

STEP	<b><u>CONTRACT COMPLETION CHECK LIST:</u></b>	√
1	Please request Purchaser prior to his visit to sign the Offer to Purchase, to provide certified copies of all FICA documents required as listed in Annexure "E" to the Deed of Sale, when signature takes place and please collect all relevant documents	
2	Please ensure correct and complete description of purchaser/s (full names, id/reg no, marital status) [rather enquire regarding representative, nominee, in community, on behalf of, etc.]	
3	Complete all information required on Schedule "A" to the Deed of Sale	
4	Purchaser and Seller must initial and sign in full, together with two witnesses	
5	The places and dates of signature by the Purchaser and Seller must be completed	
6	Purchaser and Seller must initial all pages of the Deed of Sale, together with two witnesses	
7	Purchaser must sign pages 21, 35 and 36 of the Deed of Sale in full where indicated, together with two witnesses	
8	Seller must sign pages 35 and 36 of the Deed of Sale in full where indicated, together with two witnesses	
9	The places and dates of signature by the Purchaser and Seller must be completed	
10	Annexures "A1", "A2", "B1", "C1", "C2", "C3", "C4", "D" and "E" must be initialled by the Purchaser and Seller, together with two witnesses	
11	Purchaser must complete all information required on Annexure "B2" (FICA Affidavit) and must sign it in full, in front of a Commissioner of Oaths	
12	Purchaser must complete all information required on Annexure "F" (Pre-sale), where after the the Purchaser and Seller must initial and sign it in full, together with two witnesses	
13	Collect payment of deposit on signature date and ensure that correct reference numbers are used against payments - deposit slips must be faxed to Symington & De Kok's office (Fax no. 021 913 3240)	
14	Provide duly signed Deed of Sale with Schedule and Annexures, as well as FICA documents to Symington & De Kok's Bellville office	
<b>SIGNATURE OF AGENT:</b> _____ <b>DATE:</b> _____		



No. \_\_\_\_ NORTHLAND



**LIST OF SCHEDULES AND ANNEXURES**

<b>NO.</b>	<b>DESCRIPTION</b>
SCHEDULE "A"	INFORMATION REFERRED TO IN THE DEED OF SALE
Annexure "A1"	SITE DEVELOPMENT PLAN
Annexure "A2"	GENERAL PLAN
Annexure "B1"	CONVEYANCERS' TRUST ACCOUNT DETAILS
Annexure "B2"	FICA & DEPOSIT AFFIDAVIT
Annexure "C1"	BUILDING PLAN
Annexure "C2"	BASIC SPECIFICATIONS
Annexure "C3"	UPGRADE TO SPECIFICATIONS
Annexure "C4"	ADDITIONAL COSTS
Annexure "D"	LEVIES BUDGET
Annexure "E"	FICA REQUIREMENTS
Annexure "F"	SUSPENSIVE CONDITION – SALE OF PURCHASER'S PROPERTY

<b>DOCUMENTS AVAILABLE AT THE AGENTS AND/OR CONVEYANCERS</b>
<ul style="list-style-type: none"> <li>• COPY OF CONSTITUTION AND/OR RULES BURGUNDY ESTATE MASTER HOMEOWNERS' ASSOCIATION</li> </ul>
<ul style="list-style-type: none"> <li>• COPY OF RULES BLUEBERRY LANE PROPERTY OWNERS' ASSOCIATION</li> </ul>
<ul style="list-style-type: none"> <li>• COPY OF ARTICLES OF ASSOCIATION BLUEBERRY LANE PROPERTY OWNERS' ASSOCIATION</li> </ul>

## DEED OF SALE

### NORTHLAND, BLUEBERRY LANE AT BURGUNDY

#### PARTIES

1. The **PARTIES** to this **AGREEMENT** are:

1.1 **EXAR DEVELOPMENT AND CONSTRUCTION (PTY) LTD**

**Registration Number: 2010/005419/07**

herein represented by Msawenkosi Xinwa in his capacity as director who declares that he is duly authorised hereto by virtue of a resolution of the Directors;

– and –

1.2 The **PARTY** referred to in Schedule "A" hereto.

#### INTRODUCTION AND RECORDAL

2.1 The **SELLER** hereby discloses and confirms that:

2.1.1 he is the registered owner of the **LAND** as defined in Clause 2.2.3;

2.1.2 he has opened a township register at the Deeds Office in Cape Town in respect of the **DEVELOPMENT** on the **LAND**;

2.1.3 he intends to erect certain buildings on the **LAND** in accordance with the **PLAN** as prepared by the **ARCHITECT** appointed by the **SELLER** from time to time and approved by the City of Cape Town, a copy of which **PLAN** is attached hereto and marked Annexure "C1";

2.1.4 he will, simultaneously with the registration of transfer of the **PROPERTY**, impose the special conditions as set out in Clause 11.3 in terms of, inter alia, **Section 42** of the **Land Use Planning Ordinance No. 15 of 1985**.

#### GENERAL

##### 2.2 Interpretation

In this **AGREEMENT** the following terms and expressions shall have the meanings ascribed to them hereunder unless the context specifically requires otherwise -

2.2.1 **SELLER** The **PARTY** referred to in Clause 1.1;

2.2.2 **PURCHASER** A collective reference to the persons (if applicable) or **PARTY** indicated in Schedule "A";

2.2.3 **LAND**

Erf 186 Burgundy, situated in the City of Cape Town, Cape Division, Western Cape Province, measuring 7654 (Seven Thousand Six Hundred and Fifty Four) square metres, serviced and substantially in accordance with townhouse Erven No's **1 to 23** (to be known as **Northland**) and sectional title Erven No's **24 to 26** as indicated on the attached copy of the Site Development Plan, marked Annexure "A1" and subdivided in accordance with the approved General Plan SG No. 583/2011, marked Annexure "A2" and initialled by the **PARTIES** for identification purposes;

2.2.4 **PROPERTY**

Certain piece of the **LAND (Northland)** which forms part of the **DEVELOPMENT** as more fully described in Schedule "A" and to be improved with the **WORKS** in accordance with Clauses 5, 6 and 7;

2.2.5 **DEVELOPMENT**

The proposed housing development known as **Blueberry Lane at Burgundy** for which a township register has been opened by the **SELLER** at the Deeds Office in Cape Town, to be situated on the **LAND** and of which the **PROPERTY** forms part as more fully indicated on the copy of the attached Site Development Plan, marked Annexure "A1" and subdivided in accordance with the approved General Plan SG No. 583/2011, marked Annexure "A2" and initialled by the **PARTIES** for identification purposes;

2.2.6 **PLAN**

A copy of which is annexed hereto as Annexure "C1" and initialled by the **PARTIES** for identification purposes, and shall for the purpose of this **AGREEMENT** mean the signed drawings of the **WORKS**, which shall form the basis for drawings to be submitted to the relevant Local Authority, being the City of Cape Town for approval. Upon approval thereof, the approved **PLAN** shall substitute the drawings and be deemed to be the **PLAN** selected and approved by the **PARTIES** for the purpose of this **AGREEMENT** and the execution of the **WORKS** in terms hereof;

- 2.2.7      **WORKS**                                      The building works to be conducted on the **PROPERTY** by the **SELLER** in accordance with the **PLAN, BASIC SPECIFICATIONS** and, if applicable, the **UPGRADE TO SPECIFICATIONS**;
- 2.2.8      **BASIC SPECIFICATIONS**                      Shall mean the detailed specifications and finishing schedule annexed hereto as Annexure "C2" and initialled by the **PARTIES** for identification purposes, and shall comprise the standard specifications and finishes which will be supplied by the **SELLER** as part of the execution of the **WORKS** in terms of this **AGREEMENT**;
- 2.2.9      **UPGRADE TO SPECIFICATIONS**                      Shall mean the upgrading from the **BASIC SPECIFICATIONS** to the specifications described in Clause 5.6 and as per Annexure "C3" hereto, and initialled by the **PARTIES** for identification purposes and which would be supplied by the **SELLER** as part of the execution of the **WORKS** in terms of this **AGREEMENT**;
- 2.2.10     **ADDITIONAL COSTS**                                      Shall mean all costs with regard to the **UPGRADE TO SPECIFICATIONS** as per Annexure "C4" hereto, and initialled by the **PARTIES** for identification purposes and which will be supplied by the **SELLER** as part of the execution of the **WORKS** in terms of this **AGREEMENT**;
- 2.2.11     **ARCHITECT**    The architect nominated and appointed by the **SELLER** from time to time for the purpose of the execution of the **WORKS**;
- 2.2.12     **PROJECT MANAGER**                                      The project manager or qualified quantity surveyor nominated and appointed by the **SELLER** from time to time;
- 2.2.13     **PARTIES**    A collective reference to the **SELLER** and the **PURCHASER** and "**PARTY**" means one of them;
- 2.2.14     **DAY**    Any **DAY** of the week, excluding Sundays and South African Public Holidays;

- 2.2.15 **CONVEYANCERS** Messrs. Symington & De Kok, Ground Floor, Vineyards Square South, The Vineyards Office Estate, 99 Jip de Jager Drive, Tygervalley, Bellville, 7530 [Reference: MC Jacobs (021)913-3137];
- 2.2.16 **AGREEMENT** The Deed of Alienation as defined in **Section 1** of the ***Alienation of Land Act No. 68 of 1981, as amended***, in respect of the **PROPERTY** and as set out in this document between die **SELLER** and the **PURCHASER** and includes all Schedules and Annexures hereto;
- 2.2.17 **BEMHOA** The **Burgundy Estate Master Homeowners' Association**, a voluntary association approved under **Section 29(9)** of the ***Land Use Planning Ordinance No. 15 of 1985***;
- 2.2.18 **BBLPOA** The **Blueberry Lane Property Owners' Association** (an association in terms of **Section 21** of the ***Companies Act No. 71 of 2008***) referred to in Clause 12 and of which the Articles of Association are available at the offices of the **CONVEYANCERS**;
- 2.2.19 **RULES** A collective reference to the rules of the **BBLPOA** and the **BEMHOA** and which **RULES** are available at the offices of the **CONVEYANCERS**;
- 2.2.20 **SIGNATURE DATE** The date of signature of the **AGREEMENT** by the **PARTY** last signing.

Where necessary the masculine gender shall include the feminine and the singular shall include the plural and vice versa and words importing persons shall include partnerships and juristic persons and vice versa.

### 2.3 **Non-Waiver / Indulgence**

- 2.3.1 Neither **PARTY** shall be regarded as having waived or abandoned, or be precluded in any way from exercising, any of such **PARTY**'s rights to require strict and punctual performance of all the provisions under or arising from this **AGREEMENT** by reason of such **PARTY** having at any time granted any extension of time for, or having shown any indulgence or relaxation of any of the provisions of this **AGREEMENT** to, the other **PARTY** with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right of action against the other **PARTY**.

2.3.2 A waiver by either **PARTY** of a breach of any provision of this **AGREEMENT** will not be, or deem to be a continuing waiver in respect of a similar breach committed on a later occasion.

2.3.3 The failure of either **PARTY** to comply with any non-material provision of this **AGREEMENT** shall not excuse the other **PARTY** from performing the latter's obligations hereunder fully and timeously.

## 2.4 Approvals and Consents

An approval or consent given by a **PARTY** under this **AGREEMENT** shall only be valid if in writing and shall not relieve the other **PARTY** from the responsibility of complying with the requirements of this **AGREEMENT**, nor shall it be construed as a waiver of any rights under this **AGREEMENT** except as and to the extent otherwise expressly provided in such approval or consent, or elsewhere in this **AGREEMENT**.

## 2.5 Exclusion of Other Agreements

This **AGREEMENT** cancels and supersedes all other contracts entered into by the **PARTIES** before the date of this **AGREEMENT** and any amendment, addition hereto or consensual cancellation thereof will be of no force or effect, unless it appears in writing and is signed by the **PARTIES** hereto.

## 2.6 Clause Headings

The head notes in this **AGREEMENT** are used only for the purpose of reference and convenience and shall in no way effect or govern the construction or influence the proper interpretation of this **AGREEMENT**.

## 2.7 Survival of Obligations

Any provision of this **AGREEMENT** which contemplates performance or observance subsequent to any termination or expiration of this **AGREEMENT** shall survive any termination or expiration of this **AGREEMENT** and continue in full force and effect.

## PURCHASE

3. The **SELLER** hereby sells to the **PURCHASER** who hereby purchases the **PROPERTY** and the **WORKS** on the following terms and conditions.

## PURCHASE PRICE

4.1 The purchase price of the **PROPERTY** and the **WORKS** is indicated in Schedule "A", which amount includes Value Added Tax (VAT) at the standard rate applicable on the **SIGNATURE DATE** if the **SELLER** is a registered vendor in terms of the *Value Added Tax Act No. 89 of 1991, as amended*.

- 4.2 The **PURCHASER** undertakes to:
- 4.2.1 pay the deposit as indicated in Schedule "A" on the **SIGNATURE DATE** to the **CONVEYANCERS'** trust bank account of which the particulars are set out in the attached Annexure "B1" and initialled by the **PARTIES** for identification purposes, which amount will be held and invested in a special savings account at a financial institution of the **CONVEYANCERS'** choice in terms of the provisions of **Section 78(2A)** of the **Attorneys Act No. 53 of 1979, as amended** until date of registration of transfer. The interest accrued on the special savings account will be payable to the **PURCHASER**. In the event of non-fulfilment of the suspensive conditions mentioned in Clause 24.1, the deposit as well as the interest thereon will be paid to the **PURCHASER**;
- 4.2.2 provide the **CONVEYANCERS** on the **SIGNATURE DATE** with the signed sworn Affidavit referred to in Annexure "B2".
- 4.3 The **PURCHASER** hereby undertakes and binds himself to cause a guarantee(s) for the balance of the purchase price, being the amount referred to in Clause 4.1 less the deposit in Clause 4.2.1, if any, to be issued by a registered South African commercial bank in favour of the **SELLER** or his nominee, which guarantee(s) shall be to the satisfaction of the **SELLER** and/or the **CONVEYANCERS**.
- 4.4 The **PURCHASER** will be liable for the costs of the issuing of the guarantee(s).
- 4.5 The said guarantee(s) shall be payable on registration of transfer of the **PROPERTY** in the name of the **PURCHASER** and shall be delivered to the **CONVEYANCERS** within 10 (Ten) **DAYS** after written request by the **CONVEYANCERS**, subject to the suspensive condition referred to in Clause 24.1.2.
- 4.6 All amounts payable by the **PURCHASER** in terms of this **AGREEMENT** shall be paid to the **CONVEYANCERS** in cash, free of exchange, bank commission or any deductions or set-off whatsoever, at such an address as the **CONVEYANCERS** may indicate.
- 4.7 The **SELLER** is entitled to utilise the deposit or part thereof for payment of the unit enrolment fee that is due and payable to the National Home Builders Registration Council (hereinafter referred to as the "**NHBRC**") as set out in Clauses 7.3, 7.4 and 7.5 relating to the **PROPERTY** and the **WORKS** and the **CONVEYANCERS** are hereby authorised by the **PURCHASER** to make payment to the **SELLER** when such enrolment fee is due and payable.



## BUILDING STANDARDS

- 5.1 The **SELLER** shall, prior to the date of transfer of the **PROPERTY**, be responsible to provide at his own cost the following, namely –
- 5.1.1 stormwater, water, sewer and electricity connections at the boundary of the **PROPERTY** at such locations as may be determined by the **SELLER's** consultants in accordance with the **PLAN** and **BASIC SPECIFICATIONS** as indicated on Annexures "C1" and "C2" attached hereto;
- 5.1.2 tar roads as indicated on Annexures "A1" and/or "C1" and access to the road network in the **DEVELOPMENT**.
- 5.2 The **PURCHASER** shall however, at his own expense, be liable to comply with all requirements pertaining to connecting the internal services to the external services and the payment of any connection fees and deposits that any competent authority, including Telkom in respect of telephone services may require for the supply of the respective services. The connection fees payable by the **PURCHASER** shall be payable directly to the relevant authorities as and when required by such authorities.
- 5.3 In the event of any discrepancy arising from the **PLAN** and the **BASIC SPECIFICATIONS**, the provisions of the **BASIC SPECIFICATIONS** shall prevail.
- 5.4 The **PURCHASER** irrevocably grants a Power of Attorney to the **SELLER**, insofar as it may be necessary or required, to sign and submit the necessary drawings and specifications to the Local Authority for its approval.
- 5.5 The **PURCHASER** agrees that he shall not be entitled to amend or procure any amendments to the **PLAN**, unless the **SELLER** has granted his prior written consent to such amendments. 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 from the **PLAN** shall be payable by the **PURCHASER** to the **SELLER** on demand.
- 5.6 The **SELLER** shall not be obliged at any time to agree to any **UPGRADE TO SPECIFICATIONS**, in other words additional specifications which are not included in the **PLAN** and **BASIC SPECIFICATIONS**, and which may include, but not be limited to, any alteration or modification of the design or quality of finishes or any extras or additions, variations or substitution, or omission to or from the **WORKS** and/or the **PROPERTY** of any nature whatsoever, and for the purpose of this Clause:
- 5.6.1 if the **PURCHASER** should require, after the **SIGNATURE DATE**, any **UPGRADE TO SPECIFICATIONS**, then such request shall be made in writing whereupon the **SELLER** may (but is not obliged to) submit a written quotation in respect of the **ADDITIONAL COSTS** of such **UPGRADE TO SPECIFICATIONS**;

- 5.6.2 on signature of the quotation by the **PURCHASER**, this **AGREEMENT** will be deemed to be accordingly varied with such **UPGRADE TO SPECIFICATIONS**, which shall be as reflected in Annexure "C3" and be recorded in writing and signed by both the **PURCHASER** and the **SELLER** or the **SELLER's** authorised agent;
- 5.6.3 in the event of the **SELLER** agreeing to undertake any **UPGRADE TO SPECIFICATIONS**, same will accordingly result in **ADDITIONAL COSTS** to the purchase price referred to in Clause 4.1 that will be due and payable by the **PURCHASER** to the **SELLER** prior to the commencement of the **WORKS** and the **PURCHASER** hereby undertakes to provide an additional guarantee or to pay the **ADDITIONAL COSTS** to the **SELLER** or the **CONVEYANCERS** on written request by the **CONVEYANCERS**, subject however to the conditions that the **SELLER** shall be entitled to require payment on demand and shall further not be required to proceed with such **UPGRADE TO SPECIFICATIONS** until payment for such **ADDITIONAL COSTS** have been made in full to the **SELLER** or the **CONVEYANCERS**. If the **SELLER** elects to proceed with the **UPGRADE TO SPECIFICATIONS** prior to the receipt of payment in respect of the **ADDITIONAL COSTS**, the **PURCHASER** shall be liable for payment of interest from the date of commencement of the **UPGRADE TO SPECIFICATIONS** to date of payment of the **ADDITIONAL COSTS** at the rate of interest determined in accordance with Clause 20;
- 5.6.4 notwithstanding the above and in the event of the **PARTIES** inadvertently failing to follow the procedures prescribed, should the **PARTIES** in fact have agreed to any **UPGRADE TO SPECIFICATIONS**, but have failed to agree on the **ADDITIONAL COSTS** and/or should the **PARTIES** be unable to agree as to whether any **WORKS** do comprise an **UPGRADE TO SPECIFICATIONS**, such dispute will be referred to the **ARCHITECT** (acting as an expert and not as an arbitrator), who will determine the dispute and whose determination will be final and binding on the **PARTIES**;
- 5.6.5 the **PURCHASER** shall not employ any person or firm to carry out any work of whatsoever nature on or to the **WORKS** and/or the **PROPERTY** or any portion thereof prior to the date of registration of transfer. Neither the **PURCHASER**, nor any person acting on his behalf, shall issue any instruction or order of any nature to the **ARCHITECT** or the **PROJECT MANAGER** or any person in the employment of the **SELLER** or any of the **SELLER's** agents, subcontractors and workmen upon the **PROPERTY**;
- 5.6.6 the **PURCHASER** will be given the opportunity of exercising a choice of certain finishes from the selection to be made available by the **SELLER**. Such choice relates *inter alia* to carpets, light fittings, tiles and cupboards. The **PURCHASER** undertakes to finalise his choice of finishes in collaboration with the **SELLER** within 10 (ten) **DAYS** after the

**SELLER's** request to the **PURCHASER** to exercise this choice. Should the **PURCHASER** fail to make his selection within such period for any reason whatsoever, then the **PURCHASER** shall be deemed to have appointed the **ARCHITECT** as his agent to make such selection on his behalf and the **ARCHITECT's** choice shall be regarded as final and binding. Where the **PURCHASER** is called upon to make any other selection or to furnish information required to finalise design or finishes and he fails to do so within 10 (ten) **DAYS** of dispatch of the notice calling upon him to do so, he shall be deemed to have appointed the **ARCHITECT** as his agent to make such selection or decision on his behalf and he is bound thereby.

- 5.7 Notwithstanding anything to the contrary contained in this **AGREEMENT** and in the event of any dispute relating to the **WORKS** and/or the **PROPERTY** or any portion thereof with regard to the construction of or any defect in respect thereof, or as to design or standard of finishes or standard of fittings, then the **ARCHITECT** (acting as an expert and not as an arbitrator) shall in his sole and absolute discretion determine such a dispute and the **PARTIES** are bound by such decision.

#### **COMMENCEMENT AND COMPLETION OF BUILDING WORKS**

- 6.1 The **SELLER** shall not be obliged to commence the **WORKS** until:
- 6.1.1 the **PURCHASER** has furnished adequate security to the satisfaction of the **SELLER** and/or the **CONVEYANCERS** for the whole of the purchase price referred to in Clause 4.1 and any **ADDITIONAL COSTS** (if applicable); and
- 6.1.2 all necessary consents, approvals, registrations or other, from all relevant authorities have been obtained.
- 6.2 If commencement of the **WORKS** is delayed for longer than a period of 180 (One Hundred and Eighty) **DAYS** as from the **SIGNATURE DATE** for any reason other than a reason attributable to the fault and/or omission of the **SELLER**, then the **SELLER** shall be entitled in its sole and absolute discretion to resign from this **AGREEMENT**, with neither **PARTY** having any further claim against one another or alternatively claim an adjustment to the purchase price referred to in Clause 4.1 and any **ADDITIONAL COSTS** (if applicable) in accordance with any increases in the cost of material and/or labour which might in the interim have occurred. In the event of the **PARTIES** being incapable of agreeing as to the adjustment to the purchase price referred to in Clause 4.1 and any **ADDITIONAL COSTS** (if applicable), then a quantity surveyor nominated and appointed by the **SELLER** shall determine the dispute and the quantity surveyor's determination shall be final and binding on the **PARTIES**.
- 6.3 Subject to any extensions permitted in terms of Clause 6.4, the **SELLER** shall complete the **WORKS** within 250 (Two Hundred and Fifty) **DAYS** after commencement.

- 6.4 If the commencement or completion of the **WORKS** is delayed for any cause whatsoever beyond the **SELLER's** control, or if any building industry holidays, whether statutory or recognised generally as customary in the industry, fall within the contract period, then the **SELLER** shall be entitled to a fair and reasonable extension of time for the completion of the **WORKS** and the **PURCHASER** shall not for that reason have any claim against the **SELLER** for damages or otherwise.
- 6.5 The occurrence of one or more of the events detailed in Clause 6.6 below shall constitute complete proof of the satisfactory completion of the **WORKS** by the **SELLER** and shall determine the completion date and the **SELLER** shall be discharged completely from all obligations expressed or implied under this **AGREEMENT** and any variation thereof or addition thereto and the **PURCHASER** shall have no further claim on the **SELLER**, save as specifically otherwise provided for in this **AGREEMENT**.
- 6.6 For purposes aforesaid, the occurrence of any one of the following shall constitute the practical completion date:
- 6.6.1 after written notice by the **SELLER** to the **PURCHASER** that the **WORKS** have been practically completed and are ready for the simultaneous inspection by the **PURCHASER** and the **PROJECT MANAGER**; or
- 6.6.2 the date of formal handing over of the keys of the **WORKS** by the **SELLER** to the **PURCHASER** and the signing by the **PURCHASER** of the Handover Certificate (Happy Letter) after the inspections referred to in Clause 6.6.1 in acknowledgement thereof; or
- 6.6.3 after all inspections have been done and tests passed by the mortgagee (if applicable) or relevant authority and the **WORKS** are available for occupation by the **PURCHASER**; or
- 6.6.4 the date on which occupation of the **WORKS** is taken by the **PURCHASER** or his Agent; or
- 6.6.5 the date of issue of the Practical Completion Certificate signed by the **PROJECT MANAGER** certifying that the **WORKS** have been satisfactorily completed substantially in accordance with the **PLAN** and the **BASIC SPECIFICATIONS** and/or the **UPGRADE TO SPECIFICATIONS** (whichever may be applicable) and is sufficiently completed for occupation,
- whichever of these dates shall be the earliest.
- 6.7 Should the **PURCHASER** fail to attend the inspection referred to in Clause 6.6.1 after 10 (Ten) **DAYS** written notice to the **PURCHASER**, then the **PURCHASER** shall be deemed to have appointed the **ARCHITECT** as his agent to attend such inspection on his behalf and to sign the Handover

Certificate (Happy Letter) referred to in Clause 6.6.2. The **ARCHITECT's** actions and decision shall be regarded as final and binding.

- 6.8 The **SELLER** further undertakes to provide the **PURCHASER** with a Practical Completion Certificate (Handover Certificate) to the effect that the **WORKS** on the **PROPERTY** have been erected substantially in accordance with the **PLAN** and the **BASIC SPECIFICATIONS** and/or the **UPGRADE TO SPECIFICATIONS** (whichever may be applicable) is sufficiently completed for occupation, on date of possession and occupation referred to in Clause 8.1.
- 6.9 Notwithstanding anything elsewhere provided for in this **AGREEMENT**, all amounts owing in terms of this **AGREEMENT** which have not already been paid in terms of the provisions of this **AGREEMENT** shall be forthwith payable on the completion date.
- 6.10 The **PURCHASER** shall be entitled, within a period of 3 (Three) months after the date of possession and occupation referred to in Clause 8.1 and notwithstanding the signature of the Handover Certificate (Happy Letter) referred to in Clause 6.6.2, to deliver to the **PROJECT MANAGER** a written list, signed by himself, enumerating any visible defects, if any, in or on or to the **WORKS** and/or the **PROPERTY** or any portion thereof for rectification, where same are due to defective materials or workmanship and this list shall be regarded as a final and complete defect list, but shall not constitute the right to withhold final payment. Save for patent defects timeously so notified, the **PURCHASER** shall be deemed to have accepted the **WORKS** and the **PROPERTY** in good order and condition.
- 6.11 The **SELLER** shall be obliged, at its own cost, to procure that any such defects timeously so notified are made good as expeditious as reasonably possible in accordance with the program of the **SELLER's** building contractors for the "snagging" of the **WORKS** and/or the **PROPERTY** or any portion thereof and/or the **DEVELOPMENT**, but in any event within 1 (One) month from receipt of the list of defects referred to in Clause 6.10, permitting access. 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 **PROJECT MANAGER** will then be obliged to issue a Final Completion Certificate to the effect that the **SELLER** has complied with the requirements as set out by the **PURCHASER** and the **PARTIES** hereby agree that:
- 6.11.1 save as provided in this **AGREEMENT**, the **PURCHASER** is satisfied and shall accept the **WORKS** and the **PROPERTY** and buys it 'voetstoots' (also means "as is", "as it stands", or "with all its defects, latent and otherwise" and all its advantages – the **SELLER** gives no warranty in regard to the building and any improvements upon the **PROPERTY**) and shall have no claim against the **SELLER** in respect of any defects, whether latent or patent, subject however to the provisions of Clauses 6.12, 6.13 and 11.9;

- 6.11.2 the **PURCHASER** will not be entitled to institute any action arising from this **AGREEMENT** against the **SELLER** or his agent, for any defects (whether latent or patent) to the **WORKS**, or any other improvements on or to the **PROPERTY**, or as a result of any representation made or guarantees given by the **SELLER** or his agent in respect of the **WORKS** and the **PROPERTY**, subject however to the provisions of Clauses 6.12, 6.13 and 11.9.
- 6.12 Notwithstanding the provisions of Clauses 6.11.1 and 6.11.2, the **SELLER** will be obliged to repair latent defects to the **WORKS** and the **PROPERTY** for a period of only 3 (Three) months calculated from the date of possession and occupation referred to in Clause 8.1.
- 6.13 The **PARTIES** hereby agree that any other defects to the **WORKS** and the **PROPERTY** will be dealt with in accordance with the **Housing Consumers Protection Measures Act No. 95 of 1998** and the **Regulations** promulgated in terms of the said Act as set out in Clauses 7.3, 7.4 and 7.5.
- 6.14 If there is any dispute between the **PURCHASER** and the **SELLER** as to whether the **WORKS** have been constructed substantially in accordance with the **PLAN** and/or has been erected on the **PROPERTY** or in substantially the position reflected on the **PLAN** and/or whether there are any defects in the **WORKS** 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**.
- 6.15 All the benefit of and risk in and to the **WORKS** shall pass wholly and entirely to the **PURCHASER** as from the completion date.

#### **UNDERTAKINGS BY PARTIES**

- 7.1 The **SELLER** hereby undertakes to use its best endeavours to procure that the **WORKS** are erected on the **PROPERTY** in a good and workmanlike manner, substantially in accordance with the **PLAN**, **BASIC SPECIFICATIONS** and, if applicable, the **UPGRADE TO SPECIFICATIONS** and is sufficiently completed for beneficial occupation, before or on the date of possession and occupation referred to in Clause 8.1 or such extended date referred to in Clause 8.2, provided that the **PURCHASER** has complied with all of his obligations in terms of this **AGREEMENT**, and subject further to the condition that the **SELLER** shall however be entitled in its sole and absolute discretion to deviate from the **PLAN** and **BASIC SPECIFICATIONS** if, during the building and construction of the **WORKS**, it appears that such deviation will result in the most significant, practical and economical completion of the **WORKS**, without essentially deviating from the **PLAN** and **BASIC SPECIFICATIONS** or having a negative effect on the quality and finishing of the **WORKS**. The **SELLER** further reserves the right to alter the position of any drain or drain pipe as shown on the **PLAN** to suit the level of the ground, should it be necessary.

- 7.2 The **PURCHASER** acknowledges that the **WORKS** will be situated on the **PROPERTY** in substantially the position as indicated on the **PLAN** and is to be built in accordance with the **PLAN**, subject however to the provisions of Clause 6.14. Notwithstanding the provisions of Clause 7.1, the **PURCHASER** however agrees that the precise area, boundaries and description of the **WORKS** shall be as shown and finally determined and approved by the relevant competent authorities and shall be binding upon the **PARTIES**.
- 7.3 The **SELLER** warrants that the actual construction work will be carried out by a builder that is registered as a 'home builder' as contemplated in the *Housing Consumers Protection Measures Act No. 95 of 1998*, and that the **WORKS** have or will be enrolled timeously with the **NHBRC** as required by that Act.
- 7.4 As is required in terms of *Section 13(2)(a)* of the *Housing Consumers Protection Measures Act, No. 95 of 1998*, the **SELLER** warrants that:
- 7.4.1 the **WORKS** shall be constructed in a proper and workmanlike manner;
- 7.4.2 will be fit for habitation on the date of occupation;
- 7.4.3 shall be constructed in accordance with –
- 7.4.3.1 the **NHBRC's** Technical Requirements to the extent applicable to the **WORKS** at the date of enrolment of such **WORKS** with the **NHBRC**; and
- 7.4.3.2 the terms, **PLAN**, **BASIC SPECIFICATIONS** and any variations referred to in the **UPGRADE TO SPECIFICATIONS** contained in this **AGREEMENT**.
- 7.5 At the date of practical completion referred to in Clause 6.6 and providing that the **PURCHASER** has paid the full amount to the **SELLER** in terms of the **AGREEMENT**, then the **SELLER** undertakes, as provided for in *Section 13(2)(b)* of the *Housing Consumers Protection Measures Act No. 95 of 1998*, to:
- 7.5.1 make good any major structural defects in the **WORKS** caused by non-compliance with the **NHBRC's** Technical Requirements which manifest themselves within a period of 5 (Five) years from the date of occupation and of which the **SELLER** is notified by the **PURCHASER** within that period;
- 7.5.2 make good non-compliance with or deviation from the terms, **PLAN**, **BASIC SPECIFICATIONS** and any variations referred to in the **UPGRADE TO SPECIFICATIONS** contained in this **AGREEMENT** or any latent defects related to design, workmanship or material, of which the **SELLER** is notified by the **PURCHASER** within a period of 3 (Three) months from the date of occupation; and

- 7.5.3 make good any roof leakage attributable to workmanship, design or materials not in accordance with this **AGREEMENT**, occurring and of which the **SELLER** is notified by the **PURCHASER** within a period of 12 (Twelve) months from the date of occupation.
- 7.6 After occupation, any repairs will be done during working hours, Mondays to Fridays, and no exceptions will be made.

## **POSSESSION AND OCCUPATION**

- 8.1 The **PURCHASER** shall be placed in possession and occupation of the **PROPERTY** on the date indicated on Schedule "A", subject to the **RULES** and any amendments thereto from time to time and subject further to the provisions mentioned in Clauses 10 and 12, from which date it will be at the sole risk, profit or loss of the **PURCHASER**.
- 8.2 If the **SELLER** is not able to give possession and occupation of the **WORKS** to the **PURCHASER** on the completion date referred to in Clauses 8.1 and/or 6.3, as a result of delays in the building operations caused by natural disasters, vis major or as a result of extraordinary stormy weather or civil uprising, local conspiracy, striking by employees, or as a result of amendments to plans and/or instructions for reasons beyond the control of the **SELLER**, then the **PURCHASER** shall be placed in possession and occupation as soon as possible after the **SELLER** is able to give possession and occupation to the **PURCHASER** and do the **PARTIES** hereby agree that such date will then be the date of possession and occupation for purposes of this **AGREEMENT**, in accordance with the provisions of Clause 8.3.
- 8.3 The **SELLER** hereby undertakes to notify the **PURCHASER** 2 (Two) months prior to the completion date referred to in Clause 6.3 of any possible delays in building operations and of what the expected date of possession and occupation for purposes of this **AGREEMENT** will be, or alternatively to confirm that possession and occupation will be granted on the said completion date, whereupon the **PURCHASER** shall then accept possession, occupation and use of the **WORKS**, which date shall thereafter be deemed for all purposes of this **AGREEMENT** to be the date of occupation.
- 8.4 In the event of any dispute as to when or whether the **WORKS** are sufficiently completed for beneficial occupation, a certificate by the **ARCHITECT** (acting as an expert and not an arbitrator) certifying that the **WORKS** are sufficiently completed for beneficial occupation, shall be final and binding upon the **PARTIES**.

## **RIGHTS AND OBLIGATIONS IN RESPECT OF POSSESSION AND OCCUPATION**

- 9.1 Notwithstanding anything to the contrary herein contained, ownership of all materials brought onto the **PROPERTY** shall remain vested in the **SELLER** until such time as all amounts due in terms of this **AGREEMENT** have been paid in full. The provisions of this Clause shall apply, notwithstanding the



fact that such materials may have otherwise exceeded to the **PROPERTY** or the **WORKS** situated on the **PROPERTY**. The **SELLER** shall further retain possession of the **WORKS** until all agreed amounts owed to it under this **AGREEMENT** and any other contract or arrangement between the **PARTIES** in connection with the **WORKS** have been paid and all obligations of the **PURCHASER** in terms of this **AGREEMENT** have been fulfilled.

- 9.2 The **PURCHASER** acknowledges that he is aware of the fact that on the date of registration of transfer and/or the date of possession and occupation, the **SELLER** and/or its agents, subcontractors and workmen may be engaged in erecting and/or completing the **WORKS**, the infrastructure, driveways and roads, other buildings and/or structures and/or improvements with regard to the other dwelling units in the **DEVELOPMENT** which may be incomplete and that the **PURCHASER** and every person claiming occupation and use through him may be inconvenienced as a result of the building activities, noise, moist, dust or any other nuisance factors in connection with the completion of the **DEVELOPMENT**. The **PURCHASER** shall not be entitled by reason of any of the foregoing to cancel or to withdraw from this **AGREEMENT** or to claim any damages whatsoever from the **SELLER** or any other person or institute interdict proceedings as a result of any inconvenience that may be suffered or by reason of any interference with the **PURCHASER's** rights arising herefrom, nor shall the **SELLER** be responsible for any loss, damage or inconvenience suffered by the **PURCHASER** by reason of such building activities and the **PURCHASER** shall not, in any way whatsoever, interfere with the performance of the aforesaid building activities.
- 9.3 From the date of possession and occupation, the **PURCHASER** shall:
- 9.3.1 be entitled to beneficial occupation of the **WORKS** as if he was the owner thereof, and the dwelling unit on the **PROPERTY** shall be used for residential purposes only and for no other purpose whatsoever;
- 9.3.2 be obliged, at his own expense, to maintain the **PROPERTY** in the same state of good repair in which he received it and in a good, clean and thoroughly tenable and attractive condition, and where necessary repair or refurbish any damaged item and replace any lost item, until date of registration of transfer or re-delivery to the **SELLER** after cancellation of the **AGREEMENT** as a result of whatsoever reason. If the **PROPERTY** is not kept in the same state of good repair, the **SELLER** shall at his sole and absolute discretion have the right to repair same without notice to the **PURCHASER** and to recover such costs from the **PURCHASER**;
- 9.3.3 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 dwelling unit on the **PROPERTY**;
- 9.3.4 if the dwelling unit on the **PROPERTY** is separately metered for the supply of electricity and/or water thereto, pay for any consumption thereof and shall further be liable for the payment of all other rates, taxes and services

- services provided to the **PROPERTY**, including, but not limited to, other charges levied, or to be levied at any time in respect of the **PROPERTY** by any governmental, local or other competent authority, telephones, television, internet, armed security response and any deposits payable in connection with the supply of any such services;
- 9.3.5 be entitled to the use and enjoyment, along with the buyers of other dwellings erected or to be erected in the **DEVELOPMENT**, of the common property of the **DEVELOPMENT** subject to the **RULES**, but the **PURCHASER** shall procure that all occupants of the dwelling unit on the **PROPERTY** do so in such a manner as not to interfere unduly or unreasonably with the lawful rights of use and enjoyment thereof by other buyers or other persons lawfully within the **DEVELOPMENT**;
- 9.3.6 at all times comply with the provisions of the **RULES**;
- 9.3.7 waive all claims against the **SELLER**, for any loss or damage to property or any injury to person which the **PURCHASER** may sustain or suffer in or about the **WORKS**, or any other part of the **DEVELOPMENT** and indemnifies the **SELLER** against any such claim that may be made against the **SELLER** by a member of the **PURCHASER**'s family or any tenant, nominee, invitee or any other person who occupies the dwelling unit on the **PROPERTY** and/or goes upon the **DEVELOPMENT** by virtue of the **PURCHASER**'s rights thereto, howsoever such loss or damage to property or injury to person may be caused;
- 9.3.8 not be entitled, until the **PROPERTY** is registered in the name of the **PURCHASER** and without the prior written consent of the **SELLER** first being had and obtained, to make or cause or allow to be made any alterations, additions or improvements to the **WORKS** and/or the **PROPERTY** or alter the colour scheme or redecorate it or remove or demolish any improvements whatsoever. 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 **WORKS**; and
- 9.3.9 be liable for the payment of any monthly ordinary levies and/or special levies as contribution due towards the operational costs of the **DEVELOPMENT** and payable in respect of the **PROPERTY** and the dwelling unit on the **PROPERTY** to the **BBLPOA** and the **BEMHOA**.
- 9.4 The **SELLER** shall either personally or through its servants or agents, be entitled at all reasonable times to have access to the **WORKS** for the purpose of inspection or to carry out any maintenance or repairs, whether relative to the **WORKS** 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.
- 9.5 The **PURCHASER** shall not use the dwelling unit on the **PROPERTY** or permit it to be used in such a manner or for such purposes as shall cause a nuisance

to any occupier of any dwelling erected in the **DEVELOPMENT** or interfere with the amenities of the dwelling unit on the **PROPERTY** or the **DEVELOPMENT** 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 dwelling unit on the **PROPERTY** or the **DEVELOPMENT**.

- 9.6 The **SELLER** shall reasonably insure against public liability on or around the **WORKS** from the commencement of building operations until practical completion of the **WORKS** referred to in Clause 6.6 or the date of registration of transfer referred to in Clause 15.1, whichever date shall last occur and from which date the risk in the **WORKS** will pass to the **PURCHASER**.
- 9.7 The **PURCHASER** shall however be obliged to take out personal insurance for all and any consequential damages that may be suffered, for example furniture, televisions, hi-fi's, etc. as a result of flooding or any other cause whatsoever.
- 9.8 The **PURCHASER** undertakes not to sell, let or in any other manner dispose of and part with (temporarily or otherwise) the **PROPERTY** before practical completion of the **WORKS** referred to in Clause 6.6, except with the prior written consent of the **SELLER**, which consent shall not be unreasonably withheld. The **SELLER** being granting such consent shall be entitled to impose such reasonable conditions as it may consider necessary.
- 9.9 In the event of the contract period being extended due to any breach of contract by the **PURCHASER** or the **PURCHASER** not taking possession immediately when called upon to do so in terms of this **AGREEMENT** or should there be any delay in completing finishes or items that are to be specified by the **PURCHASER** due to non availability or failure by the **PURCHASER** to specify the said finishes or items promptly when called upon to do so in terms of this **AGREEMENT**, then the **SELLER** shall be entitled to engage a security guard and watchman and the costs thereof shall on demand be due and payable by the **PURCHASER**. The decision as to whether there is a delay or any failure as contemplated herein and the decision to engage a guard shall be taken solely by the **SELLER**. The **SELLER**'s decision in this regard shall be final.
- 9.10 The following documentation will be supplied by the **SELLER** to the **PURCHASER** after the completion date:
- 9.10.1 NHBRC Unit Enrolment Certificate;
- 9.10.2 Compaction Certificate;
- 9.10.3 Engineer's Structural Certificate;
- 9.10.4 Roof Certificate (A19);
- 9.10.5 Electrical Compliance Certificate;

- 9.10.6 Copy of approved **PLAN**;
- 9.10.7 **PROJECT MANAGER's** Practical Completion Certificate;
- 9.10.8 Occupation Certificate issued by the Local Authority.

#### **OCCUPATIONAL INTEREST**

- 10.1 If the date of possession and occupation does not co-inside with the date of registration of transfer of the **PROPERTY** in the name of the **PURCHASER**, the **PARTY** enjoying occupation and possession of the **PROPERTY** while it is registered in the name of the other **PARTY**, shall in consideration thereof and for the period of such occupation, pay to the other **PARTY** the amount occupational interest indicated in Schedule "A".
- 10.2 The occupational interest will be payable to the **SELLER** monthly in advance on or before the 5<sup>th</sup> (Fifth) **DAY** of every calendar month until transfer of the **PROPERTY** is registered at the Deeds Office in Cape Town. If possession and occupation as set out in Clause 8.1 takes place after the 1<sup>st</sup> (First) day of a calendar month, occupational interest will be payable pro rata from the date that the **PURCHASER** obtains occupation and thereafter on or before the 5<sup>th</sup> (Fifth) **DAY** of every calendar month following thereafter, but shall be subject to adjustment should the transfer of the **PROPERTY** in the name of the **PURCHASER** be registered prior to the expiration of any calendar month in respect of which such occupational interest had been paid.

#### **WARRANTIES**

- 11.1 The **PURCHASER** acknowledges that the **SELLER** has made no representations and given no warranties in respect of the subject matter of this **AGREEMENT**, the **PROPERTY**, the **WORKS** or in respect of anything relating thereto, whether expressed or implied, not expressly contained herein, and he has not been influenced by any representation made by or on behalf of the **SELLER** to enter into this **AGREEMENT**, save as specifically set out in this **AGREEMENT**. Without limiting the generality of the foregoing, it is recorded that the Site Development Plan, marked Annexure "A1", represents artists impressions of the **DEVELOPMENT**, that it is not foreseen that the completed **DEVELOPMENT** will correspond with the Site Development Plan in all detail, however, it will not be materially different. The **SELLER** shall not be held liable for any changes to the layout, design of buildings, water features, landscaping, etc. as it may appear on the Site Development Plan.
- 11.2 The **PURCHASER** acknowledges that the **BASIC SPECIFICATIONS** to the **PROPERTY** will not necessarily be the same as those illustrated in any show-room utilised for display purposes or contained in any other material exhibited by the **SELLER** or its representatives or agents. The **SELLER** warrants that alternative specifications and finishes will be of similar type and equivalent quality.

- 11.3 The **PURCHASER** binds himself and declares that he shall not be entitled, for whatsoever reason, to –
- 11.3.1 institute any action arising from this **AGREEMENT** against the **SELLER** or his agent, for any defect (whether latent or patent) to the **PROPERTY**, or any improvements thereon, or as a result of any representation made or guarantees given by the **SELLER** or his agent in respect of the **PROPERTY**;
- 11.3.2 withhold, set-off or retain any amounts owing by the **PURCHASER** to the **SELLER**, nor shall the **PURCHASER** be entitled to withhold or abate a payment of any amount due to the **SELLER** in terms of this **AGREEMENT** by reason of any breach or alleged breach of the **SELLER**'s obligations hereunder.
- 11.4 **Electrical Compliance Certificate**
- 11.4.1 The **SELLER** shall at his own expense obtain the Certificate of Compliance from an accredited person in respect of all electrical installations in the **PROPERTY** in accordance with the requirements of the **Electrical Installation Regulations** made under the **Machinery and Occupational Safety Act No. 6 of 1983 (Regulation 3)** as repealed and replaced by **Section 49** of the **Occupational Health and Safety Act No. 85 of 1993** and will the Certificate of Compliance be handed over to the **CONVEYANCERS** before or on practical completion of the **WORKS** referred to in Clause 6.6, but in any event prior to the date of registration of transfer for delivery to the **PURCHASER**.
- 11.4.2 If the electrical installation on the **PROPERTY** is defective, the **SELLER** shall at his own expense repair the electrical installation in order to deliver the required Certificate of Compliance to the **CONVEYANCERS**.
- 11.5 **Certificate for Water Installation**
- 11.5.1 The **SELLER** shall at his own expense obtain the Certificate of Compliance from a suitably qualified and accredited plumber in terms of the **South African Qualifications Authority** in respect of all water installations in the **PROPERTY** and who must certify, in accordance with the requirements of the City of Cape Town's amended **Water By-Law**, promulgated on 18 February 2011, that –
- 11.5.1.1 the hot water cylinder complies with SANS 10252 and 10254; and
- 11.5.1.2 the water meter registers; and
- 11.5.1.3 there are no water leaks on the **PROPERTY**; and
- 11.5.1.4 water pipes and terminal fittings are correctly fixed in position; and
- 11.5.1.5 no storm water is discharged into the sewerage system; and
- 11.5.1.6 there is no cross connection between the potable supply and any grey water or groundwater system which may be installed.

11.5.2 The **SELLER** shall hand such Certificate of Compliance for all water installations over to the **CONVEYANCERS** as soon as possible after the **SIGNATURE DATE** in order to enable the **CONVEYANCERS** to apply for and obtain the required municipal Rates Clearance Certificate for the purposes of registration of transfer as referred to in Clause 13.1 and for delivery of such Certificate of Compliance to the **PURCHASER** before or on the date of registration of transfer.

11.6 **Certificate for Gas Installation**

If applicable, the **SELLER** shall at his own expense obtain the Certificate of Compliance from an accredited person in respect of all gas installations in the **PROPERTY** in accordance with the requirements of the **Occupational Health and Safety Act No. 85 of 1993** and will the Certificate of Compliance be handed over to the **CONVEYANCERS** before or on the date of registration of transfer for delivery to the **PURCHASER**.

11.7 **Exemption from Liability**

As from the practical completion date referred to in Clause 6.6, the **SELLER** shall be exempted from liability for making good any damage caused to the **PROPERTY** by surface water, storms or rainwater, ground containing clay or other shifting soil, settlement or cracking, earth tremors, geological disturbances and/or subsidence, the nature of the subsoil or terrain and the moisture content of the subsoil and shall under no circumstances be responsible for any consequential damage arising there from.

11.8 **Cession of Guarantees**

Such guarantees as may be received by the **SELLER** in respect of any item incorporated in the **WORKS** shall, to the extent that the **SELLER** is entitled to do so, be passed on to the **PURCHASER**.

11.9 **Voetstoots**

11.9.1 The **PARTIES** hereby declare that the provisions of the *Consumer Protection Act No. 68 of 2008* and its *Regulations*, as amended or replaced from time to time are not applicable to this transaction. The **PURCHASER** hereby acknowledges that he has inspected the **WORKS** and/or the **PROPERTY**, is satisfied with the condition thereof and purchases it "voetstoots" (*also means "as is", "as it stands", or "with all its defects, latent and otherwise" and all its advantages – the SELLER gives no warranty in regard to the building and any improvements upon the PROPERTY*) with effect from the date of registration of transfer and the **PURCHASER** accepts transfer subject to all conditions and servitudes burdening or benefiting the **PROPERTY**.

- 11.9.2 If, however, it is ruled that this transaction is subject to the *Consumer Protection Act No. 68 of 2008* and its *Regulations*, as amended or replaced from time to time, the **PROPERTY** will not be sold “voetstoots”, but will it be sold with the implied warranty of quality as envisaged in *Section 56* of the *Consumer Protection Act No. 68 of 2008*, being a guarantee that the **PROPERTY** will adhere to the requirements and standards as set out in *Section 55* of the *Consumer Protection Act No. 68 of 2008*, which makes provision for the **PURCHASER's** right to receive the **PROPERTY** on the basis that:
- 11.9.2.1 it is reasonably suitable for the purposes for which it is generally intended;
- 11.9.2.2 are of good quality, in good working order and free of defects;
- 11.9.2.3 will be useable and durable for a reasonable period of time, having regard to use to which they would normally be put and to all surrounding circumstances of their supply.
- 11.9.3 It is further specifically recorded that, in terms of *Section 55(6)* of the *Consumer Protection Act No. 68 of 2008*:
- 11.9.3.1 the **PURCHASER** has been expressly informed that the **PROPERTY** is being offered in the condition it is in with certain patent defects and possible further latent defects; and
- 11.9.3.2 the **SELLER** has afforded the **PURCHASER** the reasonable opportunity to inspect the **PROPERTY**, that the **PURCHASER** has inspected the **PROPERTY** carefully and the **PURCHASER** hereby specifically consents to accept the **PROPERTY** in the condition it is in.
- 11.9.4 The **PURCHASER** hereby signs this Clause 11.9 of this **AGREEMENT** printed in bold and/or italics as confirmation that he has accepted the abovementioned condition and that he knowingly acts and is aware of the risk involved with acceptance of this condition.



**LEVIES, BBLPOA AND BEMHOA**

- 12.1 The **SELLER** intends to form the **BBLPOA** to inter alia, regulate, control and manage the common interests of owners of erven within the **DEVELOPMENT**.
- 12.2 In terms of the Articles of Association of the **BBLPOA**, the Board of Directors may impose levies upon its members for the purpose of meeting the expenses of the **BBLPOA**.

- 12.3 It is a term of this **AGREEMENT** that a title deed condition shall be registered against the **PROPERTY** in terms of which the owner for the time being of the **PROPERTY** shall not be entitled to sell or transfer the **PROPERTY** without the prior written consent of the **BBLPOA**, in terms of its Articles of Association, and the **BEMHOA** in terms of its Constitution and/or Rules.
- 12.4 The **PURCHASER** has perused and acquainted himself with the provisions of the Memorandum and Articles of Association and Rules of the **BBLPOA** and the Constitution and/or Rules of the **BEMHOA**, which are available at the offices of the **CONVEYANCERS** and the **PURCHASER** shall, from date of possession and occupation referred to in Clause 8.1, be bound to the **RULES** and any amendments thereto from time to time.
- 12.5 The **PURCHASER** will be obliged to become a member of the **BBLPOA** and the **BEMHOA**, as from the date of registration of transfer of the **PROPERTY** in his name and agrees to remain a member for as long as he is the registered owner of the **PROPERTY**.
- 12.6 The **PURCHASER** is liable for payment of all levies claimed by the **BBLPOA** and the **BEMHOA** in respect of the **PROPERTY** as from date of registration of transfer, and in respect of the dwelling as from the date of practical completion of the dwelling referred to in Clause 6.6.
- 12.7 The budget of the levies payable is attached hereto marked Annexure "D" and initialled by the **PARTIES** for identification purposes.

#### **REGISTRATION OF TRANSFER**

13. The **PARTIES** hereby appoint the **CONVEYANCERS** to cause:
- 13.1 registration of transfer of the **PROPERTY** in the name of the **PURCHASER**;  
and
- 13.2 the simultaneous passing of a mortgage bond over the **PROPERTY** referred to in Clause 24.1.2, in the event of the **PURCHASER** requiring such bond to be registered.

#### **COSTS**

- 14.1 The **SELLER** accepts responsibility for his account and will pay on demand to the **CONVEYANCERS**:
- 14.1.1 all fees and costs of and incidental to the drawing of this **AGREEMENT**, including all attendances in connection therewith on the scale as between Attorney and Client, irrespective of whether the suspensive conditions referred to in Clause 24.1 are fulfilled or not;
- 14.1.2 all fees and disbursements with regard to the transfer of the **PROPERTY**;
- 14.1.3 the costs of issuing a municipal Rates Clearance Certificate, **BEMHOA**



and **BBLPOA** Consents to Transfer and/or Levy Clearance Certificates for the purposes of registration of transfer as envisaged in Clause 13.1;

- 14.1.4 Value Added Tax (VAT) calculated on the amounts payable in terms of the provisions of Clauses 14.1.1 and 14.1.2.
- 14.2 The **PURCHASER** accepts responsibility for his account and will pay on demand to the **CONVEYANCERS**:
- 14.2.1 all fees and disbursements with regard to the passing of a mortgage bond over the **PROPERTY** referred to in Clause 24.1.2 (if applicable);
- 14.2.2 Value Added Tax (VAT) calculated on the amounts payable in terms of the provisions of Clause 14.2.1.
- 14.3 The **SELLER** hereby confirms that he is registered as a vendor in terms of the **Value Added Tax Act No. 89 of 1991, as amended** and therefore no transfer duty will be payable.

#### **DATE OF TRANSFER**

- 15.1 Transfer of the **PROPERTY** will be passed as soon as possible after:
- 15.1.1 the purchase price or balance thereof, any **ADDITIONAL COSTS** (if applicable), together with any interest, has either been guaranteed or paid in full, or bonds (if any) have been arranged for the payment of same;
- 15.1.2 the expenses mentioned in Clauses 10 and 12, the costs mentioned in Clause 14 hereof and all the other levies, rates and taxes (if any) have been paid in full;
- 15.1.3 the **PROPERTY** is registerable and subject to the fulfilment of the suspensive conditions as set out in Clause 24.1.
- 15.2 The **PARTIES** irrevocably authorises the **CONVEYANCERS** to sign all necessary declarations and applications on their behalf to enable them to obtain the necessary transfer duty receipt or exemption certificate, whichever may be the case, from the office of the Receiver of Revenue, Cape Town.
- 15.3 The **PARTIES** hereby undertake, on written request by the **CONVEYANCERS**, to:
- 15.3.1 sign all documents at the offices of the **CONVEYANCERS** or their nominated correspondents which in the opinion of the **CONVEYANCERS** may be necessary to effect registration of transfer of the **PROPERTY** in the name of the **PURCHASER** and to give effect to the provisions of the **AGREEMENT**. Such signature shall be effected within 5 (Five) **DAYS** of demand and if the documents are signed other than at the offices of the **CONVEYANCERS**, the signed documents shall be delivered to the **CONVEYANCERS** within 3 (Three) **DAYS** of date of signature;

- 15.3.2 deliver/furnish to the **CONVEYANCERS** all such documents/information arising from this transaction as may be required by them to procure compliance with the provisions of the ***Financial Intelligence Centre Act No. 38 of 2001 (FICA)*** within 10 (Ten) **DAYS** of demand thereof, as more fully set out in the attached Annexure "E" and initialled by the **PARTIES** for identification purposes;
- 15.3.3 do all other things which in the opinion of the **CONVEYANCERS** may be necessary to effect registration of transfer of the **PROPERTY** in the name of the **PURCHASER** and, if applicable, the simultaneous registration of a bond as soon as possible and to fulfil the terms of the **AGREEMENT** within 5 (Five) **DAYS** of demand thereof.
- 15.4 Any failure to comply with Clauses 15.3.1, 15.3.2 and 15.3.3 aforesaid, shall result in a breach of the **AGREEMENT**.

#### **CONDITIONS OF TITLE**

16. The **PROPERTY** is sold as described in the existing or any title deed thereof, and is subject to:
- 16.1 all the conditions, restrictions and servitudes (if any) attaching thereto or mentioned, or referred to in the title deed or prior deeds of the **PROPERTY**;
- 16.2 the provisions of the **RULES** of the **BBLPOA** and the **BEMHOA**.

#### **JURISDICTION**

- 17.1 This **AGREEMENT** is in all respects governed by the laws of the Republic of South Africa.
- 17.2 The **PARTIES** hereby consent to the jurisdiction (*it is a Court's authority to hear and decide on the legal proceedings brought by one **PARTY** against the other relating to this **AGREEMENT***) of any Magistrate's Court otherwise having jurisdiction in terms of **Section 28** of the ***Magistrates' Courts Act No. 32 of 1944, as amended***, for any action that might arise from this **AGREEMENT** even if the amount claimed is more than the Magistrate's Court limit. Notwithstanding that such proceedings are otherwise beyond the jurisdiction of the Magistrate's Court, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the Magistrate's Court pursuant to **Section 45** of the said Act for the recovery of any amount due in terms hereof.
- 17.3 Notwithstanding anything to the contrary herein contained, the **SELLER**, however, reserves the right at his sole discretion, to institute action and to bring legal proceedings in the Regional Court or the High Court that has jurisdiction and to claim costs on the High Court scale.

## DOMICILIA AND NOTICES

18.1 The **PARTIES** select as their respective physical and e-mail addresses and telefax numbers (*this address is known in law as one's **domicilium citandi et executandi***) at which they agree to accept any notices provided for or necessary in terms of the **AGREEMENT** and sent to each other, where any legal process may be served upon one another and may be executed on any Judgment obtained against one another, and for all other purposes relating to this **AGREEMENT** the following addresses, namely –

18.1.1 the **SELLER** at No. 2 Glen Key Place, Aviation Crescent, Airport City, Cape Town or facsimile number 086 519 6060 or e-mail address [xinwam@exar.co.za](mailto:xinwam@exar.co.za);

18.1.2 the **PURCHASER** at the address, facsimile number or e-mail address indicated in Schedule “A”;

or such other address or facsimile number or e-mail address as may be substituted by notice given as required.

18.2 Either **PARTY** shall be entitled to change his *domicilium citandi et executandi* from time to time by giving written notice of an alternative address in the Republic (which address shall not be a post office box or a *poste restante*) to the other **PARTY**, which notice shall take effect upon receipt thereof by the addressee.

18.3 The notices and processes referred to in Clause 18.1 include letters by one **PARTY** reminding the other of payments which he had missed, letters of demand, a Summons and other legal notices. A legal process includes the ways one **PARTY** can enforce any court Judgment, for example, a Summons, attaching of property and selling it to recover money owed to him by the other **PARTY**.

18.4 All notices required to be given in terms of this **AGREEMENT**, shall be in writing and shall either be delivered by hand, be forwarded by pre-paid registered post, or be sent by facsimile or e-mail.

18.5 A notice will be presumed, unless the contrary is proved, to have been given –

18.5.1 if posted by prepaid registered post, 7 (Seven) **DAYS** after the date of posting thereof;

18.5.2 if hand delivered during business hours or a business **DAY**, on the **DAY** of delivery;

18.5.3 if send by facsimile or e-mail, on the same **DAY** of transmission with receipt received confirming successful completion of transmission.

- 18.6 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a **PARTY** shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at his chosen *domicilium citandi et executandi*.

## BREACH

- 19.1 In the event of the **PURCHASER** failing to fulfil on due date any of the terms and conditions, or committing any breach of this **AGREEMENT**, or failing to sign the transfer documentation at the offices of the **CONVEYANCERS** or their nominated correspondents and/or fail to supply information required by the **CONVEYANCERS** when requested thereto by the **CONVEYANCERS**, or if the **PURCHASER** becomes insolvent or is liquidated, or if the **PURCHASER** –

- 19.1.1 being an individual, publish notice of the voluntary surrender of his estate or die; are placed under administration or commits an act of insolvency as defined in the ***Insolvency Act No. 24 of 1936, as amended***; has any application or other proceedings brought against him in respect of him in terms of which any third party seeks to have him sequestered or placed under curatorship, in any event in a manner which is provisional or final, voluntary or compulsory; fails to satisfy any Judgment of a competent court against the **PURCHASER** or any person who has given security for him for the attachment of assets or for payment of any amount within 5 (Five) **DAYS** after the date on which it is issued (*where attachment refers to the process in terms of which property/goods are taken into custody to secure a Judgment or to be sold in satisfaction of a Judgment*); he compromises or attempts to compromise with his creditors generally or defer payment of debts owing by him to his creditors;

- 19.1.2 being a juristic person, are wound up, liquidated, dissolved, deregistered or placed under judicial management, in any event whether in a manner which is provisional or final, voluntary or compulsory, or pass a resolution providing for any such event; are treated as being unable to pay its debts; or resolve that it voluntarily begin business rescue proceedings or has any business rescue proceedings commenced against it, as contemplated in **Section 132(1)** of the ***Companies Act No. 71 of 2008***,

or if the **AGREEMENT** should, for whatever reason not be implemented, the **SELLER** or his agent shall have the right and be entitled to give the **PURCHASER** written notice in which he demands that such term or condition be rectified within not less than 7 (Seven) **DAYS** from the date of such notice, failing which the **SELLER** or his agent shall have the right and be entitled to immediately and without prior notice, (without prejudice to the rights accorded to him under Clause 19.1.3 below or at common law - *that is, without barring any future action which the SELLER may have against the PURCHASER*):-

- 19.1.3 in respect of a monetary claim to demand payment thereof from the **PURCHASER** together with interest on such amount to be calculated in accordance with Clause 20 and all legal costs at the then ruling rate;
- 19.1.4 in respect of any other obligation of the **PURCHASER**:-
- 19.1.4.1 to claim immediate payment of the whole of the purchase price and the fulfilment of all the terms and conditions of the **AGREEMENT** and to enforce compliance therewith or to institute proceedings for the enforcement of his rights in terms hereof, whether or not the due date for such performance shall otherwise have arrived; or
- 19.1.4.2 to remedy (at the election of the **SELLER**) the **PURCHASER**'s non-performance of such obligation and to recover from the **SELLER** any amounts so necessarily expended by the **PURCHASER** in consequence thereof together with interest thereon to be calculated in accordance with Clause 20 as and from the date of incurrence of such expenditure; and
- 19.1.5 as an alternative to the aforementioned remedies, the **SELLER** shall in any of the aforementioned events in his sole discretion be entitled to terminate this **AGREEMENT**, by giving written notice to the **PURCHASER**, in which event the **PURCHASER** shall forfeit all monies paid to the **SELLER** or his Agent or to the **CONVEYANCERS** (including any amount paid in trust) in terms hereof, subject to applicable legal limitations, to the **SELLER** who will retain same as 'rouwkoop' (*this means that when the **PURCHASER** withdraws from this **AGREEMENT**, the **SELLER** has the right to seize the deposit without having to prove damages*), without prejudice to the **SELLER**'s other legal rights and remedies and the right to claim damages, and further subject to the **PURCHASER**'s being liable for all legal costs (at the then ruling rate) incurred by the **SELLER** in consequence of such breach of contract;
- 19.1.6 alternatively, if the **SELLER** so elects, he may claim and recover from the **PURCHASER** any damages however incurred as a result of such breach and/or cancellation (including any loss and expenses on a resale, whether by public auction or private treaty), in which case the amount(s) paid to the **SELLER** or his **AGENT** or to the **CONVEYANCERS** as aforesaid shall not be forfeited as rouwkoop, but may be retained by the **SELLER** by way of set-off or partial set-off against the damages claimed by the **SELLER**, without prejudice to the **SELLER**'s other legal rights and remedies.
- 19.2 In the event of the cancellation of the **AGREEMENT** according to the provisions of Clause 19.1, the **SELLER** shall further be immediately entitled to retake possession and occupation of the **PROPERTY** and to eject any occupier of the **PROPERTY** who has obtained the right of occupation from the **PURCHASER**.

- 19.3 Should the **SELLER** require it, the **PURCHASER** shall remove any completed and/or incomplete structures or other movable assets from the **PROPERTY** and further clean and tidy the **PROPERTY** at his own expense and to the satisfaction of the **SELLER**.
- 19.4 The **PURCHASER** will have no right of recourse against the **SELLER** in respect of any improvements effected by him to the **PROPERTY** and the **PURCHASER** will have no rights of retention.
- 19.5 Should the **SELLER** fail to fulfil on due date any of the terms and conditions of this **AGREEMENT**, the **PURCHASER** shall be entitled to give the **SELLER** written notice in which he demands that such term or condition be rectified within not less than 7 (Seven) **DAYS** from the date of such notice. In the event of the **SELLER**:-
- 19.5.1 failing to comply with such demand within the said 7 (Seven) **DAYS**; or
- 19.5.2 suffering a Judgment for payment of a monetary debt being entered against the **SELLER** by a competent Court, and permitting such Judgment to remain unsatisfied for a period of 5 (Five) **DAYS** after such Judgment could reasonably be deemed to have come to the **SELLER**'s knowledge (save where such Judgment is the subject of an appeal duly noted and prosecuted by the **SELLER**, in which event the **PURCHASER** shall only be entitled to exercise the rights accorded in terms of Clauses 19.5.3, 19.5.4 and 19.5.5 below if the appeal is not prosecuted by the **SELLER** or if the **SELLER** fails to satisfy such Judgment within 5 (Five) **DAYS** after the disallowance of such appeal could reasonably be deemed to have come to the **SELLER**'s knowledge – and, in the event of a further appeal by the **SELLER**, the foregoing provisions shall apply *mutatis mutandis* – meaning that the foregoing provisions, although it may be different, will be applied similarly),
- the **PURCHASER** will be entitled, without prejudice to any other rights which he may, in law, be entitled to:
- 19.5.3 claim immediate fulfilment of all the terms and conditions of the **AGREEMENT** and to enforce compliance therewith or to institute proceedings for the enforcement of its rights in terms hereof; or
- 19.5.4 to immediately cancel the **AGREEMENT** and to recover all payments which have been made to the **SELLER** in accordance with the **AGREEMENT**; and
- 19.5.5 in both cases to claim and recover from the **SELLER** such damages as he may have suffered in consequence of the **SELLER**'s breach and/or cancellation.

- 19.6 The **PARTY** who is in breach according to the aforementioned provisions, further undertakes to pay all attorney-and-client costs the aggrieved **PARTY** may incur, including tracing costs and collection commission at 10% (Ten Percent) on any capital amount and costs, whether it was paid prior to or after judgement and tracing costs which the aggrieved **PARTY** might incur in collecting any amount owing in terms of this **AGREEMENT** by the defaulting **PARTY** and which is not paid on the due date thereof, including interest on such an amount calculated in accordance with the interest rate as indicated in Clause 20, from the date such an amount becomes due, until date of receipt of payment.
- 19.7 For all purposes of this **AGREEMENT** any act or omission on the part of any tenant, nominee or other person who occupies the **PROPERTY**, or invitee of the **PURCHASER**, or other person who goes upon the **DEVELOPMENT**, shall be deemed to be an act or omission of the **PURCHASER**.
- 19.8 The rights and remedies of the **PARTIES** pursuant to this Clause 19 shall in no way derogate from any rights and remedies available to the **PARTIES** at common law or by virtue of any Statute or other enactment.
- 19.9 Completion, suspension or termination of the **AGREEMENT** shall not prejudice or affect the accrued rights or liabilities of the **PARTIES**.

#### **INTEREST ON DUE PAYMENTS**

- 20.1 Should any sum of which the **PURCHASER** is liable in terms of this **AGREEMENT** (whether for capital or interest) not be paid timeously as provided in this **AGREEMENT**, or in the event of the **PURCHASER**'s default for any reason whatsoever, the **PURCHASER** shall pay interest on any outstanding balance at such time at the maximum rate from time to time as contemplated in the **National Credit Act No. 34 of 2005, as amended**, or the prime bank lending rate of First National Bank from time to time plus 3% (Three Percent) per annum, whichever shall be the highest, from the date such an amount becomes due by the **PURCHASER** to the **SELLER**, until date of receipt of payment.
- 20.2 The said interest calculated on a daily basis and capitalised monthly and shall be payable by the **PURCHASER** to the **SELLER** on demand.

#### **ESTATE AGENT'S COMMISSION**

- 21.1 The **SELLER** is responsible for payment of the agent's commission referred to in Schedule "A" in accordance with the **SELLER**'s mandate to the agent and the **CONVEYANCERS** are hereby authorised irrevocably to deduct the said commission from the purchase price and to pay it over against registration of transfer. Should the transaction fall through as a result of any act or omission or default on the part of the **PURCHASER**, then such **PURCHASER** shall be liable for payment of the commission to the agent and the **SELLER** and/or the agent will be entitled immediately to recover same from the **PURCHASER**.

- 21.2 The **PURCHASER** hereby declares that the agent mentioned in Schedule "A" was the effective cause of this transaction and should any other estate agent(s) after payment of the commission hereinmentioned lodge a claim against the **SELLER**, and can prove that they were the effective cause of the sale, then the **PURCHASER** hereby indemnifies the **SELLER** against such claim(s) plus all costs in connection therewith.

#### **LIABILITY OF SELLER AND PURCHASER**

- 22.1 If the **PURCHASER** is more than 1 (One) person, then all the persons signing the **AGREEMENT** shall jointly, severally and *in solidum* (that means that each person is liable in full for payment or performance to the **SELLER**, and that the **SELLER** may choose which of the persons he will sue for the whole of the payment or performance) be liable for the due performance of his obligations in terms of this **AGREEMENT** and does the **PURCHASER** hereby renounce all benefits arising from the legal exceptions *de duobus vel pluribus reis debendi* (that means that the **SELLER** is able to proceed against such person before proceeding against the **PURCHASER** if he chooses to do so).
- 22.2 If a person enters into this **AGREEMENT** in a representative capacity, then such person binds himself as surety and co-principal debtor in favour of the represented **PARTY** for the due performance of his principal in terms of this **AGREEMENT** and does such person and the represented **PARTY** renounce all benefits arising from the legal exceptions that may be applicable, namely *ordinis seu excusationis et divisionis* (that means that the **SELLER** will be able to proceed only against such person or only against the **PURCHASER** for all amounts owing to the **SELLER** under this **AGREEMENT**) and *de duobus vel pluribus reis debendi* (that means that the **SELLER** is able to proceed against such person before proceeding against the **PURCHASER** if he chooses to do so). If the person proposing to act in a representative capacity appears not to be in possession of proper written authority by his principal, then and in that instance the person who signed this **AGREEMENT** will, in his personal capacity, be liable for the due fulfillment of all the obligations of such signatory's principal whom he pretended to represent.
- 22.3 If this **AGREEMENT** is entered into by the signatory as Trustee for a Company to be formed or already formed, or on behalf of himself or his nominee, then in that instance the signatory shall in his personal capacity be liable for the due fulfillment of all the obligations of such party in terms of this **AGREEMENT**, if:
- 22.3.1 the Company to be formed is not formed before or on the date on which guarantees in terms of this **AGREEMENT** is to be furnished; or
- 22.3.2 the Company is formed, but does not ratify, adopt and accept this **AGREEMENT**; or
- 22.3.3 the Company ratifies, adopts and accepts this **AGREEMENT**, but does not perform timeously in terms thereof; or



- 22.3.4 is a Company which has already been formed and such Company fail to perform timeously in terms of this **AGREEMENT**; or
- 22.3.5 such party nominates another person and the person thus nominated does not accept or do accept the nomination, but fails to perform timeously in terms of this **AGREEMENT**.

## THE RULES

23. The **PURCHASER** shall, from date of possession and occupation referred to in Clause 8.1, be bound to the **RULES** of the **BBLPOA** and the **BEMHOA**.

## SUSPENSIVE CONDITIONS

- 24.1 This sale is subject to the following suspensive conditions, namely that:
- 24.1.1 the **SELLER** obtains the approval of the **PLAN** by the Local Authority to proceed with the **WORKS** within a period of 6 (Six) months calculated from the **SIGNATURE DATE**;
- 24.1.2 the **PURCHASER** obtains a loan for the amount indicated on Schedule "A" against security of a first mortgage bond over the **PROPERTY** or any other acceptable securities, within 21 (Twenty One) **DAYS** calculated from the **SIGNATURE DATE** on the usual terms and conditions as laid down by such a commercial bank or other financial institution, subject to the conditions contained in Clauses 24.2 to 24.6;
- 24.1.3 the **SELLER** concludes binding agreements of sale with buyers for at least 10 (Ten) erven in the **DEVELOPMENT** before or on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_;
- 24.1.4 the **PURCHASER** successfully sells his property, the details of which are more fully set out in Annexure "F" attached hereto, to be duly completed, initialled and signed by the **PARTIES** (if applicable).
- 24.2 The **PURCHASER** hereby undertakes immediately after the **SIGNATURE DATE** to complete, sign and submit the necessary application forms for the obtaining of the loan referred to in Clause 24.1.2 and to use his best endeavours to obtain approval thereof. The **PURCHASER** shall furnish the Bond Originators nominated by the **SELLER** and referred to in Schedule "A" with any relevant documentation that may be required within 7 (Seven) **DAYS** of being called upon to do so, including the required proof of income, failing which the **PURCHASER** hereby grants the said Bond Originators the irrevocable consent to obtain the required proof of income directly from the **PURCHASER**'s employer for purposes of obtaining mortgage bond approval. The **PURCHASER** further undertakes that in the event of the loan being granted to him to accept the loan, notwithstanding the fact that the terms and conditions of such loan may have changed between date of application and date of granting thereof.

- 24.3 The suspensive condition referred to in Clause 24.1.2 shall be deemed to be fulfilled upon the issue of a letter by a South African commercial bank or other financial institution granting the said loan in principle.
- 24.4 The **PURCHASER** warrants to the **SELLER** that he is aware of the income requirements of the commercial banks or other financial institutions in respect of loan approvals and that his income is sufficient to qualify for the granting of the loan.
- 24.5 The **PURCHASER** hereby irrevocably and *in rem suam (this means in his own interest in this matter)* authorises the **SELLER** or his agent, in the event of the **PURCHASER** failing to make the necessary application with the said commercial bank or other financial institution, on his behalf to apply for the mortgage finance from any commercial bank or other financial institution and to sign such application.
- 24.6 The **PURCHASER** undertakes to apply for the said loan through the services of the Bond Originators nominated by the **SELLER** and referred to in Schedule "A" and further to ensure and procure that the financial institution from which the **PURCHASER** obtains the loan, instructs the **CONVEYANCERS** to attend to the registration of such bond.
- 24.7 In the event of non-compliance with the aforementioned suspensive conditions by the said date(s), then the **SELLER** or the **PURCHASER** will have the right to cancel this **AGREEMENT** *ab initio (which means that the AGREEMENT will be treated as invalid / of no legal effect from the SIGNATURE DATE)* by giving written notice to such effect to the other **PARTY** at his *domicilium citandi et executandi* in which event the **PARTIES** shall be reinstated in their *status quo ante (that means the state in which things were before the SIGNATURE DATE)*, subject, however, to the liability of the **PURCHASER** for the payment of the costs as provided in Clauses 10, 12 and 14 of this **AGREEMENT**.

#### **WARRANTEE WITH REGARDS TO INCOME TAX / VAT**

25. The **PARTIES** warrant that they do not currently, and until registration of transfer of the **PROPERTY** to the **PURCHASER**, will not be in default of any income, VAT or other tax law obligations to the South African Revenue Services by virtue of the **Income Tax Act No. 58 of 1962, as amended** or any other applicable tax legislation which will serve to delay the obtaining of a transfer duty receipt or exemption certificate from the South African Revenue Services or serve to cause the financial institution granting a mortgage bond to the **PURCHASER** (if applicable) to withdraw the mortgage finance offered. Any breach of this warrantee will be deemed to be a breach of the **AGREEMENT**, which will be dealt with in accordance with the provisions of Clause 19.

#### **ENVIRONMENTAL MANAGEMENT PLAN**

26. The **PARTIES** hereto record that they are aware of the Environmental Management Plan governing the **DEVELOPMENT** and/or the **PROPERTY** and in

particular the requirements for building and civil engineering contractors. The **PARTIES** agree that such Environmental Management Plan and any amendment regulations thereto shall be deemed to be incorporated into this **AGREEMENT** and shall be binding on all **PARTIES**. The **PURCHASER** shall ensure that he and any building contractor and/or agent adhere to such Environmental Management Plan or any amendment thereto.

## GENERAL

- 27.1 The person(s) signing this **AGREEMENT** on behalf of the **PARTIES** declare and expressly warrant in each other's favour that they have the legal capacity, and where relevant authority, to enter into this **AGREEMENT**. This means in the context of this **AGREEMENT** that the law treats such signatories as competent and qualified to enter into this **AGREEMENT**, considering, if any **PARTY** is an individual, factors such as his age, marital status, and mental state or, if it is a juristic entity, factors such as the relevant provisions of its founding documents and whether the person who signs this **AGREEMENT** on its behalf is authorised to do so.
- 27.2 Any provision of this **AGREEMENT** which contemplates performance or observance subsequent to any termination or expiration of this **AGREEMENT** shall survive any termination or expiration of this **AGREEMENT** and continue in full force and effect.
- 27.3 Every term or condition of this **AGREEMENT** is divisible from the other and any provision in this **AGREEMENT** which is found to be inoperative shall be severable from the remaining provisions, which remaining provisions shall be deemed to be the **AGREEMENT** between the **PARTIES**.
- 27.4 If any one or more term or condition of this **AGREEMENT** is determined, declared or adjudged (formally or informally) by a competent authority or any court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever and to any extent under any law applicable in any jurisdiction in which this **AGREEMENT** is to be performed:
- 27.4.1 that provision shall be deemed for all purposes to be severable from all the other provisions and the legality, validity or enforceability of the remainder of the provisions of this **AGREEMENT** shall not be affected thereby and each remaining term or condition hereof shall be valid and enforced to the fullest extent permitted by law; and
- 27.4.2 this **AGREEMENT** thus continuing shall (subject and without prejudice to any appeal to higher authority as to the status of that provision) exclude the offending provision but, if such deletion substantially effects or alters the commercial basis of this **AGREEMENT** or prevents the accomplishment of the purpose of the **AGREEMENT**, include such a restated provision as the **PARTIES** shall in good faith agree which will, while not being void or unenforceable, most nearly reflect and achieve the object of the allegedly void or unenforceable provision(s) and/or original intention of the **PARTIES** and to conform with applicable law.

- 27.5 If this **AGREEMENT** is regulated by the **Consumer Protection Act No. 68 of 2008** and its **Regulations**, as amended or replaced from time to time, it is not intended that any provision of this **AGREEMENT** should contravene any provision of the **Consumer Protection Act No. 68 of 2008** and all provisions of this **AGREEMENT** must be treated as qualified, if necessary, to ensure that the **PARTIES** comply with any relevant provisions of the **Consumer Protection Act No. 68 of 2008**.
- 27.6 The **PARTIES** acknowledge and agree that the **AGREEMENT** was entered into pursuant to the negotiation of its provisions and, accordingly, that any rule of construction requiring that the **AGREEMENT** be interpreted or construed against the **PARTY** responsible for the drafting or preparation of the **AGREEMENT** shall not be of any application.
- 27.7 The **PURCHASER** acknowledges that the **AGREEMENT** constitutes the sole basis of the **AGREEMENT** between himself and the **SELLER**, and that he has not been induced to enter into the **AGREEMENT** 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.
- 27.8 The **PURCHASER** further acknowledges that he has been free to secure independent legal advice as to the nature and effect of all of the provisions of this **AGREEMENT** and that he has either taken such independent legal advice or dispenses with the necessity of doing so. Furthermore, he acknowledges that all of the provisions of this **AGREEMENT** and the restrictions herein contained are fair and reasonable in all the circumstances and are part of the overall intention of the **PARTIES** in connection with the transaction contemplated in this **AGREEMENT**.
- 27.9 This **AGREEMENT** shall be binding upon the **PARTIES** hereto, their heirs, administrators, executors, successors in title or assigns (whichever may be applicable).
- 27.10 The rights and obligations of the **PARTIES** and all matters or disputes arising from this **AGREEMENT** shall be determined and adjudged in accordance with the Laws of the Republic of South Africa.
- 27.11 The Annexures hereto shall constitute an integral part of this **AGREEMENT**.
- 27.12 **The PARTIES hereby confirm and acknowledge that –**
- 27.12.1 **no offer had been made by either PARTY to the other that automatically results in an agreement if such offer is not declined; and**
- 27.12.2 **this AGREEMENT is in the language of their choice; and**

- 27.12.3 they have read and clearly understand and appreciate the contents (meaning, as well as consequences) of all the terms and conditions of this **AGREEMENT**, as well as the risks, costs, rights and obligations of and under the **AGREEMENT** and/or that it was duly, and to their satisfaction explained to them by a representative of the **AGENT** or the **CONVEYANCERS** in a language and in a manner which they understood; and
- 27.12.4 they understand their respective rights and duties under this **AGREEMENT**; and
- 27.12.5 they are aware of terms and conditions with specific legal consequences; and
- 27.12.6 they have read and are aware of all the terms and conditions that are printed in bold; and
- 27.12.7 they have signed the **AGREEMENT** voluntary, without any form of influence or duress and entirely at their own risk; and
- 27.12.8 they have received an original version of this **AGREEMENT**.
- 27.13 The **PARTIES** hereby sign this Clause 27 of this **AGREEMENT** printed in bold and/or italics as confirmation that they have accepted the abovementioned conditions and that they knowingly act and are aware of the risk involved with acceptance of these conditions.

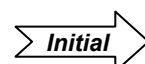


**SPECIAL CONDITIONS**

28. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**OFFER**

29. If this **AGREEMENT** is signed by one **PARTY** only, this document will be construed as an offer to the other **PARTY** which will not be withdrawn but must be accepted before 12:00 on the 5<sup>th</sup> (Fifth) **DAY** calculated from the date of signature of this document by the **PURCHASER**, by signing this document and handing same to the **CONVEYANCERS** on or before the said time and date.



THUS DONE AND SIGNED AT \_\_\_\_\_ on this the \_\_\_\_ day of  
\_\_\_\_\_ 20\_\_\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
**SELLER**, or his duly authorised  
representative (*sign in full*)

THUS DONE AND SIGNED AT \_\_\_\_\_ on this the \_\_\_\_ day of  
\_\_\_\_\_ 20\_\_\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
**PURCHASER**, or his duly  
Authorised representative  
(*sign in full*):  
I/We hereby acknowledge that  
I/we am/are acquainted with and  
understand the contents of this  
**AGREEMENT** and that all of the  
Schedules and Annexures  
referred to in this **AGREEMENT**  
were attached hereto when I/we  
signed same.

**SCHEDULE "A"**  
**REFERRED TO IN THE ATTACHED DEED OF SALE**  
**NORTHLAND, BLUEBERRY LANE AT BURGUNDY**

**PURCHASER \* referred to in Clauses 1.2 and 2.2.2:**

Full names/Co/CC/Trust: \_\_\_\_\_  
ID No./Reg No. (Co/CC/Trust): \_\_\_\_\_  
Full names of Spouse/Director/Member/Trustee: \_\_\_\_\_  
ID No. of Spouse/Director/Member/Trustee: \_\_\_\_\_  
Income Tax No.: \_\_\_\_\_  
Marital Status:  Unmarried  Widow(er)  In community  Antenuptial Contract

**ADDRESS \* referred to in Clause 18.1.2:**

Current physical Address (*domicilium citandi et executandi*) (not postal address):  
\_\_\_\_\_  
Postal Address: \_\_\_\_\_  
Future Postal Address: \_\_\_\_\_  
Place of Business/Profession: \_\_\_\_\_

**TELEPHONE / FACSIMILE / E-MAIL referred to in Clause 18.1.2:**

Tel. No. (Home): \_\_\_\_\_ Tel. No. (Business): \_\_\_\_\_  
Cell Phone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

**PARTICULARS REFERRED TO IN CLAUSES 2.2.4, 4.1, 4.2.1, 8.1, 10.1, 21.1, 24.1.2 AND 24.2 OF THE ATTACHED AGREEMENT:**

**PROPERTY number and extent referred to in Clause 2.2.4 and the attached Site Development Plan marked Annexure "A1" and General Plan marked Annexure "A2":**

**Unit Type** as referred to on the **PLAN**: \_\_\_\_\_  
**Erf No.** as indicated on the Site Development Plan: **No. \_\_\_\_\_ Blueberry Lane (Northland)**  
**Erf No.** as indicated on the General Plan: **Erf \_\_\_\_\_ BURGUNDY**  
**Extent of Erf**: Measuring  $\pm$  \_\_\_\_\_ square metres

**PURCHASE PRICE referred to in Clause 4.1:**

R \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ **RAND**) (*amount must be in figures and words*)

**DEPOSIT referred to in Clause 4.2.1:**

R \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ **RAND**) (*amount must be in figures and words*)

**APROXIMATE DATE OF POSSESSION referred to in Clause 8.1:**

Date: \_\_\_\_\_ 20\_\_\_\_

**OCCUPATIONAL INTEREST referred to in Clause 10.1:**

Pro rata monthly amount: R \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ **RAND**) (*amount must be in figures and words*)

**ESTATE AGENT referred to in Clause 21.1:**

Name of Agency and Agent: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_  
Cell Phone No.: \_\_\_\_\_ E-mail address: \_\_\_\_\_  
Commission amount: R \_\_\_\_\_ ( \_\_\_\_\_  
( \_\_\_\_\_ **RAND**)  
(*amount must be in figures and words*)

**LOAN AMOUNT referred to in Clause 24.1.2:**

R \_\_\_\_\_ ( \_\_\_\_\_  
\_\_\_\_\_ **RAND**) (*amount must be in figures and words*)  
Bank: \_\_\_\_\_

**BOND ORIGINATORS referred to in Clause 24.2:**

Name of Firm and Originator: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_ Facsimile No.: \_\_\_\_\_  
Cell Phone No.: \_\_\_\_\_ E-mail address: \_\_\_\_\_

**SIGNED** at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

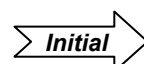
**AS WITNESSES:**

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

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

\_\_\_\_\_  
**SELLER (sign in full)**

**DEED OF SALE: NORTHLAND, BLUEBERRY LANE AT BURGUNDY**





SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

AS WITNESSES:

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

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

\_\_\_\_\_  
**PURCHASER (sign in full)**

**\* Please provide particulars as set out in ANNEXURE "E"**

**ANNEXURE "A1"**

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**SITE DEVELOPMENT PLAN**

*(to be attached ...)*

**ANNEXURE "A2"**

---

**GENERAL PLAN**

*(to be attached ...)*

**ANNEXURE "B1"**  
**SYMINGTON & DE KOK**  
**TRUSTREKENING / TRUST ACCOUNT**

<b>BANK</b>	<b>EERSTE NASIONALE BANK / FIRST NATIONAL BANK</b>
<b>TAK &amp; KODE / BRANCH &amp; CODE</b>	<b>BRANDWAG (230-137)</b>
<b>REKENINGNR. / ACCOUNT NO.</b>	<b>51713309635</b>
<b>VERWYSING / REFERENCE</b>	<b>MC0808MGB _____</b>
<b>SWIFT NR. / NO.</b>	<b>FIRZAJJ</b>

**MELD ASB. DIE VERWYSING OP DIE DEPOSITOSTROKIE EN FAKS 'N  
AFSKRIF AAN MC JACOBS BY (021) 913 3240**

**PLEASE INSERT THE REFERENCE CODE ON THE DEPOSIT SLIP AND FAX A  
COPY TO MC JACOBS AT (021) 913 3240**

**No. \_\_\_\_\_ Northland, Blueberry Lane at Burgundy:  
DEPOSIT = R \_\_\_\_\_**

**ANNEXURE "B2"**

**AFFIDAVIT**

**Information required by Symington & De Kok Attorneys to comply with the  
Financial Intelligence Centre Act, No. 38 of 2001**

I, the undersigned,

*(complete full names, identity number or number of Company, CC or Trust where applicable)*

**DO HEREBY DECLARE UNDER OATH:**

1. my, or the name of the Company or Close Corporation or Trust who is the purchaser of a dwelling unit in **NORTHLAND, BLUEBERRY LANE AT BURGUNDY**, whichever the case may be, as well as my identity number or registration number of the purchaser entity as abovementioned, is correct;
2. the physical address of the purchaser entity is as follows **(complete if applicable)**:  
\_\_\_\_\_
3. my residential address is the following:  
\_\_\_\_\_
4. the purchaser's income tax registration number is:  
\_\_\_\_\_
5. that the source of income/funds which I expect to use to settle this transaction or to use during the business relationship, is the following:  
\_\_\_\_\_
6. the deposit of R\_\_\_\_\_ is paid to Symington & De Kok, of which the Trust account details are set out in Annexure "A2" attached to the Deed of Sale.

**CONTACT DETAILS:**


Name of contact person: \_\_\_\_\_  
Tel No Work: \_\_\_\_\_  
Tel No Home: \_\_\_\_\_  
Cell Phone No: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit which was signed and affirmed/sworn to before me at \_\_\_\_\_ on \_\_\_\_\_, under compliance with the regulations contained in Government Notice R1258 dated 21 July 1972, (as amended).

**COMMISSIONER OF OATHS**

**FULL NAMES:  
STATUS:  
STREET ADDRESS:**

**DEED OF SALE: NORTHLAND, BLUEBERRY LANE AT BURGUNDY**

 **Initial**

ANNEXURE "C1"

**BUILDING PLAN**

(reflecting the dimensions and measurements of the **WORKS – to be attached ...**)

**ANNEXURE "C2"**

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**BASIC SPECIFICATIONS**

(pertaining to materials to be used in the construction and finishes of the **WORKS** –  
*to be attached ...*)

**ANNEXURE "C3"**

**UPGRADE TO SPECIFICATIONS**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_
- 11. \_\_\_\_\_
- 12. \_\_\_\_\_
- 13. \_\_\_\_\_
- 14. \_\_\_\_\_
- 15. \_\_\_\_\_
- 16. \_\_\_\_\_
- 17. \_\_\_\_\_
- 18. \_\_\_\_\_
- 19. \_\_\_\_\_
- 20. \_\_\_\_\_



**ANNEXURE "C4"**

**ADDITIONAL COSTS**

1.	_____	R _____
2.	_____	R _____
3.	_____	R _____
4.	_____	R _____
5.	_____	R _____
6.	_____	R _____
7.	_____	R _____
8.	_____	R _____
9.	_____	R _____
10.	_____	R _____
11.	_____	R _____
12.	_____	R _____
13.	_____	R _____
14.	_____	R _____
15.	_____	R _____
16.	_____	R _____
17.	_____	R _____
18.	_____	R _____
19.	_____	R _____
20.	_____	R _____

**TOTAL = R \_\_\_\_\_**



**ANNEXURE "D"**

---

**LEVIES BUDGET**

- *Estimated monthly levy payable from completion of the **WORKS** =* R.....
  
- *Estimated monthly levy payable from registration of transfer =* R.....

**ANNEXURE "E"**

**LIST OF FICA DOCUMENTS REQUIRED**

The following documents must be furnished to comply with the *Financial Intelligence Centre Act No. 38 of 2001*, namely:

**INDIVIDUALS / PARTNERSHIPS**

1. a certified copy of page 1 of the purchaser's Identity document, his Marriage Certificate, Antenuptial Contract or Divorce order (if applicable) or, if married in community of property, also a certified copy of the Identity document of the purchaser's spouse or alternatively, if the purchaser's spouse is deceased, also a certified copy of his/her death certificate or death notice;
2. a certified copy of a Utility Bill addressed to the purchaser's residential address (not postal address) or rental contract, or alternatively a Sworn Affidavit to the effect that the purchaser currently reside at the said address;
3. a certified copy of a document issued by the South African Revenue Services reflecting the purchaser's Income Tax number;
4. a cancelled cheque or particulars of the purchaser's Bank account certified by his Bankers.

**Documents which can be used for verification (not older than 3 months):**

Bank statement / Rental contract / Municipal account / Bond account statement / Telkom account / SARS return or IRP5 / Insurance policy / Salary advice / Motor license / Correspondence by Body Corporate of Sectional Title Scheme.

**CLOSE CORPORATIONS / COMPANIES / TRUSTS**

1. certified copies of the latest:  
**CLOSE CORPORATION (CC)**  
Certificate of Incorporation and Founding Statement (CK1 and/or CK2), both of which must have the Registrar's stamp and be signed by a member;  
**COMPANY**  
Certificate of Incorporation (CM1 or CM3), Memorandum and Articles of Association (CM2, CM4 and/or CM44), Certificate of Change of Name (CM9 - if applicable), Notice of Registered Office and Postal Address (CM22), Certificate to Commence Business (CM46) and Contents of Register of Directors and Auditors (CM29), all bearing the Registrar of Companies' stamp and be signed by the Secretary of the company;  
**TRUSTS**  
Trust Deed or other founding document and Master's Letter of Authority;
2. Certified copies of all **members' / directors' / trustees' & beneficiaries' & founder's** Identity documents, Marriage certificates, Antenuptial contracts or Divorce orders (if applicable) or if married in community of property, also certified copies of the Identity document of such **member's / director's / trustees' & beneficiaries' & founder's** spouse or alternatively, if the **member's / director's / trustees' & beneficiaries' & founder's** spouse is deceased, a certified copy of his/her death certificate or death notice;
3. A certified copy of any Utility Bill addressed to the **CC's / company's / trust's** physical business address (not postal address) or rental contract, or alternatively a Sworn Affidavit to the effect that the said address is currently the **CC's / company's / trust's** physical business address;
4. Certified copies of any document issued by the South African Revenue Services reflecting the **CC's / company's / trust's** Income Tax and/or VAT registration numbers;
5. A cancelled cheque or particulars of the **CC's / company's / trust's** Bank account certified by the **CC's / company's / trust's** Bankers;
6. A certified copy of the resolution in terms of which the property was purchased.

ANNEXURE "F"

**SUSPENSIVE CONDITION – SALE OF PURCHASER'S PROPERTY**

1. This sale is subject to the suspensive condition that the **PURCHASER** successfully sells the property of which he is the registered owner on the **SIGNATURE DATE** and which is situated at the address known as \_\_\_\_\_  
\_\_\_\_\_  
(hereinafter referred to as the **SECOND PROPERTY**) before or on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ at a purchase price of R\_\_\_\_\_ (\_\_\_\_\_ Rand) or any lesser amount which the **PURCHASER** may decide to accept in his sole and absolute discretion.
2. This suspensive condition will only be deemed to be fulfilled once all suspensive conditions contained in the Agreement of Sale with regard to the **SECOND PROPERTY** had been fulfilled by no later than the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.
3. The **PURCHASER** must be provided with a bank guarantee securing the payment to the **PURCHASER** of the purchase price (or part thereof) of the **SECOND PROPERTY** and the **PURCHASER** must deliver a copy of such a bank guarantee to the **SELLER** by no later than the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.
4. The transfer of the **SECOND PROPERTY** must be registered into the name of the buyer thereof prior to or simultaneous with the registration of transfer of this **PROPERTY** from the **SELLER** into the name of the **PURCHASER**.
5. The **SELLER** shall have the right to keep marketing this **PROPERTY** and to receive alternative offers to purchase this **PROPERTY**.
6. Should the **SELLER** at any time prior to the fulfillment of the suspensive condition(s) contained in this Annexure and/or the **AGREEMENT** receive another *bona fide* written offer to purchase this **PROPERTY** from a third party (hereinafter referred to as the "**OFFER**"), which **OFFER** he, in his sole and absolute discretion, considers more favourable and acceptable than the **AGREEMENT** and wishes to accept such **OFFER**, then the **SELLER** will notify the **PURCHASER** herein of such fact in writing, attaching a copy of such **OFFER**.
7. The **PURCHASER** will then have 72 (Seventy Two) hours (excluding Saturdays, Sundays and Public Holidays) from the time of receipt of such notification from the **SELLER** to fulfil all suspensive conditions contained in this Annexure and/or the **AGREEMENT**, or to waive in writing the benefit of all suspensive conditions contained in this Annexure and/or the **AGREEMENT**, thereby binding the **PURCHASER** unconditionally to the **AGREEMENT**, failing which, the **AGREEMENT** will lapse and be of no further force and affect, and neither **PARTY**

**PARTY** shall have any claim against the other whatsoever, subject, however, to the liability of the **PURCHASER** for the payment of occupational interest, expenses and costs as provided for in clauses 10, 12 and 14 of the **AGREEMENT** (if any). The **SELLER** shall then be entitled to accept such **OFFER**.

**THUS DONE AND SIGNED AT** \_\_\_\_\_ **on this the** \_\_\_\_ **day of**  
\_\_\_\_\_ **20** \_\_\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
**SELLER**, or his duly authorised  
representative (*sign in full*)

**THUS DONE AND SIGNED AT** \_\_\_\_\_ **on this the** \_\_\_\_ **day of**  
\_\_\_\_\_ **20** \_\_\_\_.

**AS WITNESSES:**

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

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

\_\_\_\_\_  
**PURCHASER**, or his duly  
authorised representative  
(*sign in full*)



# BLUEBERRY LANE

*Burgundy*

## GENERAL SPECIFICATIONS

### 1. EARTHWORKS TO BUILDING

Description:

- 1.1 In accordance with the Engineers requirements.

### 2. FOUNDATIONS

Description:

- 2.1 All foundation designs to be in accordance with the Engineers requirements and specifications.

### 3. SURFACE BEDS

Description:

- 3.1 All surface beds to be in accordance with the Engineers requirements and specifications.
- 3.2 Mesh reinforcement to surface beds, cut into panels and isolation joints as per Engineers requirements.
- 3.3 All surface beds to be smooth floated finish or self-leveling concrete where indicated.

### 4. SUPERSTRUCTURE BRICKWORK

Description:

- 4.1 All stock work to be cement maxi bricks. Solid cement maxi bricks to be used in areas with electrical and/or plumbing chasing of walls or as indicated on Structural Engineer's drawings / specifications.
- 4.2 Brick force to be provided every 4th course.
- 4.3 Precast concrete lintols to be provided above all door, window and plain openings as per Engineers specifications.
- 4.4 External brickwork is a 230mm masonry cavity wall.
- 4.5 To tops of all parapets, balustrades walls etc. an acrylic bandage will be applied to prevent cracking of plaster. Firewalls to occur between the garage and all adjacent habitable rooms, or units, on all levels. These fire walls are all in accordance with the national fire and building regulations.
- 4.6 All concrete floor structures shall be executed strictly in accordance with the appointed Structural Engineers' details, drawings and/or specifications.
- 4.7 All structural alterations and elements deemed necessary by the appointed Structural Engineer will always take preference and priority on site and will be installed accordingly.

### 5. STAIRS

Description:

- 5.1 All stairs to be constructed in concrete and/or brickwork. Charcoal epoxy powder coated galvanized steel & hardwood handrails will be mounted against the wall and/or side of staircase as per Architect's specification / details.
- 5.2 The above to be read in conjunction with the Architect's specification & drawings.

### 6. STRUCTURE

Description:

- 6.1 All in accordance with the Engineers design and specifications.
- 6.2 At all junctions of masonry work to concrete columns there will be a 30mm x 1.6mm thick galvanised hoop iron wall tie 460mm long with one end shot pinned to concrete surface and the other end built into the masonry work with filled soft joint in-between masonry & concrete.

## **7. WATERPROOFING**

Description:

- 7.1 All ground floor terraces that have floor tiles on surface bed and screed to fall or brick paving on well compacted substrate (refer to plans for floor finishes). Substrate for both surface beds and paving to be waterproofed with continuous DPM layer, stepped and lapped to prevent ingress of water.
- 7.2 A polyester waterproofing system or equally approved waterproof membrane to be applied to the floor slab of all first and second floor balconies and terraces prior to screeding. Membrane to be stepped at masonry work in form continuous impenetrable membrane below door frames.
- 7.3 Exposed tops and vertical faces of all parapet and gable walls, apron wall junctions, projections, recesses etc. to have an acrylic bandage with a turn down of at least 150mm.
- 7.4 375 micron stepped DPC at parapet walls provided to prevent water penetrating from tops of these walls and at all floor levels. Polyester waterproofing system or approved equivalent.

## **8. EXTERNAL WALL FINISHES**

Description:

- 8.1 External walls to be a 230mm cavity masonry wall that is plastered with cement/sand render and painted.
- 8.2 Plaster coping to top of all parapet walls and to all projections and chimneys to be slightly sloping to allow for drainage of water. Plastered drips where indicated or where plaster mouldings occur.
- 8.3 A horizontal v-joint to top edge of slab and bottom edge of slab all round building in external plaster as well as at surface bed at DPC level where walls are plastered.
- 8.4 A vertical v-joint in external plaster where expansion joints occur. Expansion joints to be in accordance with Engineer's specifications / details.

## **9. ALUMINIUM WINDOWS AND DOORS**

Description:

- 9.1 Powder coated aluminium windows and doors as per Architect's door and window schedule – charcoal colour.
- 9.2 Lintols or beams provided above all openings in accordance with Engineers specifications.
- 9.3 Plaster drip mould to be provided where external walls/ window cills are plastered. Internal window cills to be plastered.
- 9.4 Ironmongery to windows and doors to be as per Architect's specification.
- 9.5 Glazing to be clear glass or clear safety glass in accordance with SABS requirements. Laminated safety glass where necessary for safety requirements.
- 9.6 Frosted or obscured glass to bathroom and toilet windows where necessary.

## **10. DOORS AND DOOR FRAMES**

Description:

- 10.1 Lintols or beams provided above all door frames in accordance with Engineer's specifications / details.
- 10.2 Plaster drip mould to all openings on external plastered walls.
- 10.3 Main entrance door to all units to be a solid hardwood timber door to Developers choice hung to a timber frame with weather bar all around and fitted with a three lever door handle and lock. The door handle will have a satin chrome finish with three lever sash lock stainless steel forend or similar approved. The door to be hung with at least two stainless steel hinges.
- 10.4 The internal doors to all units will be a flush panel semi-solid door to Developers choice hung to a timber frame or jamb liners and fitted with a two lever door handle. A satin chrome finish handle with a lever sash lock stainless steel forend or similar approved. The door to be hung with at least two stainless steel hinges.
- 10.5 Garage doors will be sectional overhead doors. An automated opening mechanism will be offered to clients as an optional extra.

## **11. ROOF TRUSSES AND COVERING**

Description:

- 11.1 Roof trusses to be designed by Engineer or registered / accredited specialist manufacturer.
- 11.2 Roof slope as indicated on elevations and sections.
- 11.3 Approved flat profile concrete roof tiles and sheeting shall be executed strictly in accordance with manufacturer's instructions & the appointed structural Engineers' details, drawings and specifications. All structural alterations and elements deemed necessary the appointed structural engineer will always take preference and priority on site and will be installed accordingly.

- 11.4 Valley gutters and all flashings to be provided where necessary and installed in accordance with manufacturer's instructions.
- 11.5 Down pipes provided. Type and position specified by the architect or indicated on drawings.
- 11.6 Rainwater goods – Seamless longspan aluminium standard domestic profile gutters and down pipes or similar approved.
- 11.7 Flat pitched roof to be Brownbuild kliplock 406 aluminium roof sheeting in black or charcoal fitted and fixed as per manufacturers specs on 75 X 50mm SA pine purlins at 1200mm max spacings on SABS approved underlay on rafters at 900mm max spacing as per engineers design and fitted onto 114 x 38mm SA pine wall plate and fixed with SABS approved galvanized steel hoop-irons built min 600mm into brickwork. Roof to have 5 degree complete with matching flashings and cover flashings behind horizontal parapet walls. Isotherm insulation layer, or similar approved, to metal sheet roofs where indicated, except for garage roofs.
- 11.8 Double pitch roof to be Brownbuild kliplock 406 aluminium sheeting in black or charcoal fitted on top of approved waterproofing underlay and fixed as per manufacturers specs on 75 X50 mm SA pine battens at max 900 spacing on SABS approved underlay, on pre-fabricated gang nailed roof trusses as per engineers design. Fitted onto 114mm X 38MM SA pine wall plate and fixed with SABS approved galvanized steel hoop-irons built min 600MM into brickwork. Roof to have 27 degree double pitch.

## 12. INTERNAL WALL FINISHES

Description:

- 12.1 Walls to inside of garage to be bagged only and not painted.
- 12.2 Walls to inside of units to be plastered and painted as per Developers choice.
- 12.3 Tiled splashbacks behind all kitchen sinks & whb (basins).

## 13. INTERNAL CEILINGS

Description:

- 13.1 6.4mm Rhino-board skimmed ceiling throughout, unless otherwise indicated.
- 13.2 Gypsum "Rhino-cove" cornices to all areas as per Developers choice.
- 13.3 Ceilings / soffits to garages to be smooth unfinished off-shutter concrete where applicable, or exposed rafters with no ceilings to underside of metal roof sheeting.
- 13.4 Where soffits or concrete slabs act as ceilings to habitable spaces it will be cleaned, have one coat of skim applied and painted.
- 13.5 Flat suspended ceilings to living spaces to be at an average height of approximately 3m above floor level for single storey units. Refer to sections for heights of double storey units. Suspended ceilings to bathrooms & corridors may vary according to size of room. Sloped suspended ceilings to have a minimum average height of 2.4m. Painted and/or skimmed soffits of concrete floor slabs to be an average height approximately 2.625m.
- 13.6 The above to be read in conjunction with the Architect's specification and drawings.

## 14. FLOOR COVERINGS

Description:

- 14.1 All the units to have an imported porcelain or ceramic tile finish to all areas except the bedrooms. The client will have a choice as per the samples provided and approved by the Architect. Tile joint to be as per manufacturer's instructions. Due to the nature of ceramic and porcelain tiles, consistency in colour, texture and appearance may vary between batches.
- 14.2 All bedrooms, passages & stairs to the units will have a carpet finish to Architect's specifications. The client will have a choice of colour as per the samples provided and approved by the Architect.
- 14.3 22 x 140mm pine timber skirting, painted to Architect's specification will be provided to all rooms except the bathrooms, kitchens and garage.
- 14.4 Covered terraces/patio's will be screeded and tiled in a slip resistant tile to Architect's specification where indicated.
- 14.5 Open terraces/patio's, where indicated, will be paved to the Architect's specification.
- 14.6 The standard floor finish for garage floors will be paving, though this may be changed to power floated floors or screeded floors should the soil conditions of individual erven require it according to the Structural Engineer.
- 14.7 Brick paving to area in front of Kitchen / back door and Entrance / front door.
- 14.8 Above to be read in conjunction with the Architect's specification and drawings.

## 15. PAINTING

Description:



- 15.1 All paint to be applied as per manufacturer's instructions:
- External plaster walls – undercoat and two finishing coats exterior quality PVA or similar approved.
  - Internal plaster walls – undercoat and two finishing coats eggshell enamel or similar approved.
  - Timber doors and frames – undercoat and two coats enamel or similar approved.
  - Ceilings – undercoat and two coats super acrylic PVA or similar approved.
  - Concrete soffits – Paint with undercoat and super acrylic PVA or similar approved, except for garages.
  - Timber skirtings – undercoat and two coats enamel or similar approved.
  - Metalwork – apply undercoats and two coats enamel or similar approved.
  - Above to be read in conjunction with Architect's specification.

**16. BALUSTRADES**

Description:

- 16.1 Balustrades to balconies will be charcoal coloured epoxy powder coated galvanised steel as per the Architect's design.

**17. BOUNDARY WALLING**

Description:

- 17.1 All boundary walling facing onto the main PSS will comply with the Burgundy Estate Design Controls & Guidelines and Architect's specification.
- 17.2 All internal boundary walling not visible from the internal and external site to be vibracrete, or as indicated on Architect's drawings. All street walling internal to the development to be cement block walls, plastered and painted and/or palisade fencing as per Architect's specification.

**18. SIGNAGE**

Description:

- 18.1 Signage provided as follows:
- Unit number signage
  - Statutory & fire signage
  - Parking bay numbering

**19. SILICONE SEALANT**

Description:

- 19.1 Silicone sealant to be provided between vanity tops and tiles and kitchen cupboards worktops and tiles.
- 19.2 Polysulphide joint 6 x 10mm in floor tiles as expansion joint in areas exceeding 4x4m and along wall edge.
- 19.3 For porcelain tiles a 7-10mm gap must be left around tile area perimeter and covered by skirting.

**20. PLUMBING, SANITARYWARE & ACCESSORIES**

Description:

- 20.1 Baths will be an acrylic bath as indicated on the floor plan, complete with mixer and bath spout to Architect's specification.
- 20.2 All basins will be white vitreous china pedestal or half-pedestal basins as indicated on the drawings. The basin mixers will be to Architect's specification.
- 20.3 Wall mounted vanity or medicine cupboards with mirrors to all bathrooms.
- 20.4 Toilet's (wc's) to be white, floor mounted semi-close coupled with dual flush mechanism and double flap seat to Developers choice.
- 20.5 The showers will have a waterproofed and tiled base with a shower screen in clear glass or similar approved. Shower mixer and shower rose to Developers choice.
- 20.6 The kitchen sink will be a double bowl stainless steel drop in sink or corner sink with sink mixer as per Developers choice and the kitchen layouts.
- 20.7 A 150 litre 400kPa hot water cylinder (HWC) will be provided to each unit. Location dependent on unit type and layout.
- 20.8 Main Bathroom accessories to include 600-900mm wide double towel rail, 3x soap holder, toilet roll holder, towel ring & robe hook.
- 20.9 En-Suite (without bath or shower) accessories to include towel ring, soap holder, toilet roll holder & robe hook.

- 20.10 Showers to have clear glass pivot doors and clear glass screens. Glazing to comply with safety requirements. Shower cubicle frame to be slender profile aluminium, with white epoxy powder coated finish.
- 20.11 All units to be supplied with 2x external bib taps (front & rear).

## **21. IRONMONGERY**

Description:

- 21.1 Refer to section 10 – DOORS & DOOR FRAMES.
- 21.2 Handles and locks for all doors as per Architect's specification. Satin finish aluminium or stainless steel door stops to all doors.
- 21.3 Front doors to the units will have a 3 lever lock set in brass or stainless steel.
- 21.4 All internal doors will have a 2 lever lock set in satin chrome finish.
- 21.5 All aluminium sliding doors will be supplied with a standard built-in lock as well as a security push lock fixed to the frame.
- 21.6 Locking mechanism for garage doors dependent on client choices for door opening mechanism.

## **22. JOINERY INSTALLATION**

Description:

- 22.1 Kitchen and bedroom cupboards are to be in accordance with the detailed plans attached or as per the sample board approved and specified by the Developer.
- 22.2 Kitchen joinery and bedroom cupboards to be of 16mm Supawood (super wood) or MDF. Cupboard door fronts, drawer fronts and all visible filler pieces to be standard timber veneer finish with impact edging, "Devon" edging or PVC wrap. Internal carcasses to be white melamine. Stainless steel cupboard and drawer handles as standard. Concealed automatic hinges and drawer sliding cylinders to all cupboards and drawers (Ferrari, Blum, Mepla or equal approved).
- 22.3 Kitchen counter tops to be Black Granite tops.
- 22.4 Kitchen joinery to be to a height of 2.4m AFFL. Bedroom cupboards to terminate 150mm below underside of ceiling with a filler piece to match cupboard door front.

## **23. APPLIANCES**

Description:

- 23.1 The following "DEFY Slimline 600", or equally approved, appliances will be supplied and installed as standard in the kitchen:
  - Under counter oven as per Developers choice
  - Hob as per Developers choice.
- 23.2 The kitchen design will make allowance to accommodate a fridge/freezer combination and dishwasher or washing machine point. These appliances are to be supplied by the purchaser and electrical, water and drainage services will be supplied to each appliance in accordance with the standard norms applicable to the appliances.
- 23.3 The garage will make allowance to accommodate one washing machine point. An electrical, water supply and drainage service point will be supplied for this appliance.

## **24. ELECTRICAL INSTALLATION**

Description:

- 24.1 Light points and light switches will be provided in suitable positions in accordance with the electrical engineer and Architect's design. Refer to the electrical layout plans & schedule.
- 24.2 Outside light will be provided to the balcony, patio and entrance. This will be as per the Developers choice.
- 24.3 Plug points (power outlets) for a dwelling will consist of single and/or double socket points and will be provided in suitable positions in accordance with the electrical Engineer and Architect's design and electrical layouts.
- 24.4 The electrical installation will be executed generally in accordance with the national and local authority regulations and approval.
- 24.5 Internal light fittings will be as per the provided samples as approved by the Architect.
- 24.6 Extraction will be provided to all bathrooms and toilets where no natural ventilation is available.
- 24.7 All units will be separately metered for power supply.
- 24.8 Electrical and service sleeves or conduits are to be PVC or as specified by Electrical Engineer.
- 24.09 Prepaid Metering system to be provided and managed by Independent company appointed by main developers.

**25. TELEPHONE POINTS**

Description:

25.1 Two points will be provided. One in the kitchen area and the other in the main bedroom.

25.2 A third point will be provided in the study area where applicable and as per the electrical layout.

**26. TELEVISION POINTS**

Description:

26.1 Two points will be provided. One in the lounge and the other in the main bedroom as per the electrical layout.

**27. SECURITY SYSTEM**

Description:

27.1 As per the developer's agreement with the purchaser.

**28. CURTAIN TRACKS**

Description:

28.1 A double track curtain rail will be provided to all windows except in the bathrooms and kitchens where a single track will be provided.

**29. LANDSCAPING**

Description:

29.1 General areas will be landscaped in accordance with the landscape Architect's layout and specifications.

**30. COMMON PARKING AREA AND ACCESS ROAD**

Description:

30.1 Boundary walls will be provided as per the plans and as per the Architect's design and design guideline or as described in section 17.

30.2 A central refuse room/area will be provided for the entire development.

30.3 Centrally located visitor's parking bays have been positioned throughout the development. Paved areas have also been allowed where possible in front of units to provide additional visitor parking bays.

**31. GENERAL**

Description:

31.1 All accessories and finishes specified are dependant on availability and may be changed where necessary by the Developer. Design details may be altered where deemed necessary, and at the discretion of the Developers.

31.2 The presence and number of internal steps from the garage to the main dwelling and external steps around the dwellings will be dependent on the specific site / erf level differences.

31.3 Pergolas will be painted or stained, exterior grade SA Pine or hardwood.