

**CONTRACT OF SALE : SECTIONAL TITLE : GODSHAVEN : PHASED DEVELOPMENT :  
REAL RIGHT OF EXTENSION : (INCLUDING BUILDING OBLIGATIONS) : SINGLE  
STOREY**

entered into by:

**GHP ZOELOERIJK (PTY) LIMITED**

Registration No : 2004/031871/07

herein represented by \_\_\_\_\_, he being duly authorised hereto by a resolution of directors

(the "SELLER")

of Second Floor, 12 on Palm Boulevard, Gateway, 4319

and

Name .....

.....

(the "PURCHASER")

Postal Address : .....

Physical Address : .....

Tel No (Home) : .....

Tel No. (Business) : .....

Cellular Phone No. : .....

Fax No. : .....

E-Mail Address : .....

Identity No./Registration No. : .....

Marital Status (if the PURCHASER is an individual).....

**INTRODUCTION**

- A The SELLER intends erecting on the PROPERTY a sectional title development comprising a maximum of 29 (TWENTY NINE) dwellings to be known as GODSHAVEN and has, in terms of the provisions of the Sectional Titles Act No 95 of 1986, opened a Sectional Title Register in respect of the aforesaid development.
- B. The SELLER has agreed to sell and the PURCHASER has agreed to buy the UNIT (including the REAL RIGHT OF EXTENSION) on the terms and conditions as set out herein.

1 **SCHEDULE**

- 1.1 SECTION No. ....
- 1.2 Approximate extent in square metres  
(including veranda and garage, if any) .....
- 1.3 Total Consideration (Including Value Added Tax thereon)  
(i.e. the aggregate of the amounts referred to in 1.4, 1.5 and 1.6  
below) R.....
- 1.4 Less deposit due on ..... R.....
- 1.5 Less guarantee due on ..... R.....
- (The total of the amounts referred to in paragraph 1.4 and 1.5 above  
shall be payable to the SELLER on the DATE OF CESSION and  
represent that portion of the purchase price allocated to the  
REAL RIGHT OF EXTENSION, although the sale of the REAL RIGHT OF  
EXTENSION and the erection of the SECTION, in terms of this  
CONTRACT, shall constitute one indivisible transaction)
- 1.6 Balance  
(to be paid in accordance with the provisions of  
3.3 of the CONTRACT OF SALE) R.....
- \*1.7 The amount of the loan for which the PURCHASER will  
apply R.....
- 1.8 Date by which loan is to be granted .....
- \*Delete if not applicable**
- 1.9 The amount estimated as being the monthly levy payable by the  
PURCHASER to the BODY CORPORATE in accordance with  
the provisions of the ACT .....
- 1.10 DATE OF POSSESSION (subject to 4 of the  
CONDITIONS OF SALE) .....
- 1.11 Name of ARCHITECT nominated by SELLER Homer Associate Architects
- 1.12 Agency PWR
- 1.13 BOND ORIGINATOR N/A

2 **SALE**

- 2.1 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 UNIT (including the REAL RIGHT OF  
EXTENSION).
- 2.2 The SECTION shall be erected substantially in accordance with the PLAN. The PURCHASER agrees that he shall

not be entitled to amend or procure any amendments to the PLAN (save as agreed to by the SELLER in writing). The PURCHASER acknowledges that the SECTION shall be situated on the PROPERTY in substantially the position as indicated on the SITE PLAN and is to be built in accordance with the PLAN (see clause 3.1 of the CONDITIONS OF SALE).

- 2.3 The PURCHASER agrees that the precise area, boundaries and description of the SECTION shall be as shown on the sectional plan and as finally determined and approved by the Surveyor-General and/or the relevant competent authorities and shall be binding upon the parties, provided always that the area of the SECTION shall be within 5% (FIVE PERCENT) of the area as stated in 1.2 of the CONTRACT OF SALE.

### 3 PREPAYMENTS AND GUARANTEES

- 3.1 The amount referred to in 1.4 of the CONTRACT OF SALE shall be paid to the CONVEYANCERS. Such payment shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver Account, all interest to accrue for the benefit of the PURCHASER until the DATE OF CESSION whereupon the CONVEYANCERS shall release the capital to the SELLER (less the amount of R50 000,00 to be retained by the CONVEYANCERS as referred to in paragraph 3.6 below) and all accrued interest, less their usual commission, to the PURCHASER. (The PURCHASER acknowledges that the CONVEYANCERS are not able to invest the aforesaid deposit, nor any other amount paid into trust with the CONVEYANCERS, on the PURCHASER'S behalf, until such time as the PURCHASER has complied with all the requirements of the Financial Intelligence Centre act No 38 of 2001 and has signed the necessary investment mandate, both of which the PURCHASER undertakes to do as soon as reasonably practical in the circumstances.)
- 3.2 The PURCHASER shall secure the due payment of the amount referred to in 1.5 of the CONTRACT OF SALE by furnishing the CONVEYANCERS with a guarantee from a registered South African commercial bank, in a form and on terms acceptable to the CONVEYANCERS for such amount. The guarantee will be expressed payable on the DATE OF CESSION.
- 3.3 Subject to paragraph 3.5 below, the PURCHASER shall secure the due payment of the amount referred to in 1.6 of the CONTRACT OF SALE by furnishing the CONVEYANCERS with a guarantee from a registered South African commercial bank, in a form and on terms acceptable to the CONVEYANCERS for such amount. The guarantee will be expressed payable as follows:
- 3.3.1 13% (THIRTEEN PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable upon the ARCHITECT certifying that the following items have been completed in respect of the SECTION, namely:
- 3.3.1.1 excavation, reinforcing and footings;
- 3.3.1.2 foundation brickwork and damp proof course;
- 3.3.1.3 surface beds and electrical tubing.
- 3.3.2 25% (TWENTY FIVE PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable on the ARCHITECT certifying that the following items in respect of the SECTION have been completed, namely:

- 
- 3.3.2.1 brickwork complete.
- 3.3.3 22% (TWENTY TWO PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable upon the ARCHITECT certifying that the following items in respect of the SECTION have been completed, namely:
- 3.3.3.1 concrete slab roof covering complete;
- 3.3.3.2 internal plastering complete;
- 3.3.3.3 door and window frames;
- 3.3.4 20% (TWENTY PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable upon the ARCHITECT certifying that the following items in respect of the SECTION have been completed, namely:
- 3.3.4.1 plumbing and drainage;
- 3.3.4.2 wall tiling;
- 3.3.4.3 ceilings complete.
- 3.3.5 10% (TEN PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable upon the ARCHITECT certifying that the following items have been completed in respect of the SECTION, namely:
- 3.3.5.1 the internal carpentry (including the built-in cupboards in the bedroom, if any),
- 3.3.5.2 electric wiring;
- 3.3.5.3 painting and glazing;
- 3.3.5.4 electric fitting;
- 3.3.5.5 floor coverings;
- 3.3.5.6 kitchen fittings.
- 3.3.6 10% (TEN PERCENT) of the amount referred to in 1.6 of the CONTRACT OF SALE shall be payable upon the ARCHITECT certifying that the SECTION has been erected substantially in accordance with the PLAN and is sufficiently complete for beneficial occupation.
- 3.4 The guarantee referred to in 3.3 above shall be furnished by the PURCHASER within 7 (SEVEN) days after request therefor by the CONVEYANCERS, provided that if the PURCHASER requires a loan for the amount stated in 1.7 of the CONTRACT OF SALE, such guarantee shall not be called for until the loan has been granted.
- 3.5 Alternatively, the PURCHASER shall be entitled to pay the amount referred to in paragraph 1.6 of the CONTRACT OF SALE to the CONVEYANCERS in cash (which amount shall be paid within 7 (SEVEN) days of the

CONVEYANCERS requesting the guarantee as contemplated in paragraph 3.4 of the CONDITIONS OF SALE above), and which amount shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver Account, with all interest to accrue for the benefit of the PURCHASER. This amount shall be paid to the SELLER by the CONVEYANCERS in accordance with the provisions of paragraph 3.3 above, upon receipt of the relevant certification by the ARCHITECT and in the event of the PURCHASER choosing this alternative, the PURCHASER shall be deemed to have irrevocably instructed the CONVEYANCERS to deal with this amount in this manner (i.e. to pay the aforesaid amount to the SELLER in accordance with the provisions of paragraph 3.3 above). Interest on the aforesaid amount shall be released to the PURCHASER once the Total Consideration, referred to in paragraph 1.3 above, has been paid in full to the SELLER (after deduction of the CONVEYANCERS' usual commission).

3.6 The CONVEYANCERS shall deduct an amount of R50 000,00 (FIFTY THOUSAND RAND) from the amount referred to in paragraph 1.4 and 3.1 of the CONTRACT OF SALE on the DATE OF CESSION. Such amount shall be invested by the CONVEYANCERS in their Nedbank Corporate Saver account, all interest to accrue for the benefit of the SELLER until the date that the application to incorporate the UNIT into the SCHEME (in terms of Section 25(9) of the ACT), as referred to in paragraph 7.2.2 of the CONDITIONS OF SALE, has been registered in the Deeds Registry, whereupon the aforesaid amount of R50 000,00 (FIFTY THOUSAND RAND) shall be released to the SELLER, together with all interest that may have accrued thereon (subject to the provisions of paragraph 7.7 of the CONDITIONS OF SALE).

3.7 It is recorded that the Total Consideration referred to in paragraph 1.3 of the CONTRACT OF SALE is inclusive of Value Added Tax at the current rate of 14% (FOURTEEN PERCENT). The parties agree that, should there be any change in the rate, Value Added Tax applicable at the time of supply, as determined in accordance with the Value Added Tax Act No 89 of 1991, that the Total Consideration shall be amended to take into account the adjustment and the Value Added Tax rate.

#### 4 PHASED DEVELOPMENT

This sale is subject to the following special conditions, which will be imposed by the SELLER in terms of Section 11(2) of the ACT:

4.1 The SELLER in terms of Section 25 of the ACT hereby reserves for itself the real right to extend, for its personal account, the SCHEME by the erection and completion from time to time but within a period of 20 (TWENTY) years:

4.1.1 a further building or buildings, or

4.1.2 a horizontal extension of an existing building, or

4.1.3 a vertical extension of an existing building on part of the common property

as outlined on the SITE PLAN, **Annexure "C"** to this CONTRACT, to divide such building or buildings into a section or sections and common property and to confer the right of exclusive use over parts of such common property upon the owner or owners of one or more of such sections or any other section in the SCHEME.

4.1.4 The SELLER further reserves the right to separate the real right to extend the SCHEME by alienating the right

to erect the various individual sections to different third parties.

5 **CONDITION PRECEDENT**

5.1 This CONTRACT is subject to and conditional upon the PLAN and the SITE PLAN being approved of by the local authority by no later than 1 December 2007. Should the aforesaid condition not be met timeously, this CONTRACT shall lapse and be of no further force and effect between the parties.

5.2 Notwithstanding the foregoing, it is recorded that the aforesaid condition has been inserted solely for the benefit of the SELLER who may waive compliance therewith prior to 1 December 2007.

DATED at .....this ..... day of .....2007

**AS WITNESS:**

.....

\_\_\_\_\_  
PURCHASER: I acknowledge that I am acquainted with and understand the contents of this CONTRACT and that all the annexures referred to in this CONTRACT were attached hereto when I signed same.

\_\_\_\_\_  
CONSENTING SPOUSE

This portion to be signed by parent / legal guardian / member / director/ trustee in the event of the PURCHASER being a minor / close corporation / company / trust.

.....

(Full names)

of .....

.....

(Full address and telephone number)

hereby consents to the conclusion of this 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 this 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 undersigned guarantor, the object being that the undersigned guarantor will at all times be liable as surety and co-principle debtor, even if the CONTRACT is varied or amended or novated and even if the PURCHASER is granted an indulgence by the SELLER.

Signed by the guarantor at ..... on this ..... day of ..... 2007

**AS WITNESS:**

1. ....

2. ....

\_\_\_\_\_  
Guarantor

DATED at ..... on this ..... day of ..... 2007

**AS WITNESS:**

.....

\_\_\_\_\_  
SELLER

**ANNEXURE "A"**

**CONDITIONS OF SALE**

**DEFINITIONS AND INTERPRETATION**

- 1 For the purposes of the CONTRACT OF SALE and the CONDITIONS OF SALE unless the context indicates to the contrary -
- 1.1 "ACT" means the Sectional Titles Act No. 95 of 1986 (as amended) and any regulations in force thereunder;
- 1.2 "ARCHITECT" means the architect nominated by the SELLER as specified in 1.11 of the CONTRACT;
- 1.3 "BODY CORPORATE" means the body corporate of the SCHEME;
- 1.4 "BOND ORIGINATOR" means the bond originator nominated by the SELLER, as referred to in paragraph 1.13 of the CONDITIONS OF SALE;
- 1.5 "this CONTRACT" means the CONTRACT OF SALE and all Annexures thereto;
- 1.6 "CONDITIONS OF SALE" means these conditions of sale;
- 1.7 "CONTRACT OF SALE" means the contract of sale to which these conditions of sale are **Annexure "A"**;
- 1.8 "CONVEYANCERS" means Garlicke & Bousfield Inc, 7 Torsvale Crescent, La Lucia, 4051;
- 1.9 "DATE OF SIGNATURE" means the date of signature of the CONTRACT OF SALE by the last signing of the SELLER or the PURCHASER;
- 1.10 "DATE OF CESSION" means the date of registration of the cession of the REAL RIGHT OF EXTENSION to the PURCHASER in the Deeds Registry;
- 1.11 "DATE OF POSSESSION" means the date specified in 1.10 of the CONTRACT OF SALE subject to the provisions of paragraph 4 of the CONDITIONS OF SALE;
- 1.12 "PLAN" means the building plan and schedule of finishes in respect of the SECTION, being **Annexure "B"** to the CONDITIONS OF SALE;
- 1.13 "PROPERTY" means the Remainder of Erf 208 Underberg, Registration Division FS, Province of Kwazulu-Natal, in extent 29,3832 (TWO NINE COMMA THREE EIGHT THREE TWO) hectares;
- 1.14 "PURCHASER" means the purchaser in terms of this CONTRACT;



- 1.15 "REAL RIGHT OF EXTENSION" means the right to extend the SCHEME, for a period of 20 years from the date of opening of the sectional title register of the SCHEME, by the erection of the UNIT (in accordance with the PLAN and the SITE PLAN and other specifications set out in this CONTRACT) which will be reserved by the SELLER in terms of Section 25 of the ACT.
- 1.16 "RULES" means the rules of the BODY CORPORATE, a copy of which is annexure "D" hereto;
- 1.17 "SCHEME" means the sectional title scheme known as GODSHAVEN SS548/2006 comprising the PROPERTY and all buildings constructed and to be constructed on the PROPERTY;
- 1.18 "SITE PLAN" means the plan which is **Annexure "C"** to the CONDITIONS OF SALE;
- 1.19 "SECTION" means the proposed section in the SCHEME, referred to in 1.1 of the CONTRACT OF SALE, which section is shown on the PLAN;
- 1.20 "UNIT" means the unit to be established in terms of the ACT, and comprising:
- 1.20.1 the SECTION;
- 1.20.2 and an undivided share in the common property in the SCHEME apportioned to the SECTION in accordance with the participation quota to be specified in a schedule to be endorsed on the sectional plan read with 2.3 of the CONTRACT OF SALE;
- 1.21 words importing a gender shall include all genders and the singular shall include the plural and vice versa;
- 1.22 words or expressions defined in the ACT shall have the same meanings in this CONTRACT unless this CONTRACT specifies to the contrary;
- 1.23 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;
- 1.24 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;
- 1.25 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 this CONTRACT shall prejudice the SELLER'S rights under this CONTRACT in any manner whatsoever, or be regarded as a waiver of the SELLER'S rights in terms of this 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 this CONTRACT;
- 2 LOAN FROM FINANCIAL INSTITUTION**
- 2.1 This CONTRACT shall be subject to and conditional upon the PURCHASER obtaining a loan from a South African commercial bank for the amount referred to in paragraph 1.7 of the CONTRACT and the SELLER receiving a copy of the written approval of such loan by the aforesaid bank, both by no later than the date stated in 1.8 of the

CONTRACT OF SALE. Should the aforesaid loan not be granted by the date stated in 1.8 of the CONTRACT OF SALE or should the SELLER not receive a copy of the written approval by the aforesaid bank of such loan by the date stated in 1.8 of the CONTRACT, then in that event, this CONTRACT shall lapse and be of no further force and effect between the parties. In the event of the CONTRACT lapsing, as contemplated above, the SELLER shall forthwith repay or procure all amounts paid by the PURCHASER in respect of the purchase consideration of the UNIT. (It is recorded that this clause has been inserted for the benefit of both the SELLER and the PURCHASER and the PURCHASER shall not be entitled to unilaterally waive compliance herewith.)

2.2 In no way detracting from the generality of any other provision in this CONTRACT, the PURCHASER specifically acknowledges that it will be responsible for the payment of interest on the aforesaid loan from the DATE OF CESSION and undertakes, in favour of the SELLER, to ensure that such interest is paid as required in terms of the PURCHASER'S Loan Agreement with the bank in question.

2.3 By his signature to this CONTRACT, the PURCHASER hereby irrevocably and unconditionally appoints the CONVEYANCERS to sign any "draw down forms" or other documentation as the bank, referred to in paragraph 2.1 of the CONDITIONS OF SALE above, may require in order for payment to be made in terms of this CONTRACT by the aforesaid bank on the PURCHASER's behalf. By his signature to this CONTRACT, the PURCHASER further irrevocably and unconditionally appoints the CONVEYANCERS to sign any forms or other documentation that may be required by the National Homebuilders Registration Council in respect of the SECTION. The PURCHASER hereby indemnifies and holds harmless the CONVEYANCERS for any damages the PURCHASER may suffer as a result of the CONVEYANCERS acting in terms of this clause on the PURCHASER'S behalf.

2.4 In order to expedite the cession of the REAL RIGHT OF EXTENSION, the SELLER and the PURCHASER undertake to procure that the CONVEYANCERS are appointed by the aforesaid South African Commercial Bank, to attend to the registration of any mortgage bond such bank may require as security for the aforesaid loan on the DATE OF CESSION. All the CONVEYANCERS' costs in this regard shall be for the account of the PURCHASER.

2.5 Should the PURCHASER require a loan to fund the payment of the purchase price or any portion thereof, as contemplated in paragraph 2.1 above, the PURCHASER shall be obliged to make an application through the BOND ORIGINATOR. It is recorded however that the PURCHASER shall not be limited to the BOND ORIGINATOR in making such application for a loan and may make such other application if it so requires. The PURCHASER shall not be obliged to accept any loan granted through its application to the BOND ORIGINATOR.

### 3 **COMPLETION OF THE SECTION**

3.1 The SELLER hereby undertakes to procure that the SECTION is erected substantially in accordance with the PLAN and is sufficiently complete for beneficial occupation, by the DATE OF POSSESSION, provided the PURCHASER has paid the Total Consideration referred to in 1.3 of the CONTRACT OF SALE as contemplated in paragraph 3 of the CONTRACT OF SALE.

3.2 The PURCHASER shall not give any instructions of any nature to the ARCHITECT, the contractor or the relevant sub-contractor(s). Should the SELLER agree to any deviation from the PLAN, such deviation shall be reduced to writing and any amounts payable in terms of such deviation shall be payable by the PURCHASER to the SELLER

on demand (prior to any such work being executed).

- 3.3 The PURCHASER shall, within 30 (THIRTY) days after the DATE OF POSSESSION, deliver to the SELLER a list, signed by himself, enumerating any defects in the SECTION where same are due to defective materials or workmanship, and the SELLER shall procure that such defects are made good as expeditiously as possible in the circumstances. Once such defects have been made good to the satisfaction of the ARCHITECT (acting as an expert and not an arbitrator and whose decision shall be final and binding on the parties), the PURCHASER shall have no further claim against the SELLER, save as otherwise provided for herein.
- 3.4 Save as provided in this CONTRACT, the PURCHASER purchases the UNIT voetstoots and shall have no claim against the SELLER in respect of any defects whether latent or patent in the SECTION or the common property of the SCHEME.
- 3.5 If there is any dispute between the PURCHASER and the SELLER as to whether the SECTION has been constructed substantially in accordance with the PLAN and/or has been erected in substantially the position as reflected in the SITE PLAN and/or is sufficiently complete for beneficial occupation and/or whether there are any defects in the SECTION due to defective materials or workmanship, then such dispute shall be referred to the ARCHITECT (acting as an expert and not as an arbitrator) whose decision shall be final and binding upon the parties.
- 3.6 The PURCHASER acknowledges that after the completion of the SECTION the SELLER and/or its agents, contractors and workmen may be engaged in erecting other dwellings, driveways and other structures on the PROPERTY and the PURCHASER agrees that the SELLER and/or its agents, contractors and workmen shall at all times have reasonable access to the PROPERTY for the purposes of carrying out such work as may be necessary to enable the SELLER to procure the erection and layout of the aforementioned dwellings, driveways and other structures. The PURCHASER shall have no claim whatever against the SELLER by reason of any inconvenience or interference with the PURCHASER'S rights arising hereout and the PURCHASER shall not, in any way whatsoever, interfere with the performance of the aforesaid work.
- 3.7 The SELLER warrants that the SECTION shall be enrolled with the National Home Builders Registration Council as contemplated in the Housing Consumer Protection Measures Act, No. 95 of 1998 (as amended).
- 3.8 As is required in terms of Section 13(2)(a) of the aforesaid Act 95 of 1998, the SELLER warrants that:
- 3.8.1 the SECTION shall be constructed in a proper and workmanlike manner;
- 3.8.2 the SECTION will be fit for habitation on the DATE OF POSSESSION;
- 3.8.3 the SECTION shall be constructed in accordance with:
- 3.8.3.1 the National Home Builders Registration Council Technical Requirements to the extent applicable to the SECTION at the date of enrolment of such SECTION with the National Home Builders Registration Council; and
- 3.8.3.2 the terms, plans and specifications referred to in this CONTRACT;

- 3.9 As provided for in Section 13(2)(b) of the aforesaid Act 95 of 1998, the SELLER undertakes to:
- 3.9.1 rectify any major structural defects in the SECTION caused by non-compliance with the National Home Builders Registration Council's Technical Requirements which occur within a period of five (5) years from the DATE OF POSSESSION and of which the SELLER is notified of by the PURCHASER within that period;
- 3.9.2 rectify non-compliance with or deviation from the terms, plans and specifications referred to in this CONTRACT or any deficiency related to design, workmanship or material, of which the SELLER is notified by the PURCHASER of within a period of three (3) months from the DATE OF POSSESSION;
- 3.9.3 repair roof leaks attributable to workmanship, design or materials occurring and of which the SELLER is notified by the PURCHASER of within a period of twelve (12) months from the DATE OF POSSESSION.
- 3.10 In no way detracting from the generality of any other provisions in this CONTRACT, it is recorded that the SELLER may, at the SELLER'S discretion, elect not to install any item on the schedule of finishes (which forms part of the PLAN), provided that the SELLER installs a similar item of a similar quality in its place. In the event of there being any dispute as to whether the item installed by the SELLER is of a similar quality, a certificate by the ARCHITECT (acting as an expert and not as an arbiter) certifying that such item is of a similar quality, shall be final and binding on the parties.
- 3.11 It is recorded that the schedule of finishes of the SECTION, which forms part of the PLAN, makes provision for the PURCHASER to choose certain finishes for the SECTION from a selection to be provided by the SELLER. The PURCHASER shall be obliged to make its selection in this regard within 15 (FIFTEEN) days after the SELLER gives the PURCHASER notice that the aforesaid finishes, are available for inspection, failing which the SELLER will be entitled to make this selection on the PURCHASER'S behalf.
- 3.12 Again, in no way detracting from the SELLER'S rights in terms of this CONTRACT or at law, it is specifically recorded that the PURCHASER shall not be entitled to delay or refuse to comply with his obligations in terms of this CONTRACT (including, but in no way limited to the payment of the deposit and the furnishing of the guarantees referred to in paragraph 3 of the CONTRACT OF SALE), if it disputes that the UNIT is sufficiently complete for beneficial occupation or should it believe that the SELLER has not complied with his obligations in terms of paragraph 3.3 of the CONDITIONS OF SALE.
- 4 **OCCUPATION DATE**
- 4.1 The SELLER hereby undertakes to use its best endeavours to give to the PURCHASER beneficial occupation of the SECTION by the date stipulated in 1.10 of the CONTRACT OF SALE, provided the PURCHASER has paid the Total Consideration referred to in 1.3 of the CONTRACT OF SALE as contemplated in paragraph 3 of the CONTRACT OF SALE.
- 4.2 If, however, the SELLER is of the opinion that, for whatever reason, the SECTION will not be sufficiently complete for beneficial occupation by the date specified in 1.10 of the CONTRACT OF SALE, then -
- 4.2.1 the SELLER shall notify the PURCHASER of such fact at least 30 (THIRTY) days before such date. In such event

the PURCHASER shall accept possession, occupation and use of the SECTION on the date the SELLER notifies him in writing that the SECTION will be sufficiently complete for beneficial occupation, and such subsequent date shall (subject to the provisions of paragraph 4.5 below) be deemed for all purposes to be the DATE OF POSSESSION; and

4.2.2 if the SECTION is not sufficiently complete for beneficial occupation within 9 (NINE) calendar months after the date specified in 1.10 of the CONTRACT OF SALE, the PURCHASER shall have the right on notice to the SELLER to resile from this CONTRACT. In such event:

4.2.2.1 the PURCHASER shall be entitled to receive a refund of an amount equal to the aggregate of all payments made by the PURCHASER in respect of the Total Consideration referred to in 1.3 of the CONTRACT OF SALE upon the cession of the REAL RIGHT OF EXTENSION back to the SELLER (which cession shall be attended to by the CONVEYANCERS at the SELLER's cost) and

4.2.2.2 the PURCHASER shall have no claim of whatsoever nature or howsoever arising against the SELLER for failing for any reason to give possession, occupation and use of the SECTION to the PURCHASER on or before the DATE OF POSSESSION.

4.3 The SELLER shall be entitled to anticipate the DATE OF POSSESSION on 60 (SIXTY) days written notice to the PURCHASER provided that such anticipated date shall not be more than 120 (ONE HUNDRED AND TWENTY) days earlier than the date stated in 1.10 of the CONTRACT OF SALE. Should the SELLER bring the date of possession forward by giving the PURCHASER the written notice as aforesaid, such date shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT (subject to the provisions of paragraph 4.5 below).

4.3 In the event of any dispute as to when or whether the SECTION is sufficiently complete for beneficial occupation, a certificate by the ARCHITECT (acting as an expert and not an arbitrator) certifying that the SECTION is sufficiently complete for beneficial occupation, shall be final and binding upon the parties.

4.4 Notwithstanding anything contained herein, the PURCHASER shall not be entitled to occupation of the SECTION until such time as the Total Consideration, referred to in paragraph 1.3 of the CONTRACT OF SALE, has been paid in full to the SELLER. Should the SECTION be sufficiently complete for beneficial occupation but the amount referred to in 1.3 of the CONTRACT OF SALE not have been paid in full to the SELLER, then in that event, (without prejudice to the SELLER'S right to claim specific performance from the PURCHASER or to any other rights the SELLER may have in terms of this CONTRACT or at law), possession and occupation of the SECTION shall only be given to the PURCHASER once such amount has been paid and the date of such payment shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT.

## 5 RIGHTS AND OBLIGATIONS IN RESPECT OF OCCUPATION

5.1 The PURCHASER acknowledges that on the DATE OF POSSESSION the SCHEME, 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 by reason of any such inconvenience.

5.2 From the DATE OF POSSESSION the PURCHASER -

- 5.2.1 shall be entitled to beneficial occupation of the SECTION, and the SECTION shall be used for residential purposes only and for no other purpose whatsoever. The maximum number of persons that shall be entitled to occupy the SECTION shall be determined by multiplying the number of bedrooms in the SECTION by two.
- 5.2.2 shall, at his own expense, maintain the interior of the SECTION in a good, clean and thoroughly tenantable and attractive condition, and where necessary repair or refurbish any damaged item and replace any lost item.
- 5.2.3 shall, at his own expense, maintain in a good working order and condition all electrical, plumbing and sewerage installations and appurtenances of whatever nature, serving the SECTION.
- 5.2.4 shall, if the SECTION is separately metered for the supply of electricity and/or water thereto, make arrangements with the suppliers to obtain the relevant connections and shall pay for any consumption thereof;
- 5.2.5 shall be entitled to the use and enjoyment, along with the purchasers of other dwellings erected or to be erected on the PROPERTY, of those parts of the common property of the SCHEME not subject to rights of exclusive use by such purchasers, subject to the RULES;
- 5.2.6 shall at all times comply with the provisions of the ACT and the RULES;
- 5.2.7 waives all claims against the SELLER and the BODY CORPORATE for any loss or damage to property or any injury to person which the PURCHASER may sustain in or about the SECTION or any other part of the SCHEME and indemnifies the SELLER and the BODY CORPORATE against any such claim that may be made against the SELLER or the BODY CORPORATE by a member of the PURCHASER'S family or any tenant, nominee, invitee or any other person who occupies the SECTION and/or goes upon the SCHEME by virtue of the PURCHASER'S rights thereto, for any loss or damage to property or injury to person suffered in or about the SECTION, or any other part of the SCHEME howsoever such loss or damage to property or injury to person may be caused.
- 5.2.8 shall not, without the prior written consent of the SELLER, the BODY CORPORATE and the relevant local authority make or cause or allow to be made any change or improvements to the SECTION or remove or demolish any improvements whatever. If any such changes or improvements are made, with or without the prior written consent of the SELLER, the PURCHASER shall not have any claim against the SELLER in respect of any expenditure upon or improvements to the SECTION.
- 5.3 The PURCHASER shall be liable for the payment of all services provided to the SECTION including telephones, television, electricity and water and any deposits payable in connection with the supply of any such services.
- 5.4 All the benefit of and risk in and to the UNIT shall pass to the PURCHASER on the DATE OF POSSESSION.
- 5.5 The SELLER either personally or through its servants or agents shall be entitled at all reasonable times to have access to the SECTION for the purpose of inspection or to carry out any maintenance or repairs whether relative to the SECTION or not, and the PURCHASER shall have no claim against the SELLER for any disturbance in his occupation arising out of the exercise of the rights hereby conferred.
- 5.6 The PURCHASER shall procure that all occupants of the SECTION comply with the provisions of this CONTRACT.

5.7 The PURCHASER shall not use the SECTION or permit it to be used in such manner or for such purposes as shall cause a nuisance to any occupier of any section erected on the PROPERTY or interfere with the amenities of the PROPERTY, or so as to breach the RULES or any law, ordinance or by-law or provision of the Town Planning Scheme in force in relation to the PROPERTY.

5.8 Notwithstanding the fact that the risk and benefit in and to the SECTION shall pass to the PURCHASER on the DATE OF POSSESSION, the SELLER undertakes to ensure that the SECTION is insured against the usual risks until such time as the SECTION is incorporated into the SCHEME in terms of Section 25(9) of the ACT.

5.9 It is recorded that the PURCHASER may not erect a fence anywhere on the common property of the SCHEME.

## **6 LEVY AND OTHER CHARGES**

6.1 The PURCHASER shall be liable, from the DATE OF CESSION, for payment of a monthly levy payable to the BODY CORPORATE in respect of those items provided for in the ACT.

6.2 The amount referred to in paragraph 1.9 of the CONTRACT OF SALE is an estimation of the monthly levy payable by the PURCHASER, made in good faith by the SELLER and the SELLER shall not be responsible for any inaccuracies in this estimation.

## **7. CESSION**

7.1 The SELLER shall cede the REAL RIGHT OF EXTENSION to the PURCHASER as soon as reasonably practical in the circumstances. The cession of the REAL RIGHT TO EXTENSION as aforesaid, shall be attended to by the CONVEYANCERS at the cost of the PURCHASER.

7.2 Once the SECTION has been completed in accordance with the provisions of the CONTRACT OF SALE, the SELLER shall:

7.2.1 instruct its surveyors to attend to the drafting and approval by the Surveyor General of the Sectional Plan of Extension in respect of (inter alia) the SECTION and

7.2.2 instruct the CONVEYANCERS to attend to the application to the Registrar of Deeds (in terms of Section 25(9) of the ACT) for the registration of the aforesaid Sectional Plan of Extension and the issuing to the PURCHASER of a Certificate of Registered Sectional Title (in terms of Section 25(10)(d) of the ACT) in respect of the SECTION (it being recorded that it is the intention of the parties that this application be brought within a period of 60 (SIXTY) days of the DATE OF POSSESSION if possible, but in any event, as soon as reasonably practical in the circumstances).

7.3 The costs of drafting the aforesaid Sectional Plan of Extension and the approval thereof by the Surveyor General, as referred to in paragraph 7.2.1 of the CONDITIONS OF SALE, shall be for the account of the SELLER. The costs of bringing the application referred to in paragraph 7.2.2 of the CONDITIONS OF SALE shall be for the account of the PURCHASER.

- 7.4 The PURCHASER shall, within 14 (FOURTEEN) days of being called upon to do so by the CONVEYANCERS:-
- 7.4.1 pay to the CONVEYANCERS all costs of and incidental to the cession of the REAL RIGHT OF EXTENSION and bringing the aforesaid application to the Registrar of Deeds, including bank charges and all conveyancing fees and disbursements and
- 7.4.2 furnish all information, sign all documents and pay all such amounts that may be necessary or required to enable the CONVEYANCERS to cede the REAL RIGHT OF EXTENSION to the PURCHASER, and to bring the application referred to in paragraph 7.2.2 of the CONDITIONS OF SALE.
- 7.5 Save as provided for in paragraph 7.7 below, no liability of any nature whatsoever shall attach to the SELLER arising out of any delay in effecting the aforesaid cession or application.
- 7.6 The PURCHASER shall be obliged to accept ownership of the SECTION subject to –
- 7.6.1 the conditions, reservations and servitudes which burden the PROPERTY;
- 7.6.2 such conditions of sectional title as are imposed by the SELLER, the local authority and the Minister of Local Government (KwaZulu-Natal);
- 7.6.3 a condition registered in favour of the SELLER against the Deed to the REAL RIGHT OF EXTENSION to the effect that the REAL RIGHT OF EXTENSION may not be alienated or ceded until such time as the application, referred to in paragraph 7.2.2 of the CONDITIONS OF SALE has been registered in the Deeds Registry.
- 7.6.4 any change in the number of the UNIT;
- 7.7 Should the SELLER not have brought the application referred to in paragraph 7.2.2 of the CONDITIONS OF SALE for any reason whatsoever, within a period that the Bank, referred to in paragraph 2.1 of the CONDITIONS OF SALE, deems reasonable, then in that event, the SELLER and the PURCHASER both hereby irrevocably appoint the Bank referred to in paragraph 2.1 of the CONDITIONS OF SALE to:
- 7.7.1 employ the services of a surveyor to attend to the drafting and approval by the Surveyor General of a Sectional Plan of Extension in respect of the SECTION (and in the event of the SECTION having already been surveyed, the SELLER hereby cedes all its rights in respect of such plans and diagrams of the SECTION, whether approved of or not, to the aforesaid bank) and
- 7.7.2 bring the aforesaid application to the Registrar of Deeds on the parties' behalf.

In the event of the aforesaid bank appointing a surveyor as aforesaid or bringing the aforesaid application, the costs incurred by the bank shall be refunded to the bank from the amount of R50 000,00 (FIFTY THOUSAND RAND) held in trust by the CONVEYANCERS, (as referred to in paragraph 3.1 and 3.6 of the CONTRACT OF SALE). The bank's rights to bring the aforesaid application in terms of this clause shall in no way absolve the SELLER from its contractual obligations in terms of this CONTRACT or its legal obligations to make such application.



7.8 It is recorded that in order to effect cession of the REAL RIGHT OF EXTENSION, the CONVEYANCERS shall be required to lodge, inter alia, a Transfer Duty exemption certificate, issued by the South African Revenue Services (hereinafter in this paragraph 7.8 referred to as "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 cession of the REAL RIGHT OF EXTENSION, 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 this CONTRACT OF SALE and the SELLER shall be entitled to cancel this CONTRACT should the PURCHASER not rectify such breach within 7(SEVEN) days of receipt of a notice from the SELLER calling upon him to remedy such breach (as contemplated in paragraph 9.1.2 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 cession which shall entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 16 of the CONDITIONS OF SALE.

7.9 The SELLER warrants that the area covered by the REAL RIGHT OF EXTENSION shall be serviced (in that there will be a water, stormwater and electricity connection point to the area covered by REAL RIGHT OF EXTENSION and a hardened surface road giving access to such area) prior to the DATE OF CESSION.

## 8 AGENT'S COMMISSION

8.1 The PURCHASER warrants that it was introduced to the UNIT by an agent of the agency referred to in paragraph 1.12 of the CONTRACT OF SALE, who was the effective cause of the sale. The SELLER shall pay a selling commission to the agency referred to in 1.12 of the CONTRACT OF SALE in accordance with its mandate with such agency.

8.2 The PURCHASER warrants that no agent or agency, other than that referred to in clause 8.1 of the CONDITIONS OF SALE above, was responsible for introducing him to the UNIT and further warrants that no other agent or agency will have any claim against the SELLER for agent's commission arising out of this transaction. The PURCHASER indemnifies and holds harmless the SELLER against any loss, damage or expense sustained, suffered or incurred by the SELLER arising out of any breach of the foregoing warranty.

## 9 DEFAULT

9.1 If the PURCHASER -

9.1.1 fails to pay any amount in terms of this CONTRACT, or

9.1.2 commits any breach of the remaining conditions of this CONTRACT or of the RULES, and should the PURCHASER fail to remedy such breach within 7 (SEVEN) days of the date of delivery, if delivered by hand, or receipt if posted by prepaid registered post, of a written notice calling on him to remedy such breach, or

9.1.3 commits a repetition of any breach of the said conditions within a period of two months after having been warned by

the SELLER to desist therefrom;

9.1.4 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 this CONTRACT, and retake possession of the SECTION, and in which event all amounts paid to the SELLER or to the CONVEYANCERS (including any amount paid in trust) shall be forfeited to and retained by the SELLER as rowwkoop; alternatively if the SELLER so elects he 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 as aforesaid shall not be forfeited as rowwkoop but may be retained by the SELLER by way of set off or partial set off against the damages claimed by the SELLER or

(b) claim immediate performance by the PURCHASER of all his obligations in terms of this CONTRACT whether or not the due date for the performance shall otherwise have arrived.

9.2 For the purposes of this CONTRACT any act or omission on the part of any tenant, nominee or other person who occupies the SECTION, or invitee of the PURCHASER, or other person who goes upon the SCHEME, shall be deemed to be an act or omission of the PURCHASER.

## 10 JURISDICTION AND COSTS

10.1 In the event of any action or application arising out of this CONTRACT, the parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of the Magistrate's Court Act of 1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said court's jurisdiction, this clause shall be deemed to 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.

10.2 Notwithstanding anything to the contrary herein contained the SELLER shall have the right at the SELLER'S sole option and discretion to institute proceedings in any other court which might otherwise have jurisdiction.

10.3 In the event of it becoming necessary for the SELLER to take any action against the PURCHASER as contemplated herein, the PURCHASER agrees to pay to the SELLER all the attendant costs and expenses incurred by the SELLER as between attorney and client.

## 11 SOLE CONTRACT

The PURCHASER acknowledges that this 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 (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 agreement between the PURCHASER and the SELLER to cancel, alter or add to this 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.

12 **DOMICILIUM**

12.1 The PURCHASER chooses as his **domicilium citandi et executandi** and as the address at which notices may be delivered to him, the physical address set out in the heading to the CONTRACT OF SALE.

12.2 Any written notice posted by prepaid registered post addressed to the PURCHASER at such address shall be deemed to have been duly delivered to him 5 (FIVE) days after the date of such posting.

13 **COSTS**

The SELLER shall bear its own costs in connection with the preparation and execution of this CONTRACT.

14 **CESSION OF PURCHASER'S RIGHTS**

The PURCHASER shall not sell, assign, cede or dispose of the PURCHASER'S rights under this CONTRACT.

15 **ARREARS**

15.1 Any amounts in arrear in terms of this CONTRACT shall bear interest at the prime overdraft rate charged by the Standard Bank of South Africa Limited from time to time, which interest shall be calculated monthly in advance from the date that such amount became due to the date of payment, both days inclusive.

15.2 A certificate by any manager of the said bank as to such prime overdraft rate, from time to time, shall be prima facie proof of such rate.

16 **MORA INTEREST**

16.1 In the event of there being any delay in connection with the **DATE OF CESSION** for which the PURCHASER is responsible, the PURCHASER agrees, in addition to any other payments due in terms of this CONTRACT, to pay interest on the full (VAT inclusive) purchase price of the UNIT at the prime overdraft rate charged by the Standard Bank of South Africa Limited, from time to time, calculated from the date 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 has ceased to be in mora, both days inclusive.

16.2 A certificate by any manager of the said bank as to such prime overdraft rate from time to time shall be prima facie proof of such rate.

17 **ELECTRICAL CERTIFICATE**

17.1 The SELLER shall at the SELLER's own expense furnish a certificate of compliance from an accredited person in

respect of all electrical installations on the SECTION in accordance with the requirements of the Electrical Installation Regulations made under the Occupational, Health and Safety Act No. 85 of 1993. Such certificate shall be delivered to the PURCHASER prior to the DATE OF POSSESSION.

17.2 If the accredited person reports that he is unable to issue such certificate of compliance unless certain work is done to the aforesaid electrical installation, the SELLER shall be entitled to have the work done so that the certificate can be furnished.

**18 TRUSTEE FOR A COMPANY OR CLOSE CORPORATION TO BE FORMED**

18.1 In the event of the signatory to this CONTRACT, on behalf of the PURCHASER, having concluded this CONTRACT in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in paragraphs 18.1, 18.2 and 18.3 referred to as the "SIGNATORY"), then:

18.1.1 the SIGNATORY by his signature hereto warrants that the said company:

18.1.1.1 will be formed;

18.1.1.2 will ratify and adopt the terms and conditions of the CONTRACT OF SALE; and

18.1.1.3 will provide the SELLER with written proof thereof;

all within a period of 30 days from the date of signature of this CONTRACT OF SALE by the SIGNATORY;

18.2 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 this CONTRACT OF SALE;

18.3 If the terms and conditions of clause 18.1 above are not fulfilled then the SIGNATORY will by his signature to this CONTRACT OF SALE be deemed ipso facto to have concluded the CONTRACT OF SALE in his personal capacity as PURCHASER;

18.4 In the event of the signatory to this CONTRACT on behalf of the PURCHASER, having concluded this CONTRACT in his capacity as a trustee for a close corporation to be formed (which signatory is hereinafter in paragraphs 18.4, 18.5 and 18.6 referred to as the "SIGNATORY"), then:

18.4.1 the SIGNATORY by his signature hereto warrants that the close corporation;

18.4.1.1 will be formed;

18.4.1.2 will ratify and adopt the terms and conditions of this CONTRACT OF SALE;

- 
- 18.4.1.3 will provide the SELLER with written proof thereof;
- all within a period of 30 days from the date of signature of this CONTRACT OF SALE by the PURCHASER;
- 18.5 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 close corporation to be formed by him in favour of the SELLER for the due and punctual performance of the close corporation's obligations to the SELLER in terms of the CONTRACT OF SALE;
- 18.6 If the terms and conditions of 18.4.1 above are not fulfilled then the SIGNATORY by his signature to this CONTRACT OF SALE shall be deemed ipso facto to have concluded the CONTRACT OF SALE in his personal capacity as PURCHASER.

## **LIST OF ANNEXURES**

ANNEXURE "A"	CONDITIONS OF SALE
ANNEXURE "B"	PLAN (OF THE UNIT AND SCHEDULE OF FINISHES IN RESPECT THEREOF)
ANNEXURE "C"	SITE PLAN
ANNEXURE "D"	BODY CORPORATE RULES