirmation in a form acceptable to the Seller, that the Purchaser has obtained loan finance to be secured by a



mortgage bond, from a South African registered commercial bank, of not less than the bond amount as contained in paragraph 4 of the Schedule, for the purpose of enabling the Purchaser to discharge its obligations in relation to the payment of the balance purchase price. The Purchaser shall furnish an irrevocable bank guarantee in a form acceptable to the Seller, issued by such South African registered commercial bank, which shall be subject only to the registration of transfer of the Section and the Exclusive Use Area into the name of the Purchaser, within 14 (fourteen) days of the Attorneys' request therefor, or such extended period as the Seller, in its sole discretion, may allow.

6.3.3 In the event of the loan finance as per in paragraph 6.3.2 read together with paragraph 3.3 of the Schedule, not securing the full balance of the purchase price, the outstanding balance shall be secured by the Purchaser furnishing an irrevocable bank guarantee in a form acceptable to the Seller, issued by such South African registered commercial bank, which shall be subject only to the registration of the Section and the Exclusive Use Area into the name of the Purchaser, within 14 (fourteen) days of obtaining loan finance as contemplated in paragraph 7.3 of this Agreement.

6.4 Notwithstanding the contents of clause 6.3.1 above requiring the Purchaser to furnish a guarantee within 30 (thirty) days of the date of signature hereof, on receipt of payment of a deposit equalling 30% (thirty percent) of the purchase price, the Purchaser shall be relieved of the obligation to furnish a guarantee immediately and shall be required to furnish such guarantee within 7 (seven) days of a request therefore, which request will be made when the Attorney anticipates that lodgement of the transaction will be within 90 (ninety) calendar days.

6.5 In the event that the Purchaser requires loan finance to be secured by a mortgage bond, the Purchaser hereby agrees to use the services of a mortgage originator appointed by the Seller and that all mortgage bond instructions shall be attended to by the Attorneys.

6.6 The Purchaser hereby irrevocably authorises the Attorneys to appropriate the interest accrued on any monies invested on behalf of the Purchaser, in reduction of all amounts as may be owing by the Purchaser in terms of this Agreement.

6.7 All monies payable by the Purchaser in terms of this Agreement but which remain unpaid on due date shall bear interest at the Prime Rate plus 5%

(five percent) calculated from the date on which the monies were due until the date of payment, both days inclusive.

- 6.8 All or any payments to be made under this Agreement shall be made by the Purchaser to the Attorneys free of exchange at Cape Town and without deduction or set off.
- 6.9 In the event of the rate at which VAT is chargeable being amended after the Signature Date and in circumstances in which the amended rate will apply to this Agreement, then the purchase price as contained in paragraph 3 of the Schedule, read with clause 6.1, shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT, regardless of the rate at which VAT is payable.

## 7. MORTGAGE BOND

- 7.1 Should the Purchaser require loan finance to secure the balance purchase price as contained in clause 6.3.2 of this Agreement read with paragraph 3.3 of the Schedule, this Agreement shall be subject to and conditional upon the Purchaser being granted loan finance to be secured by a mortgage bond, for the amount specified in paragraph 4 of the Schedule or such lesser amount as is acceptable to the Purchaser, from a South African registered commercial bank, and such loan must be approved in writing by no later than the date provided for in paragraph 4 of the Schedule or such extended period as the Seller in its sole discretion may determine. The said approval shall be irrevocable save for providing that transfer of the Section and cession of the right to the Exclusive Use Areas be passed to the Purchaser.
- 7.2 The Purchaser hereby undertakes timeously to do all such things and to sign all such documents as may be necessary to apply for and procure the said approval and to furnish written proof to the Seller of the granting or refusal thereof.
- 7.3 In the event that the Purchaser's loan finance application is subject to the provisions of the National Credit Act 34 of 2005, the suspensive condition pertaining to the Purchaser obtaining loan finance to be secured by a mortgage bond, as set out in clause 7.1 above, shall be deemed to be fulfilled upon signature by the Purchaser of the bank's pre-agreement statement and quotation ("the loan finance approval"). In the event that the condition in clause 7.1 above is not fulfilled, this Agreement shall be of no force and effect and neither Party shall have any claim against the other, except that:

- 7.3.1 the Seller shall refund to the Purchaser the deposit referred to in clause 3.2 of the Schedule, with accrued interest, and
- 7.3.2 the Purchaser shall be obliged to immediately vacate the Section, if the Purchaser has taken occupation as referred to clause 9 below.

## 8. TRANSFER AND CESSION

- 8.1 Transfer of the Section and cession of the right to the Exclusive Use Areas shall be registered by the Attorneys as soon as is reasonably possible after the Completion Date and simultaneously with or as soon as possible after the opening of the Register, provided the Purchaser has fully complied with clause 6 above and clause 8.2 below.
- 8.2 The Purchaser shall upon request by the Attorneys:
  - 8.2.1 pay all costs of transfer of the Section and the cession of the right to the Exclusive Use Areas, together with VAT in respect of such costs;
  - 8.2.2 pay all costs incurred in and ancillary to the preparation for and registration of the mortgage bond, and where such mortgage bond is not attended to and registered by the Attorneys, pay all costs incurred in and ancillary to the preparation for and registration of the mortgage bond by such other attorneys; and
  - 8.2.3 sign all preliminary transfer, loan and mortgage bond documents.
- 8.3 In the event of the Purchaser failing to comply, within 7 (seven) days of being requested by the Attorneys, with the requirements of clauses 8.2.1 to 8.2.3, or where applicable, to ensure that all ancillary documentation is satisfactorily completed, then, the Purchaser shall pay to the Seller, monthly in advance, interest on the full purchase price at a rate of 5% (five percent) above the Prime Rate for the period of the delay.
- 8.4 In the event of registration of transfer to the Purchaser being delayed as a consequence of a default on the part of the Purchaser, the Purchaser shall pay to the Seller, monthly in advance, interest on the full purchase price, at a rate of 5% (five percent) above the Prime Rate calculated from the date transfer would have taken place had it not been for the default of the Purchaser until the date of actual transfer, both dates inclusive.
- 8.5 In the event that minor work and/or rectification in the discretion of the Architect still has to be done in the Section, notwithstanding that he has

given a signed certificate that the Section is available and ready for beneficial occupation, the Purchaser hereby agrees to take transfer of the Section and cession of the right to the Exclusive Use Areas and shall comply with all his obligations in terms of the Agreement.

8.6 The Purchaser warrants that all his tax affairs are in order.

## 9. POSSESSION AND OCCUPATION

9.1 The Seller shall give to the Purchaser not less than 30 (thirty) days' notice in writing of the Occupation Date.

9.2 Occupation of the Section and the Exclusive Use Areas shall be taken by the Purchaser on the Occupation Date, on which date all risk and benefit in the Section shall pass to the Purchaser and from which date the Purchaser shall be liable for the payment of levies assessed in terms of Section 25 of the Management Rules, read together with Section 3 of the STSMA, certified by the Seller to be the *bona fide* estimate of such levies, as if the Body Corporate had come into existence on the Occupation Date, which levies shall be pro rated for any period less than one month. The Purchaser shall pay the aforesaid levies, or a *pro rata* amount thereof, if applicable, directly to the Seller, monthly in advance, without any deduction or set-off, commencing from the Occupation Date.

9.3 Should the Purchaser fail to take occupation on the Occupation Date, the Purchaser hereby authorises the Architect to accept occupation of the Section and the Exclusive Use Areas on behalf of the Purchaser, by accepting the keys to the Section. The failure on the part of the Purchaser or Architect to take physical occupation of the Section and Exclusive Use Areas on the Occupation Date or to accept the keys to the Section shall not affect the Occupation Date.

9.4 From the Occupation Date until the Transfer Date, the Purchaser will pay to the Seller an occupation consideration equal to the Prime Rate on the purchase price, which occupation consideration shall be paid to the Attorneys, monthly in advance, without any deduction or set-off.

9.5 Possession of the Unit and Exclusive Use Areas shall be given to the Purchaser on the Transfer Date.

9.6 The Architect shall issue a signed certificate that the Section is available and ready for beneficial occupation on the Occupation Date and such certificate shall be binding upon the Seller and the Purchaser.

9.7 Should the Seller, for whatever reason, be able to give occupation of the Section prior to, or not be able to give occupation of the Section to the

Purchaser on the Occupation Date, the Purchaser shall accept occupation of the Section on such date upon which the Seller notifies the Purchaser that the Section is ready for occupation and such date will be deemed for all purposes to be the Occupation Date. It shall not be necessary for the Seller to give to the Purchaser any formal notice of a delayed Occupation Date and the Purchaser undertakes to accept a written notice given by the Seller for this purpose.

- 9.8 The Purchaser will have no claim whatsoever against the Seller, should the Seller for whatever reason fail to give occupation on the anticipated Occupation Date recorded in the clause 9.1 notice.
- 9.9 Until the Transfer Date, the Purchaser shall not sell, let, or in any other manner dispose of or part with the Section and/or the Exclusive Use Area(s) or any of his rights thereto, including but not limited to the transfer or cession of shares or members' interest or benefit under a company, close corporation or trust, as the case may be if the Purchaser is such an entity, without the Seller's written consent first being had and obtained. When granting consent, the Seller shall be entitled to impose such reasonable conditions as it considers necessary.
- 9.10 Should the Purchaser be in occupation of the Section and the Exclusive Use Areas from the Occupation Date and should the Purchaser fail to pay the occupation consideration as contemplated in clause 9.4 above, then the Purchaser shall pay to the Seller, monthly in advance, interest on the full occupation consideration outstanding at a rate of 5% (five percent) above the Prime Rate, calculated from the date when the occupation consideration was due until the payment of the occupation , both days inclusive.
- 9.11 From the Occupation Date until the Transfer date, the Purchaser shall:
- 9.11.1 keep the Section in good order and repair;
  - 9.11.2 permit the Seller or its agent reasonable access to enter and inspect the Section;
  - 9.11.3 be responsible for all costs of electricity and water consumed in the Section insofar as may be separately metered;
  - 9.11.4 not make any improvements or alterations to the Section, alter the colour scheme or redecorate, without the Seller's prior written consent, which consent shall not be unreasonably withheld. The Purchaser shall not have any claim against the Seller in respect of any expenditure for improvements or alterations to the Section, whether made with or without the

Seller's consent, and notwithstanding the preservation of such rights, hereby waives his lien (if any) in respect of such improvements or alterations. All improvements or alterations to the Section made by or at the instance or expense of the Purchaser shall accede to the Section and belong to the Seller;

9.11.5 save insofar as may be inconsistent with the provisions of this Agreement, be responsible for all other obligations of an owner as set out in the Act and the STSMA;

9.11.6 comply with all the rules and regulations applicable to the Scheme;

9.12 The occupation of the Section and the Exclusive Use Areas by the Purchaser shall in no way constitute a tenancy between the Seller and the Purchaser.

## **10. DEFECTS AND REMEDIAL WORK**

10.1 The Purchaser shall accept transfer of the Section and cession of the right to the Exclusive Use Areas subject to all conditions and servitudes benefiting or burdening the Section and the Property whether existing or hereafter imposed by any competent authority or by the Seller.

10.2 The Purchaser shall not have any claim of whatsoever nature against the Seller in respect of any defect or alleged defects in the Section or the Exclusive Use Areas or in the Building or in respect of anything relating thereto, whether patent or latent, otherwise than to the extent, if any, it is provided for in clauses 10.3 and 10.5 of this Agreement.

10.3 The Seller shall remedy any latent defect in the Section and the Exclusive Use Areas due to the faulty workmanship or materials, manifesting itself within 60 (sixty) days of the Completion Date provided that the Purchaser notifies the Seller thereof in writing within the said period of 60 (sixty) days. The Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim.

10.4 A certificate by the Architect to the effect that any defect has been rectified shall be binding on both Parties and shall relieve the Seller from any further obligation in respect of such defect.

10.5 The Seller undertakes to strictly enforce for the benefit of the Purchaser any guarantee or warranty which it may enjoy, whether under its building contract which it has with its building contractor of the building, or any other basis. To the extent that such guarantees or warranties relate to

the Section and the Exclusive Use Areas, the Seller hereby cedes all its rights thereof to the Purchaser and/or the Body Corporate.

- 10.6 For the purposes of clause 10.3 the expression “any latent defect” means those defects the existence of which are recorded in writing by the Principal Agent as latent and requiring to be remedied or repaired.
- 10.7 The Seller warrants that in respect of the Building, at the instance of the Seller only that:
- 10.7.1 the building contractor engaged to construct and erect the Building, is registered as a home builder; and
- 10.7.2 the Building will be enrolled with the National Home Builders Registration Council (“the NHBRC”).
- 10.8 The Seller shall carry out such works and repairs that may be necessary to honour the terms and conditions of the warranty provided by the NHBRC in respect of the Section and the Building and other structures to be erected on the Property.
- 10.9 The Common Property shall on establishment of the Body Corporate, be inspected by the Architect and when approved by the Architect, the Seller shall be deemed to have fulfilled its obligations to the owners of the Body Corporate and neither the owners, nor the Body Corporate shall have any claim against the Seller in respect of the Common Property.
- 10.10 The Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, his agents and/or invitees may directly or indirectly suffer by reason of any latent or patent defects in the Section or any part thereof being in a defective condition or state of disrepair or arising out of *vis major* or *casus fortuitus* or any other cause either wholly or partly beyond the Seller’s control or arising out of any act or omission by any other Purchaser of a Section in the Building.
- 10.11 All warranties and undertakings hereby given to the Purchaser in terms of this Agreement are personal to the Purchaser and cannot be alienated or disposed of by the Purchaser in any way.
- 10.12 The Purchaser shall not be entitled to withhold, set-off or retain any amounts owing by the Purchaser to the Seller nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of the Agreement, regardless of whether any defects as identified herein have not yet been rectified.

10.13 The Purchaser acknowledges that the Seller will not be responsible for any defects arising from work or variations done to the Section by the Purchaser or his representatives, agents or employees.

## 11. UNDERTAKINGS AND WARRANTIES BY THE SELLER

The Seller undertakes and warrants that it:

11.1 will take all reasonable steps necessary to procure the registration of the Sectional Plans and the opening of the Register as soon as possible after the Occupation Date;

11.2 will construct and complete the Scheme, the Section and the Building substantially in accordance with the Plans read with the Specification and the Selection of Finishes for the Unit, provided only that if any items in the Specification are not available, the Seller shall be entitled to substitute items of similar standard and quality, with any dispute between the parties regarding standard and quality to be decided by the Architect, acting as an expert, whose decision shall be final and binding on the parties;

11.3 will, within a reasonable time, remedy any:

11.3.1 obvious defects in the Section and the Exclusive Use Areas which exist on the Completion Date, provided that the Purchaser notifies the Seller, accordingly in writing by no later than 14 (fourteen) days after the Completion Date but, in all events, prior to the Purchaser having any furniture delivered to the Section; and

11.3.2 material defects in the Section and the Exclusive Use Areas which manifest themselves within 60 (sixty) days after the Completion Date, provided that the Purchaser notifies the Seller in writing within the said period of 60 (sixty) days of any such defects,

failing which the Purchaser shall be deemed to have accepted the Section and the Exclusive Use Areas in the condition in which they were at the Completion Date.

11.4 For the purposes of clause 11.3.2 the expression “material defects” means those defects the existence of which are recorded in writing by the Principal Agent as material and requiring to be remedied or repaired.



## 12. PROVISIONS APPLICABLE PENDING TRANSFER AND CESSION

- 12.1 Upon the Purchaser taking occupation of the Section and the Exclusive Use Areas and pending transfer and cession, save insofar as may be inconsistent with the provisions of this Agreement, the provisions of section 13(1) of the STSMA as contained in Annexure "F", shall apply.
- 12.2 The other provisions of the Act, the STSMA and the provisions of the Rules insofar as they cast a duty upon the owner or occupier of a Section, shall bind the Purchaser and be enforceable by the Seller as if the Purchaser was the owner of the Section.

## 13. MANAGING AGENT

- 13.1 The Seller shall be entitled to appoint the first managing agent as provided for in the Rules of the Body Corporate which appointment shall be valid and binding on the Body Corporate for one year after the first general meeting of the Body Corporate.
- 13.2 The Purchaser hereby grants to the Seller an irrevocable authority to make the appointment of the first managing agent and to exercise all of the Purchaser's voting rights in this regard in order to give effect to this clause.

## 14. INDEMNITY

Notwithstanding anything to the contrary herein contained, the Seller shall not be responsible for any loss, damage, injury or death which the Purchaser may suffer, in or about the Section, Building or Scheme, by any act or omission whatsoever or neglect on the part of the Seller, its servants, employees or agents and the Purchaser waives all claims against the Seller and indemnifies the Seller against any such claim for any loss, damage, injury or death made by the Purchaser, his family, employees, agents or invitees. The Seller shall also not be responsible for any loss or damage of any description whether to property or persons which the Purchaser or any other person may suffer and the Purchaser shall not be entitled for any of the said reasons or for any other reason whatsoever, to withhold payment of any monies due to the Seller in terms hereof, and the Purchaser hereby indemnifies the Seller accordingly.

## 15. DAMAGE AND DESTRUCTION

- 15.1 In the event that, at any time prior to the Transfer Date, the Section is destroyed or damaged to the extent that the Purchaser is or would be deprived of beneficial occupation thereof, or the Building is destroyed or damaged to an extent that 50% (fifty per cent) or more of the Building requires reconstruction as determined by the Architect, whose decision

will be final and binding on all parties, then the Seller shall give notice to the Purchaser within 14 (fourteen) days of the occurrence of such an event of its decision either to:

15.1.1      resile from this Agreement, in which event:

15.1.1.1      this Agreement shall cease to be of any further force and effect and the Parties shall be restored to, as near as may be, the position in which they would have been had this Agreement not been entered into and no Party shall have any claims against the other as a result thereof, save that the Purchaser will be refunded the deposit (if paid in cash in terms of clause 6.2.1.1) and the balance of the purchase price (if paid in cash in terms of clause 6.3.1.2) and accrued interest thereon; and

15.1.1.2      no Party shall have any further rights against the other arising out of or in connection with this Agreement; or

15.1.2      proceed with the reconstruction of the Section and/or the Building utilising the proceeds of the insurance policy effected by or at the instance of the Seller, in which event:

15.1.2.1      the Parties shall continue to be bound by this Agreement; and

15.1.2.2      the Purchaser acknowledges that the expected Occupation Date and Expected Transfer date as reflected in paragraphs 8 and 9 of the Schedule, will be substantially delayed;

15.1.2.3      the Purchaser shall not have any claim against the Seller or its agents or employees for, including but not limited to, any loss or damage suffered by the Purchaser directly or indirectly as a result of the Seller's decision to reconstruct the Building.

## 16.      **JOINT AND SEVERAL LIABILITY**

In the event that this agreement is signed by more than one person as Purchaser, the obligations and liability of all the said signatories shall be joint and several.

## 17. THE RULES

- 17.1 The Purchaser grants to the Seller an irrevocable power of attorney in *rem suam* (operative from the time the Purchaser becomes the registered owner of the Section) to attend the first meeting of the Body Corporate and on behalf of and to the exclusion of the Purchaser to vote at the first meeting for the amendment and/or adoption of the Rules.
- 17.2 The Purchaser shall become a member of the Body Corporate on the Transfer Date and shall be subject to the Rules.

## 18. PARTICIPATION QUOTA AND RATING OF THE SECTION

- 18.1 The Participation Quotas referred to in the Schedule are subject to change as provided for in the Act, the STSMA and/or in the Rules of the Body Corporate and/or in the event that the Floor Area of any section differs from the Floor Area indicated on the plans.
- 18.2 The Purchaser acknowledges that the Seller may when registering the Scheme make rules under Section 10 read together with Section 11 (2) (a) of the STSMA by which a different value is attached to the vote of the owner of any section and/or the liability of the owner of any section to make contributions for the purposes of Section 3 of the STSMA is modified provided only that such differences are both fair and equitable in their effect upon all owners of sections in the Scheme.
- 18.3 As at the date of this agreement, no provision has been made by law for the separate rating of sections in the Scheme as contemplated in Section 51(3) of the Act.

## 19. RECORDAL

The Seller hereby reserves the right in its sole discretion to submit rider plans to the local municipality with design amendments. The Seller shall notify the Purchaser of its intention to submit rider plans to the local municipality, by no later than the Occupation Date.

## 20. ASSIGNMENT

The Purchaser hereby consents to a future cession by the Seller of its rights and delegation of its obligations under this agreement.

## 21. DEFAULT

- 21.1 If the Purchaser commits a breach of this agreement, fails to comply with any of the provisions hereof, or commits a breach of any of the provisions of this Agreement, at a time which is critical to the registration procedure

and fails to remedy that breach within 48 (forty eight) hours after receipt of written notification from the Seller, then the Seller shall be entitled to give the Purchaser 7 (seven) days' notice in writing to remedy such breach or failure, and if the Purchaser fails to comply with such notice then the Seller shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which it may have in law, including the right to claim damages:

21.1.1 to cancel this agreement in which case the Purchaser shall forfeit to the Seller all payments made to the Seller, his agents or the Attorneys under this agreement, including any interest accrued thereon; or

21.1.2 to claim immediate performance and/or payment of all the Purchaser's obligations in terms hereof.

21.2 Should the Purchaser occupy the Section and/or Exclusive Use Area(s), upon cancellation of this agreement for any reason whatsoever, as referred to in clause 21.1 above, the Purchaser shall forthwith vacate the Section and/or Exclusive Use Area(s) and shall procure that the Section be vacated by any persons who occupy it through the Purchaser's title or by his permission, and the Section and/or Exclusive Use Area(s) shall be redelivered in the same good order and condition as at the Occupation Date.

21.3 In the event of the Seller having to give notice to the Purchaser in terms of this Agreement and/or in the event of the Seller having to institute legal proceedings against the Purchaser, then the Purchaser shall be obliged to pay all costs incurred thereby, including costs on an attorney and own client scale (reckoned on the non-litigious tariff of the Law Society of the Cape of Good Hope or its successors-in-title) and collection commission.

21.4 Should the Purchaser dispute the Seller's right to cancel the Agreement, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by him in terms of this Agreement on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any rights of the Seller whatsoever.

## 22. GENERAL

22.1 No alteration, consensual cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by all parties to this agreement or their duly authorised representatives.

- 22.2 This document contains the entire agreement between the parties and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.
- 22.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in any respect under this agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.
- 22.4 The Purchaser shall not have any claim to be relieved of any obligation under this agreement or be entitled to any reduction of monies due in terms hereof by reason of any delay in obtaining approval of the Scheme or opening of the Register or any other delay of any kind.
- 22.5 If the Purchaser and/or Surety is married in community of property, then such person's spouse hereby consents to this Agreement.
- 22.6 If any provision of this Agreement is in conflict or inconsistent with the law of the Republic of South Africa, the invalidity of any such provision shall not affect the validity of the remainder of the provisions of this Agreement.

## 23. CO-OPERATION

Each of the parties hereby undertakes to:

- 23.1 sign and/or execute all such documents;
- 23.2 do and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing, all such acts; and
- 23.3 pass, and to procure the passing of all resolutions of any company and/or close corporation;

to the extent that the same may lie with such party's power and may be required to give effect to the import or intent of this Agreement, or any contract concluded pursuant to the provisions of this Agreement.

## 24. NOTICES AND DOMICILIA

- 24.1 Each of the parties chooses *domicilium citandi et executandi* ("domicilium") for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement at their respective addresses set forth in paragraph 1 of the Schedule.

- 24.2 Each of the parties shall be entitled from time to time, by written notice to the other to vary their domicilium to any other address within the Republic of South Africa which is not a post office box or *poste restante*.
- 24.3 Any notice given and any payment made by a party to any of the others ("the addressee") which:
- 24.3.1 is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
  - 24.3.2 is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's *domicilium* for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the fourth day after the date of posting;
  - 24.3.3 is transmitted by telefax or e-mail during normal business hours of the addressee shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee within one hour after receipt of such transmission.
- 24.4 Notwithstanding the provisions of clauses 24.3.1 and 24.3.3, in the event that a written notice or any process is actually received by a party, such receipt shall be valid for all purposes under this agreement notwithstanding that it was not received at a party's chosen *domicilium*.

**25. ELECTRICITY SUPPLY**

- 25.1 The electricity for the building will be provided by the City of Cape Town and be sold by Citiq prepaid vendors to the Purchaser of each unit.
- 25.2 The Seller will operate the Photovoltaic Solar panels of the building at its own cost.
- 25.3 The generated electricity of the solar panels will be sold directly to the body corporate to provide the electricity for the common areas and the plants of the building.
- 25.4 The generated electricity will be sold at the same tariff Citiq prepaid is charging for electricity from the City of Cape Town.
- 25.5 The electricity for common areas and the plant will be metered with a separate meter for record purposes.

**26. RECORDAL**

The hardware installed on the roof of the building including any replacement thereof shall remain the property of the developer who shall have access to the roof for maintenance and replacement of the said hardware at all times.

The above shall be imposed as a condition in the conveyancer's certificate in terms of Section 11(3)(b) of the Sectional Titles Act 95 of 1986.

**27. NOMINATION**

- 27.1 The Purchaser shall have the right to nominate a natural person or persons or an existing company, close corporation or trust as the Purchaser or co-Purchaser herein ("the right of nomination"). If the right of nomination is not exercised as provided for in this clause 25 by midnight on the Signature Date ("the period"), the person whose name appears in paragraph 1.2 of the Schedule shall be the Purchaser in his personal capacity and be bound by all the terms and conditions of this Agreement. The right of nomination shall be exercised in the following manner, namely that within the period:
  - 27.1.1 The Purchaser shall nominate the Nominee as contained in paragraph 7 of the Schedule, in writing;
  - 27.1.2 The Nominee shall accept such nomination (including, where applicable, the passing of necessary resolutions) and shall agree to be bound by all the terms and conditions of this Agreement, in writing;

27.1.3 The Surety as contained in paragraph 6 of the Schedule shall sign a deed of suretyship; and

27.1.4 The Purchaser shall deliver the documents referred to in clauses 27.1.1 to 27.1.3 above to the Attorneys.

27.2 In the event of the nomination being effected as set out in clauses 27.1.1 to 27.1.4 above, the person whose name appears in paragraph 1.2 of the Schedule, renouncing the benefits of excussion and division, the meaning of which he declares himself to be fully acquainted, hereby binds himself to the Seller as co-principal debtor for all the obligations of the Nominee to the Seller arising from this Agreement.

## 28. SIGNING AUTHORITIES

28.1 In the event that any of the persons entering into this agreement as Purchaser is married in community of property, or for any other reason stipulated in law requires spousal permission or any other form of permission or support from a third party to sign and enter into this agreement, such persons shall obtain such permission or support in writing and append same to this agreement, failing which such permission or support shall be deemed either to have been obtained or, alternatively, to not be a prerequisite to the signing of this agreement by such persons.

28.2 In the event that any of the persons entering into this agreement as Purchaser acts on behalf of a trust, a company, a close corporation or any other form of juristic person, whether existing or in the process of being formed, such persons shall produce evidence of having been authorised to act on behalf of such juristic person to the satisfaction of the Attorneys, which written evidence shall be appended to this agreement. Should the company not be formed within 30 (thirty) days of the date of signature hereof or should the company not ratify this Agreement of Sale within 7 (seven) days of its incorporation it shall be deemed that the signatory has entered into this Agreement of Sale in his personal capacity.

28.3 In the event that the Purchaser is either a company, close corporation, a trust or any other form of a juristic person, the signatory for the Purchaser by his signature hereto binds himself to the Seller as surety and co-principal debtor *in solidum* with the Purchaser under renunciation of the benefits of excussion and division for the performance by the Purchaser of all its obligations in terms of this agreement.



29. **SURETYSHIP**

Where the Purchaser is a company, close corporation or trust, the Surety renouncing the benefits of excussion and division, the full meaning which he/she declares himself/herself to be fully acquainted with, hereby binds himself/herself as Surety and co-principal debtor with the Purchaser for all the latter's obligations under this Agreement.

30. **CONSUMER PROTECTION ACT**

30.1 The Parties confirm that this sale did not come about as a result of direct marketing by the Seller and/or its agent/s but has been concluded as a result of consultative negotiations between the Parties.

30.2 The Purchaser acknowledges that this Agreement contains certain provisions which:

30.2.1 limit the risk or liability of the Seller;

30.2.2 constitute an assumption of risk or liability on the part of the Purchaser;

30.2.3 impose an obligation on the Purchaser to indemnify the Seller; and/or

30.2.4 constitute an acknowledgement of facts by the Purchaser.

30.3 The Purchaser's attention is specifically drawn to the provisions contained in the following clauses of this Agreement, namely:

**2.1; 2.1.1; 2.1.2; 2.1.3; 2.2; 2.3;  
3.1; 3.1.1; 3.1.2; 4.1; 4.2; 4.3;  
4.5; 4.6; 4.6.1; 4.6.1.1; 4.6.1.2;  
4.6.2; 4.6.2.1; 4.6.2.1; 4.7; 4.8;  
4.10; 4.10.1; 4.10.2; 4.10.3;  
4.11; 5; 5.2.2.1; 5.2.2.2; 6.3.2;  
6.4; 6.5; 6.6; 6.8; 7.1; 8.2; 8.2.1;  
8.2.2; 8.3; 8.4; 9.3; 9.7; 9.8; 9.9;  
9.10; 10.2; 10.3; 10.10; 10.12;  
11.3; 11.3.1; 11.3.2; 11.4; 12.1;  
12.2; 13.1; 14; 16; 23.6; 28.1;  
28.2; and 28.3.**

\_\_\_\_\_  
**INITIAL(PURCHASER)**

30.4 By signing at the end of this Agreement, the Purchaser acknowledges that the Seller has provided sufficient time and opportunity for the Purchaser to receive and comprehend the nature and effect of the provisions of this Agreement.

**31. NATIONAL CREDIT ACT**

If this Agreement is subject to the National Credit Act 34 of 2005 ("the NCA"), the Purchaser warrants that:

31.1 Once the loan finance to be secured by a mortgage bond, is approved and the pre-agreement statement and quotation is accepted, the Purchaser shall not do anything that may cause the Purchaser to become over-indebted in terms of the NCA or cause the concerned bank to withdraw the said loan finance approval;

31.2 The Purchaser shall not do anything between the date of acceptance of the pre-agreement statement and quotation and registration of the mortgage bond which may cause the Purchaser's financial situation to deteriorate;

31.3 At the time of signature of this Agreement, the Purchaser is not:

31.3.1 over-indebted; and/or

31.3.2 subject to debt review; and/or

31.3.3 subject to an administration order.

**32. OFFER**

The signature by the Purchaser of this agreement constitutes an offer by him to purchase the Section and Exclusive Use Areas, which offer is irrevocable and remains open for acceptance by the Seller no later than 10 (ten) days after signature by the Purchaser, at which time, unless accepted by the Seller, the offer will lapse and be of no further force and effect.

SIGNED at ..... on the ..... day of ..... 2018

**AS WITNESSES:**

for and on behalf of:

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

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

\_\_\_\_\_  
**PURCHASER**

SIGNED at ..... on the ..... day of ..... 2018

**AS WITNESSES:**

for and on behalf of:

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

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

\_\_\_\_\_

**SELLER**

Director, duly authorised hereto

**Entire Floor Plan including Section Floor Plan** **Annexure "A"**

**Parking and Storeroom Layout Plan**

**Annexure "B"**

**Elevation of the Building**

**Specifications and Schedule of Finishes**

**THE PROVISIONS OF SECTION 13(1) OF THE STSMA**

**Duties of owners**

- (1) An owner shall:
- (a) permit any person authorised in writing by the body corporate, at all reasonable hours on notice (except in case of emergency, when no notice shall be required), to enter his section or exclusive use area for the purposes of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts existing in the section and capable of being used in connection with the enjoyment of any other section or common property, or for the purposes of ensuring that the provisions of this Act and the rules are being observed;
  - (b) forthwith carry out all work that may be ordered by any competent public or local authority in respect of his section, other than such work as may be for the benefit of the building generally, and pay all charges, expenses and assessments that may be payable in respect of his section;
  - (c) repair and maintain his section in a state of good repair and, in respect of an exclusive use area, keep it in a clean and neat condition;
  - (d) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other owner or other persons lawfully on the premises;
  - (e) not use his section or exclusive use area, or permit it to be used, in such a manner or for such purpose as shall cause a nuisance to any occupier of a section;
  - (f) notify the body corporate forthwith of any change of ownership in his section and of any mortgage or other dealing in connection with his section; and
  - (g) when the purpose for which a section is intended to be used is shown expressly, or by implication on or by a registered sectional plan, not use nor permit such section to be used for any other purpose: Provided that with the written consent of all owners such section may be used for another purpose.



**Selection of Finishes for Unit**

**Annexure "G"**

**Conduct Rules and Proposed Amendments thereto**

Available for inspection at the offices of the Seller at \_\_\_\_\_