

**DEED OF SALE - SECTIONAL TITLE**

between

**STELLENDALE VILLAGE (PTY) LTD**

Registration Number: 2002/008272/07

(the “**SELLER**”)

of

C/o Van Der Merwe & Robertson Inc, 2<sup>nd</sup> Floor, 34 Oxford Street, Durbanville,

7550

Fax: 021 976 4665

And

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(the “**AGENT**”)

And

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(the “**PURCHASER**”)

For

UNIT/S \_\_\_\_\_ in the SECTIONAL TITLE SCHEME KNOWN AS

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(the “**PROPERTY**”)

## SCHEDULE

1.1 **PARTIES**

**SELLER:** Stellendale Village (Pty) Ltd, registration number 2002/008272/07  
**Address:** c/o Van Der Merwe & Robertson Inc,  
34 Oxford Street, Durbanville, 7550, Fax: 021 976 4665

**PURCHASER**

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If a legal entity, represented by:

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Identity No. / Registration No.:

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Marital Status: \_\_\_\_\_ In/Out of Community of property.

Full names of spouse:

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I.D. No. of spouse:

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Physical Address:

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Postal Address:

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Telephone:

\_\_\_\_\_ (w) \_\_\_\_\_ (h)

Cellular Phone:

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Telefax Number:

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Email address:

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Income Tax Reference No.:

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1.2 **THE PROPERTY**

Section(s)/Unit(s) No.: \_\_\_\_\_ Kuilsriver  
Extent: \_\_\_\_\_ (Square meters)

1.3 **TOTAL PURCHASE PRICE** R \_\_\_\_\_ ( \_\_\_\_\_ ) **[VAT inclusive]**

Reservation deposit paid  
on reservation: R 5 000.00 (Five Thousand Rand)

Deposit on signature of 10%  
(ten percent) of total  
purchase price (VAT inclusive):  
R \_\_\_\_\_  
Balance on registration:  
R \_\_\_\_\_

1.4 **MORTGAGE BOND/CASH**

1.4.1 Amount of bond  
R \_\_\_\_\_

1.4.2 Amount cash  
R \_\_\_\_\_

1.5 **ANTICIPATED** \_\_\_\_\_ **COMPLETION** \_\_\_\_\_ **DATE**

\_\_\_\_\_

1.6 **ANTICIPATED** \_\_\_\_\_ **DATE** \_\_\_\_\_ **OF** \_\_\_\_\_ **TRANSFER**

\_\_\_\_\_

1.7 **AGENT**

\_\_\_\_\_

1.8	<b><u>ANNEXURE TO AGREEMENT</u></b>	A	-	Site Plan
		B	-	Unit Plan
		C	-	Specification
		D	-	Optional Extras
		E	-	Improvements

1.9 **ESTIMATED LEVIES :** First year: R\_\_\_\_\_

Second year: R\_\_\_\_\_

## 1. **INTERPRETATION**

1.1 In this Agreement unless otherwise inconsistent with the context:

1.1.1 “the Act” means the Sectional Title Act. 95 of 1986 and includes the Regulations framed there under or as amended from time to time;

1.1.2 “the Building” means building/s to be constructed upon the property;

1.1.3 “the Common Property” means the property not forming part of any section(s) and/or unit(s) in the Scheme and excludes the Exclusive Use Areas;

1.1.4 “the Completion Date” means the date on which the Seller certifies that the Unit is ready for possession and beneficial occupation;

1.1.5 “the Constitution” means the Constitution of Stellendale Masters Home Owners Association;

- 1.1.6 “the Development” means the Scheme to be established on Erf 24258, Kuilsriver or any sub-divisions thereof in the City of Cape Town.
- 1.1.7 “Extent” means the approximate square meter size of the Unit.
- 1.1.8 “the Improvements” means the improvements included in the purchase price specified in Annexure “E”
- 1.1.9 “the Interest rate” means the rate of interest charged by First National Bank Limited or its successors in respect of overdrafts granted to its most favoured customers from time to time plus 2 (two) percentage points; a certificate by any manager or accountant (whose appointment it shall not be necessary to prove) or any branch of the said bank shall be conclusive proof of the Prime Rate from time to time;
- 1.1.10 “the Lifestyle Constitution” means the Constitution of the LEHOA;
- 1.1.11 “the Land” means Erf 24258, Kuilsriver in the City of Cape Town or any subdivision thereof;
- 1.1.12 “the LEHOA” means the Lifestyle Estate Home Owners Association;
- 1.1.13 “the Older Persons Act” means the Older Persons Act, 13 of 2006, and includes the Regulations framed thereunder or as amended from time to time;
- 1.1.14 “the Participation Quota” means the percentage expressed to four decimal places and arrived at by dividing the total floor area of the Unit in terms of the Act by the extent of the sum total of the floor areas of all the Units in the building or buildings comprised in the Scheme.

- 1.1.15 “the Property” means the Unit and the common property and Exclusive Use Area (s);
- 1.1.16 “the Retirement Development Act” means the Housing Development Schemes for Retired Persons Act, No 65 of 1988 and includes the Regulations framed thereunder or as amended from time to time;
- 1.1.17 “the Rules” means the Management Rules and/or Conduct Rules of the Body Corporate as envisaged in Section 35 of the Act;
- 1.1.18 “the Scheme” means the Sectional Title Scheme to be established on the Land in respect of which the Seller intends to open, or has opened a Sectional Title Register;
- 1.1.19 “the SMHOA” means the Stellendale Masters Home Owners Association;
- 1.1.20 “the Seller’s Attorney” means Van der Merwe & Robertson Attorneys, 2<sup>nd</sup> Floor, 34 Oxford Street, Durbanville, 7550. Telephone 021 – 976 4663; Telefax 021 – 976 4665;
- 1.1.21 “total floor area in terms of the Act” means the overall square meter area of the Unit measured in terms of the Act by the Land Surveyor preparing the plans for the Scheme;
- 1.1.22 “the Unit” means the section(s) hereby sold forming part of the Property as specified in the SCHEDULE and as depicted on Annexures “A” and “B” with the chosen Specifications and Schedule of Finishes and Optional Extras specified in Annexures “C” and “D” respectively and includes an undivided share in Common Property as determined in terms of the Act;

1.1.23 “the Unit Plan” means the Plan of the Unit hereby sold (Annexure “B”).

1.2 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the female gender, and words importing persons shall include partnership and bodies corporate, and vice versa.

1.3 Reference to the Agreement means this Agreement and all annexures thereto.

1.4 The head notes to the paragraphs to this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

## **2. RECORDAL**

2.1 The Land is the subject matter of assets vested in the Seller of whom the Seller is the registered owner or in the process of becoming the registered owner and entitled to sell and dispose of.

2.2 The Seller has obtained approval for the rezoning and subdivision of a portion of the remainder farm 1286 Stellenbosch, farm 1478 Stellenbosch and Portion 4 of the Farm 438 Stellenbosch.

2.3 The Seller has or will encumbered the Land by a development mortgage bond, but the Unit will be released therefrom with registration of transfer to the Purchaser.

2.4 The Seller has not reserved any specific percentage of the total number of Units in the Scheme for alienation to retired persons only, as defined in the Retirement Development Act, that is persons older than 50 years, but the Rules, incorporating the content of the Lifestyle Constitution, will provide that after a Unit has been transferred to the Purchaser, no person

other than a retired person or the spouse of a retired person may occupy such Unit, except with the written consent of all the other owners of Units in the Scheme.

- 2.5 For the avoidance of doubt, it is recorded that the Unit hereby sold does not include any parking bays. Parking bays will be rented by the Seller or its nominee to occupants of Units.
- 2.6 This Agreement is subject thereto that the Seller enters into a management agreement prior to the establishment of the Body Corporate of the Scheme, as envisaged in the Regulations of the Retirement Development Act, with a managing agent to manage the Scheme.
- 2.7 This Agreement is furthermore subject thereto that the Seller furnish the Purchaser with an estimate, for a period of three years in advance of all expenditure for the control, management and administration of the Scheme and all services and facilities concerned (which does not include the services and facilities referred to in clause 32, which will be paid for by occupants requiring such services or facilities), prior to the establishment of the Body Corporate of the Scheme.
- 2.8 It is recorded that this Agreement has been drawn up in the official language chosen by the Purchaser.

### **3. SALE OF UNIT**

The Seller sells to the Purchaser who purchases the Unit/s together with Exclusive Use Area/s (if any) in the Scheme as more fully described in the SCHEDULE and substantially depicted upon the "Unit Plan" annexed hereto marked "B", with the chosen Specifications and Schedule and Finishes annexed hereto marked "C" and with the Optional Extras requested by the Purchaser and annexed hereto marked "D". The Sale of this Unit therefore may constitute a "special-order" as may be contemplated by Section 1 and Section 17 of the Consumer Protection Act No. 68 of 2008.



#### **4. PURCHASE PRICE**

The purchase price of the Unit shall be the sum set forth in the SCHEDULE.

#### **5. PAYMENT OF PURCHASE PRICE**

5.1 The purchase price of the Unit shall be payable by the Purchaser to the Seller in the following manner:

5.1.1 A reservation deposit of R5 000.00 (Five Thousand Rand), which amount had already been paid upon reservation of the Unit. The reservation deposit shall be invested in a trust interest bearing account, which interest shall accrue to the Purchaser until registration of transfer.

5.1.2 A deposit as specified in the SCHEDULE hereto, on signature hereof by the Purchaser to the Seller's attorneys. The said deposit shall be invested in a trust interest bearing account, which interest shall accrue to the Purchaser until registration of transfer. The Purchaser's signature hereto constitutes the Purchaser's written consent in terms of Section 78 (2A) of the Attorneys Act, authorizing the Seller's Attorneys to invest all amounts paid on account of the purchase price in an interest bearing account. The Purchaser hereby irrevocably authorizes the Sellers Attorneys to appropriate the interest accrued on monies so invested in reduction of all amounts as may be owing by the Purchaser in terms of this Agreement.

5.1.3 The balance, subject to the guarantees referred to in clause 7, against registration of transfer.

- 5.2 All or any payments to be effected hereunder, shall be effected by the Purchaser to the Seller and/or the Seller's attorneys, unless otherwise required by the Seller.

**6. INTEREST ON OVERDUE INSTALMENT**

- 6.1 All monies payable by the Purchaser in terms hereof and unpaid on due date shall bear interest at the rate charged by the Seller's Bankers in respect of its development finance for the Sectional Title Scheme from time to time as certified by the Seller's Bankers.
- 6.2 Interest as aforesaid shall be calculated from due date to actual date of payment.
- 6.3 Each payment made by the Purchaser shall be allocated first to payment of interest and then to pay of any other monies due in terms hereof and thereafter to the reduction of the purchase price.

**7. BOND**

- 7.1 If an amount is specified in the SCHEDULE next to the item "Bond Amount" then this sale shall be subject to a suspensive conditional upon the Purchaser obtaining a loan, as specified in the SCHEDULE, from a bank or recognized financial institution on its normal terms and conditions against the security of a first mortgage bond over the Unit within 14 (fourteen) days of the date of signature or this agreement (the "INITIAL PERIOD"), or on or before such further date as the Seller in its discretion may without reference or notice to the Purchaser decide (the "EXTENDED PERIOD"). In the event that a bond is approved for an amount less than that stated in the SCHEDULE and the Purchaser elects to consider this condition to be fulfilled, the Purchaser undertakes to furnish the Seller's Attorneys with either payment or a bank guarantee for the shortfall within 7 (seven) days from the date of the granting of the aforesaid bond.

- 7.2 In the event of the Purchaser being unsuccessful in obtaining the aforesaid loan within the INITIAL PERIOD then the following provisions shall apply:
- 7.2.1 The period shall be automatically extended until the Seller notifies the Purchaser in writing that the EXTENDED PERIOD is terminated;
- 7.3 Notwithstanding anything to the contrary foregoing the Purchaser undertakes to sign all documents and do all things necessary to ensure the successful granting of the loan referred to herein.
- 7.4 By his signature hereto, the Purchaser specifically and irrevocably grants to the Agent or the Seller a power of attorney in rem suam to apply for the required loan finance on his behalf.
- 7.5 The Purchaser undertakes within 7 (seven) days of the Signature Date to furnish to the Agent or the Seller such information as may be reasonably required for purposes of making application for the required loan finance on behalf of the Purchaser.
- 7.6 The Seller shall be liable for all costs, save for the initiation and/or valuation fee(s) levied by the financial institution(s), to procure registration of a mortgage bond over the Property as security for loan finance obtained. Such costs shall be paid by the Seller to the Seller's Attorneys on request therefore by the Seller's Attorneys. The Purchaser shall be liable for the initiation and/or valuation fee(s) levied by the financial institution(s). Such costs shall be paid by the Purchaser to the Seller's Attorneys on request thereof by the Seller's Attorneys.

## **8. GUARANTEE**

- 8.1 The Purchaser shall furnish the Seller's Attorney with the following Bank guarantees in favour of the Seller's Attorney, acceptable to the Seller as follows:
- 8.1.1 14 (fourteen) days after the date of approval of the bond referred to in clause 7, an irrevocably Bank guarantee for the balance of the purchase price (being the purchase price inclusive of VAT and all other amounts payable in terms of this Agreement, less any deposit paid, less the amount of the bond specified in the SCHEDULE) payable on the date of registration of transfer of the Property in favour of the Purchaser.
- 8.2 If this sale is not subject to the Purchaser obtaining mortgage bond finance, the Purchaser shall within 14 (fourteen) days of signature hereof by both parties, furnish the Seller's Attorney with an irrevocably bank guarantee in favour of the Seller's Attorney acceptable to the Seller for the purchase price or the balance thereof, which guarantee shall be payable against registration of transfer of the property in favour of the Purchaser.
- 8.3 The Purchaser acknowledges that the provisions of 8.1 and 8.2 are material terms of this Agreement of Sale.
- 8.4 It is recorded that the furnishing of the guarantees aforesaid is necessitated by the requirements of the Seller's bondholder to enable it to make advances for the completion of that portion of the Development to be undertaken by the Seller.

## **9. POSSESSION, BENEFICIAL OCCUPATION, RISK AND BENEFIT**

- 9.1 It is recorded that the Buildings are presently either in the course of planning, under construction or completed.

- 9.2 The Seller will furnish the Purchaser as indicated in this sub-clause with a certificate, that the Scheme has been erected substantially in accordance with the approved building plans, townplanning scheme and applicable local authority by-laws, and is sufficiently complete for the purpose of residential use, issued by an architect or quantity surveyor, prior to registration of transfer, but in any event not later than two years from the date of conclusion of this Agreement.
- 9.3 If, for any reason whatsoever, the Seller is unable, within the time period referred to in clause 9.2 to furnish the certificate referred to in that clause, the Purchaser may cancel the Agreement, in which event the parties shall be entitled to the relief provided for in Section 8 of the Retirement Development Act, or the Purchaser may abide by the Agreement, in which event no interest (if any) shall be payable by him in terms of the Agreement as from the date in question until such time as the certificate is furnished to him.
- 9.4 All risk and benefit in the Property shall pass to the Purchaser on registration of transfer including the obligation to pay levies in respect of the Unit as provided for herein. In so far as it may be applicable, possession and occupation date shall be deemed to be date of delivery as envisaged by Section 16(3)(b) of the Consumer Protection Act 68 of 2008.
- 9.5 The Purchaser shall have no claim for damages of whatsoever nature against the Seller arising out of any delays in occupation. The Purchaser's rights and remedies shall be limited to the provisions of this Agreement and those to which the Purchaser is entitled in terms of Section 8 and 9 of the Retirement Development Act.
- 9.6 Insofar as this Agreement may be inconsistent with the provisions of the Act, the provisions of the Act shall apply.

9.7 The provisions of the Rules, the Constitution and the Lifestyle Constitution insofar as they cast any duty upon the owner or occupier of a Unit shall bind the Purchaser and be enforceable by the Seller.

9.8 The Purchaser shall not be entitled to withhold, delay or set off any payment by reason of any outstanding work including any work in terms of clause 15.1.

9.9 The Purchaser acknowledges that:-

9.9.1 the Unit forms part of a Sectional Title Scheme in which the Seller shall be involved in inter alia the construction of the remaining units, the boundary walling, entrance, remaining roadways etc. as dictated by the sales and that such construction may be undertaken subsequent to the registration of transfer of the Unit hereby sold; and

9.9.2 on the registration of transfer portions of the common property and other sections in the Buildings may be incomplete and that he may suffer inconvenience from ongoing building operations; and

9.9.3 he shall have no claim whatsoever against the Seller by reason of any such inconvenience and not be entitled to withhold any payments owing by him in terms hereof, nor shall he be entitled to cancel this agreement.

## **10. FURTHER DEVELOPMENTS**

The Purchaser acknowledges that he is aware that the Seller, or its associated entities, wish to do further developments on Farms 438/1, 439/1, 454/149, 454/33, 454/50 Stellenbosch and/or other properties or land in the Highbury Precinct, and wish to apply for the subdivisions and rezoning thereof. The Purchaser hereby specifically consents and agrees to the mentioned applications, and subsequent approvals and developments.

## **11. TRANSFER**

- 11.1 It is recorded that it will only be possible for the Seller to give transfer of the Unit to the Purchaser upon the opening of the Sectional Title Register in respect of the Scheme in terms of Section 11 of the Act.
- 11.2 The Seller accordingly undertakes to use its best endeavours to procure the opening of the Sectional Title Register as soon as legally possible and practicable after the registration of transfer.
- 11.3 Transfer shall be passed by the Seller's Attorney and shall be given and taken as soon as possible after the Completion Date. The Purchaser hereby acknowledges that owing to the complexities and interrelated steps involved in opening and registering the sectional title scheme it is beneficial and in the best interest of the Purchaser that the said attorneys of the Seller attend to the registration and transfer.
- 11.4 The Purchaser shall accept transfer of the Unit subject to all conditions and servitudes benefiting or burdening the Unit and the Land whether existing or hereafter imposed by the Seller and the relevant authorities when approving the Sectional Title Scheme.
- 11.5 In the event of there being any difference between the levies payable in respect of any Unit and Exclusive Use Area as may be finally determined by the Body Corporate, SMHOA or LEHOA at their First General Meeting from the levies reflected in this Agreement, the Purchaser shall nevertheless accept transfer in satisfaction of the Seller's obligations hereunder.
- 11.6 The Purchaser shall sign all documents necessary to give effect to this Agreement within 7 (seven) days of being called upon to do so.

11.7 The Purchaser shall be obliged to accept registration of transfer when same is tendered to it and shall not be entitled to refuse to make payment of all amounts due by the Purchaser in terms of this Agreement when called upon to do so and shall not delay the registration of transfer for any reason whatsoever notwithstanding that certain work covered by the provisions of clause 15 have not yet been effected. The Purchaser acknowledges that a breach of any of the foregoing shall constitute a material breach of this Agreement.

## **12. EXCLUSIVE USE AREAS**

The Purchaser shall, subject to the Rules, be entitled to the exclusive use of and enjoyment of the Exclusive Use Areas specified in the SCHEDULE in terms of Section 27 of the Act alternatively in terms of Section 27A of the Act in the Rules of the Body Corporate.

## **13. RULES AND LEVIES OF THE BODY CORPORATE**

13.1 In the event that the PURCHASER purchases the PROPERTY from the SELLER prior to the application for the opening of a sectional title register having been submitted:

13.1.1 the SELLER herewith discloses his intention to change the Rules of the Scheme to the effect that the owner of any section:

- (i) Shall have one vote at any and all meetings of the Body Corporate, for every section owned in the Scheme irrespective of the floor area of the owner's section(s);
- (ii) Shall be liable for the payment of levies to the Body Corporate calculated on the same pro-rata basis as subparagraph (i) above i.e. an owner will contribute to the levies in proportion to the number of section(s) owned by him in relation to the total number of sections in the



Scheme, subject to the provisions of Section 37(1)(b) of the Act.

- 13.1.2 A draft of the Rules of the Scheme to be submitted with the application for the opening of a sectional title register shall be available for inspection at the offices of the Seller's Attorney during normal business hours.
- 13.2 The Purchaser acknowledges that the Seller shall be entitled from time to time, and prior to the application for the opening of a Sectional Title Register having been submitted or prior to registration of any future phase of the Scheme to impose additional Rules in terms of the provisions of Section 35 of the Act and of which the Purchaser acknowledges he will be bound. Such additional Rules will be available for inspection at the offices of the Seller's Attorney during normal business hours
- 13.3 In the event that the PURCHASER purchases the PROPERTY from the SELLER after the application for the opening of a sectional title register having been submitted, the PURCHASER acknowledges that he is aware of the provisions of the Rules of the Scheme as at the date of signing this Deed of Sale, which Rules are available for inspection at the offices of the Seller's Attorney during normal business hours.
- 13.4 The Purchaser shall be liable from the registration of transfer for levies payable to the Body Corporate, SMHOA and LEHOA or the duly appointed management agent.
- 13.5 Such levies shall be paid monthly in advance on the first day of each and every calendar month provided that if the registration of transfer falls on any other day than the first day of a calendar month, then the Purchaser shall be obliged to pay a pro rata share of the levies due for the calendar month in which registration of transfer occurs.

13.6 the Purchaser shall not be liable for the payment of any expenditure for the control, management and administration of the Scheme or any services and facilities, other than for the levies or fees stipulated in this Agreement.

#### **14. COSTS**

14.1 The Seller shall upon the request of the Seller's Attorney pay all costs of transfer, costs of all necessary affidavits, and all other costs which have to be incurred in order to comply with statutes or other enactments or regulations relating to the passing of transfer of the Unit including VAT thereon.

14.2 The Seller shall, in its discretion, have the right to make payment of all or part of the costs for which the Purchaser is liable, on behalf of the Purchaser, which payment shall be refunded to the Seller on demand.

#### **15. DEFECTS, CLAIMS & WARRANTIES**

15.1 The Purchaser shall within 30 (thirty) days after the registration date notify the Seller in writing of all or any alleged defects in the Unit failing which the Purchaser shall be deemed to have accepted the same in good order and condition, provided that the Purchaser shall not be precluded from exercising his/her rights in terms of Section 56 as read with Section 55 of the Consumer Protection Act 68 of 2008 in so far as they may be applicable.

15.2 The Seller shall cause all or any reasonable repairs as notified by the Purchaser to be effected within 30 (thirty) days after receipt of the notice mentioned in clause 15.1 above.

15.3 More particularly and notwithstanding the provisions of 15.1 and 15.2 the Purchaser shall have no claim against the Seller for any minor

discrepancies of whatsoever nature between the building plans and specifications relating to the Unit and the completed Unit.

- 15.4 In addition, the Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, his agents and/or invites may directly or indirectly suffer by reason of any latent or patent defects in the Unit or any part thereof being in a defective condition or state of disrepair or arising out of vis major or casus fortuitus or any other cause either wholly or partly beyond the Seller's control or arising out of any act or omission by any other Purchaser of a Unit in the Development Scheme.
- 15.5 In addition the Purchaser acknowledges that the Extent might change and be different when the Unit is measured after the Completion Date. The Purchaser will have no claim against the Seller if the actual measurements by the surveyor of the said Scheme are less than the Extent defined in this Agreement. Similarly the Seller will have no claim against the Purchaser if the actual measurements by the surveyor of the said Scheme are more than the Extent defined in this Agreement.
- 15.6 For the purpose of this Clause 15, the Unit shall be deemed to include the Exclusive Use Areas.
- 15.7 The Seller warrants:
- 15.7.1 that the building contractor engaged to construct and erect the Buildings in respect of the Scheme and is registered as a home builder;
- 15.7.2 that the property will be enrolled with the NHBRC;
- 15.7.3 that the property will be constructed in a workmanlike manner and will be fit for habitation and will be constructed in accordance with the NHBRC technical requirements.

15.7.4 against incomplete and defective workmanship and construction of the Building and the Property for a period of 90 (ninety) calendar days reckoned from the date the Purchaser takes possession of the Property and hereby undertakes to repair for it's own account all incomplete and defective workmanship as quickly as is reasonably possible.

## **16. BREACH**

16.1 Should the Purchaser fail to fulfill on due date any of the terms and conditions of this Agreement, including failure to provide the guarantee/s required in terms of this Agreement and remain in default for 7 (seven) days (unless such breach occurs after the transfer documents have been lodged in the deeds office for registration, in which case the 7 (seven) day period may, at the election of the Seller be reduced to 48 (forty eight) hours) after dispatch of a written notice requiring payment and/or delivery of the guarantee/s and/or requiring such breach to be remedied, the Seller shall be entitled, without prejudice to any other rights of the Seller in law or in terms of this agreement, either:

16.1.1 to cancel this Agreement in which event the Seller shall be entitled to obtain immediate repossession of the Unit and to claim forfeiture of and retain on account of damages all monies paid by the Purchaser to the Seller or to the Seller's Attorneys on account of the purchase price, costs or otherwise in terms of and pursuant to this Agreement; or

16.1.2 to require the Purchaser to fulfill all obligations hereunder.

16.2 If the Seller institutes legal proceedings against the Purchaser for payment of any amount and/or performance of any obligation due by the Purchaser in terms hereof, the Purchaser shall pay all costs incurred by the Seller,

including, but not by way of limitation, the costs of any letter of demand, all collection charges and costs and Attorney and own client charges.

16.3 If the Purchaser disputes the Seller's right to cancel and/or remains in occupation of the Unit after date of cancellation the Purchaser shall continue to pay interest and levies as herein provided in consideration for continuing to occupy the Unit. Notwithstanding the foregoing the above occupancy shall not be regarded as creating a tenancy either in terms of a statutory provision or at common law.

## **17. MORA INTEREST**

In the event that transfer of the Unit is delayed by an act or omission on the part of the Purchaser, whether as a result of any failure to supply the Seller's Attorney with information required by them, delays in the signing of transfer or bond documents, delays in the payment of transfer or bond registration costs or any delay in satisfying the requirements of the financial institution granting the loan or any other default on the part of the Purchaser, then the Purchaser shall be responsible for payment to the Seller of an increased occupational rental at a rate of interest as stipulated in Clause 1.1.9 above on the Purchase Price, from the date on which transfer would but for such delay have otherwise been registered to the date of the actual registration of transfer. For the purpose of this clause the Seller's Attorney assessment of the date on which transfer would otherwise have been registered shall be binding upon the Purchaser unless the same is proved to be unreasonable.

## **18. COMMISSION**

The Seller shall pay to the Agent referred to in the SCHEDULE commission arising out of this sale on such basis as may be agreed between the Seller and the Agent. The Purchaser warrants that neither the Seller nor the Unit or Scheme were introduced to him by any other person or entity other than the said Agent and that as far as the Purchaser is concerned no other person or entity is entitled to any commission. The Purchaser indemnifies the Seller against any

claim which may be made against it by any other Agent claiming to have been the effective cause of the sale.

**19. NO WITHHOLDING PAYMENT**

19.1 Notwithstanding anything herein contained should the Seller be unable to give the Purchaser transfer, possession or occupation of the Unit upon any dates referred to in this Agreement for any reason whatsoever, other than the willful default of the Seller, the Purchaser shall not have any claim for damages or any right of action whatsoever against the Seller or its agent and the Purchaser undertakes to accept transfer, possession and occupation of the Property on whatever date it is tendered to him.

19.2 The Purchaser shall not be entitled, for any reason or cause whatsoever and howsoever arising to withhold in whole or in part any amount due to the Seller in terms of this Agreement, nor shall the Purchaser be entitled to apply set-off against any such amounts owing.

**20. MANAGING AGENT**

It is recorded that the first managing agent shall be Visual International (Pty) Ltd as provided for in the Lifestyle Constitution, the contents of which have been incorporated in the Rules.

**21. HOME OWNERS ASSOCIATIONS**

By his signature hereby the Purchaser or his authorized representative, as the case may be, specifically acknowledges that:

21.1 On registration of transfer of the Unit into his name, the Purchaser shall automatically become a member of LEHOA and SMHOA and shall remain so until he ceases to be the registered owner of the Unit.

21.2 He may inspect the contents of the Lifestyle Constitution, the Constitution and the Rules during normal business hours at the offices of the Seller's Attorneys and he is accordingly deemed to be fully acquainted with the contents thereof.

21.3 He is held and firmly bound to the terms, conditions and obligations imposed upon the Purchaser in the Lifestyle Constitution, the Constitution and the Rules.

21.4 The Scheme will be managed in terms of and subject to the Act, the Lifestyle Constitution and the Constitution of SMHOA

## **22. JURISDICTION**

The Purchaser hereby consents in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944 (as amended), or any legislation passed thereof to the jurisdiction in terms of Section 28(1) of the said Act, or any legislation passed in substitution thereof, in any action instituted by the Seller arising out of this Agreement. Notwithstanding anything herein contained, the Seller shall be entitled to institute any action against the Purchaser arising out of this Agreement in any court having jurisdiction.

## **23. GENERAL**

23.1 The terms of this Agreement form the sole contractual relationship between the parties hereto and no variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.

23.2 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in any respect under this Agreement, nor shall it in any way be regarded as waiver of any rights hereunder, or a novation of this Agreement.

23.3 Each of the parties hereby undertakes to sign and/or execute all such documents (and without limiting the generality of the foregoing), same shall include the execution of necessary power of attorney, transfer duty declarations and personal affidavits.

## **24. SURETYSHIP**

If the Purchaser is a company or close corporation or trust or other juristic person or other entity, the person who signs this Agreement in the name of such company or close corporation or trust or other juristic person or other entity warrants that the company or close corporation or trust or other juristic person or other entity is registered in terms of the applicable legislation and binds himself as surety and co-principal debtor with such company or close corporation or trust or other juristic person or other entity in favour of the Seller for all the obligations of such company or close corporation or trust or other juristic person or other entity in terms of this Agreement. Such person shall be personally liable as Purchaser in terms of this Agreement if such company or close corporation or trust or other juristic person or other entity legally does not exist, or for whatever reason is not bound to this Agreement or fails to comply with the provisions hereof.

## **25. NOTICE AND DOMICILIA**

25.1 The parties hereby choose for all purposes under this agreement the following addresses:

25.1.1 The Seller at the address set forth in the SCHEDULE hereto;

25.1.2 The Purchaser at the address set forth in the SCHEDULE hereto;

25.1.3 The Agent at the address set forth in the SCHEDULE hereto.



25.2 Any notice to any party shall be addressed to it at its domicilium aforesaid and either sent by prepaid registered post or delivered by hand or transmitted by telefax or email. In the case of any notice:

25.2.1 sent by prepaid registered post, it shall be deemed to have been received, unless the contrary is proved, on the fourth business day after posting;

25.2.2 delivered by hand, it shall be deemed to have been received, unless the contrary is proved, on the date of delivery, provided that such date is a business day or otherwise on the next following business day.

25.3 Where, in terms of this Agreement any communication is required to be in writing, the term "writing" shall include communications by telefax or e-mail. Communications by telefax or e-mail shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee 4 (four) hours after the time of transmission.

## **26. SALE AND LETTING OF UNITS**

The Seller and Purchaser hereby agree and undertake that they shall not at any time prevent or oppose the sale or letting by either of them of any Unit or portion thereof owned by them respectively. It is recorded and agreed for convenience and in the interest of the security of the development that the Seller may appoint, at its discretion, letting agent/s to act on behalf of Purchasers in securing tenants for the Property. This appointment will not restrict a Purchaser personally marketing and securing a tenant.

## **27. JOINT AND SEVERAL**

In the event of there being two or more Purchaser's the liability of the Purchasers shall be joint and several and "in solidum".

**28. CO-OPERATION**

Each of the parties hereby undertakes to:

28.1 sign and/or execute all such documents (and without limiting the generality of the foregoing, same shall include the execution of the necessary power of attorney, transfer duty declaration and personal affidavits);

28.2 pass and to procure the passing of all resolutions of directors or shareholders or members of any company, close corporation or trustees of any trust;

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

**29. INSURANCE**

The Purchaser:

29.1 shall not do or omit to do anything to keep in or on the Unit anything to allow anything to be done or kept in or on the Unit which in terms of any fire insurance policy held from time to time by the landlord and/or Body Corporate in respect of the building and/or the Unit may not be done or kept therein, or which may render the policy(ies) void or voidable and the Purchaser shall comply in all respects with the terms of any such policy(ies) provided that if any premiums payable in respect of any such policy(ies) is increased as a result of the Purchaser, his tenant or any occupier not complying with the aforesaid provisions; and without prejudice to any other rights which the Seller and/or Body Corporate may have as a result of that breach, the Purchaser shall on demand refund to the Seller and/or the Body Corporate the amount of that additional premium.

29.2 shall familiarize himself with the Seller's / Body Corporate's policy of insurance.

**30. DIRECT MARKETING AND COOLING OFF PERIOD**

The Purchaser, in the event of having concluded this agreement as a result of direct marketing as defined in the provisions of the Consumer Protection Act no. 68 of 2008, confirms that he/she/it has been informed of his "cooling off" rights as provided for in Section 16 read with Section 20 (2) (a) of the aforementioned Act; to rescind this transaction, without reason or penalty, within 5 (five) business days of the date specified in the aforementioned Act as read with the regulations of the aforementioned Act.

**31. SERVITUDES AND LONG LEASE**

The Purchaser shall accept transfer of the Unit subject to all conditions and servitudes benefiting or burdening the Unit and the Land whether existing or hereafter imposed by the Seller and the relevant authorities.

**32. ADDITIONAL FACILITIES AND SERVICES**

32.1 It is recorded that the Seller has the sole and exclusive right to provide *inter alia* the following facilities or services on the Land to occupants of Units in the Scheme and/or older persons as defined in the Older Persons Act.:

32.1.1 24-hour care and support services to frail occupants and/or older persons and occupants and/or older persons who need special attention;

32.1.2 care and supervision services to occupants and/or older persons who are suffering from diseases not requiring high care medical attention;

32.1.3 rehabilitation services;

32.1.4 provision of limited beds for temporary accommodation of occupants and/or older persons at risk.

32.2 The aforementioned facilities or services will be provided through a sub-contracted registered service provider, as required by the Older Persons Act. The aforementioned facilities and/or services will be provided on the Land in terms of separate agreements entered into between the aforementioned service provider and the occupants at reasonable tariffs;

32.3 The Purchaser does not merely by entering into this Agreement become entitled to the availability or utilization of any of the aforementioned facilities and/or services;

32.4 All users of the aforementioned facilities and/or services shall pay the aforementioned service provider for the availability or utilization of those facilities or services if and when required as agreed between them, as the levies provided for in the Agreement does not include the said service provider's costs.

32.5 A selection of the facilities or services contemplated in this clause 32, which will mainly be limited to assisted living facilities/services, but may include frail care facilities/services, as envisaged in the Older Persons Act depending on the demand therefore will be available from no later than 6 (six) months after the establishment of the Body Corporate of the Scheme.

32.6 The Purchaser shall have no claim for damages of whatsoever nature against the Seller arising out of any delays in the availability of the facilities or services contemplated in this clause 32.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

AS WITNESS:

\_\_\_\_\_

\_\_\_\_\_

For Purchaser who warrants he/she/it is  
duly authorised

ACCEPTED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

AS WITNESS:

\_\_\_\_\_

\_\_\_\_\_

For Seller who warrants he/she/it is  
duly authorised

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.

AS WITNESS:

\_\_\_\_\_

\_\_\_\_\_

For Agent who warrants he/she/it is  
duly authorised