

TINDLEWOOD

AGREEMENT OF SALE BETWEEN:

**GLADIOLI BELEGGINGS CLOSE CORPORATION
REGISTRATION NUMBER: 2000/028024/23**

Herein represented by ANDREW PORTER
in his capacity as Member duly authorized thereto

Physical Address : Shop 23 B Orchards Village Shopping Centre
Du Preez Street
NELSPRUIT
1200

Postal Address : PO Box 12377
Nelspruit
1200

Telephone : (013) 752 2190

Fax : (013) 752 2193

(Hereinafter referred to as the SELLER)

- AND -

Id. / Company / Close Corporation / Trust No:

Marital Status (Married in / out of community of property / Single

Full Name of Spouse: _____
(Only if married in community or if to become a joint owner)

Identity Number of Spouse: _____

Husbands / your domicile at date of marriage: _____

Residential Address: _____

Business Address: _____

Postal Address: _____

Telephone: _____ (Home) _____ (Office)

_____ (Telefax) _____ (cell)

e-mail: _____

(Hereinafter referred to as the PURCHASER)

WHEREAS the Seller is the registered owner of certain land described in Clause A1 hereof on which are erected / are to be erected certain buildings intended for sectional title ownership;

WHEREAS the Purchaser desires to purchase the unit described in Part A in the said development from the Seller on the terms and conditions set forth in Parts A and B hereof.

NOW THEREFORE the Purchaser hereby offers to purchase from the Seller the sectional title unit described in clause A5 upon the terms and conditions set out in Part A and B Hereof. This offer shall remain open and shall be irrevocable for a period of 30 (THIRTY) days from the date of signature hereof by the Purchaser.

PART A

1. Description and situation of land upon which the building is erected / to be erected:

PORTION 2 OF ERF 3362 NELSPRUIT EXTENSION 29 TOWNSHIP

2. Name of building: **TINDLEWOOD**

3. Description of Section: Certain section number: _____ in the building as marked on the plan.

4. Approximate measurement (in square meters) of section: **36 m²**

(THIRTY SIX SQUARE METERS)

5. Description of unit : The section described in A3 hereof together with an undivided share (and apportioned to the said section in accordance with the Participation Quota) in the common property as shown and more fully described on the attached plan, together with the sole utilization areas (if any) demarcated on the attached plan.
6. Approximate participation quota of the section (subject to the provisions of clause 6 and 24 of Part B hereto) _____
7. Purchase price per Unit: R _____
8.
 - 8.1 First holding deposit (5% of purchase price) payable on signature of this Deed of Sale:

 - 8.2 Second Holding deposit payable on:

 - 8.3 Third Holding deposit payable on:

 - 8.4 Fourth Holding deposit payable on:

 - 8.5 Deposit payments payable to FREY & SLABBER ATTORNEYS INC Trust Account, FNB, Branch nr 250016, Account nr 62195553592.
9. Balance of the purchase price payable in cash on or before date of registration R _____
10. The balance of the purchase price is R _____ and will be payable on registration of the unit into the name of the Purchaser, which amount shall be secured by a Bank Guarantee acceptable to the Seller, and payable on registration of the unit into the name of the Purchaser. Such guarantees shall be delivered to the Seller's conveyancers within 7 (SEVEN) days on written request by them. Payment by the Bank against presentation of the guarantee shall only

be on conditional of the release of the unit from any existing mortgage bonds,

transfer of ownership of the unit to the Purchaser and registration of the new bond, but shall otherwise be unconditional and irrevocable.

11. Subject to clause 4 hereof, the date upon which the Seller is to give beneficial occupation of the section and the Purchaser is obliged to take occupation thereof is
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12. Occupational rent, excluding levies payable to, the Developer or Body Corporate in terms of clause 7.4 below, as from the date stipulated in Clause A 11 payable monthly on the first day of the month for which the Purchaser will be liable:

R 2800-00 (TWO THOUSAND EIGHT HUNDERD RAND) p/m

13. Estate Agent: **Pam Golding Properties**

PART B

1.

DEFINITIONS:

- 1.1 "Sectional Titles Act": means the Sectional Title Act of 1986, as amended, and all regulations made from time to time in terms thereof;
- 1.2 "Body Corporate": means the body corporate referred to in the Sectional Titles Act, to come into existence on transfer of the first unit in the building;
- 1.3 "Building": means the buildings and all other improvements which are in accordance with the plans attached hereto, erected or to be erected on the land;
- 1.4 "Common Property": means the land and such parts of the building as are not included in any section;
- 1.5 "Developer": means the Seller or its successors in title or assigns having the rights and

powers conferred on the developer by the Sectional Titles Act;

- 1.6 "Land": means the land described in clause A1;
- 1.7 "Occupation date": means the date envisaged in clause A 11 save as otherwise provided in this Agreement;
- 1.8 "Participation Quota": means, subject to the final surveying and measurements, the participation quota referred to in clause A 6 being a decimal fraction correct to three places arrived at by dividing the floor area correct to the nearest square meter of the section by the floor area correct to the nearest square meter of all section of the building subject to the other terms herein contained;
- 1.9 "Other Costs": means the total costs which have been incurred by the Seller after the date referred to in clause A 11 or a proportionate amount from such date in connection with the maintenance, repair, payment of assessment rates and insurance premiums on the building and common property allotted in accordance with the participation quota, as more fully appears from the sectional plan;
- 1.10 "Plan": means the site plan relating to the scheme attached to this Agreement marked Annexure A read with the Section Floor Plan marked Annexure B and the Schedule of Finishes marked Annexure C, which are also attached:
- 1.11 "Property": means the land and buildings;
- 1.12 "Scheme": means the development scheme proposed by the developer in respect of the building and approved, where required, by the local authority;
- 1.13 "Phased Development": means the erection of buildings on the land in terms of the provisions of Section 25 of the Sectional Titles Act;

- 1.14 "Section": means the section described in clause A 3 hereof and the Plan, notwithstanding that the number allocated finally by the Surveyor General might differ from the number on the Plan;
- 1.15 "Unit": means the section together with the undivided share in the common property apportioned to the section in accordance with the participation quota of the section and having the exclusive rights hereinafter referred to;
- 1.16 "Sole Utilisation Areas": in respect of each section means those sole utilisation areas referred to in A 5 above, if applicable;
- 1.17 "Rules": means the Management Rules prescribed in terms of the Sectional Title Act, and the Conduct Rules prescribed by the Developer (copies hereof shall be available for inspection at the offices of the Seller and Estate Agent on week days during the hours 9:00 and 16:00. It should be noted that on the opening of the Sectional Title Register the Rules may be amended by the Body Corporate or board of trustees from time to time);
- 1.18 "The Seller": means **Gladioli Beleggings Close Corporation**
- 1.19 "The Purchaser": means the person or persons making this offer as Purchasers of the property and who is/are described as Purchaser on page 1 hereof;
- 1.20 "Loan": means an amount of R _____

 to be applied for at the financial institution by the Purchaser to finance the purchase price or part thereof;

- 1.21 "Financial Institution": means Nedbank Limited, FNB Home Loans, Standard Bank of South Africa Limited, and ABSA Bank Limited, except where such bank shall refuse or fail to give the Seller's conveyancers instructions to register the bond referred to in clause 31;
- 1.22 "The Seller's Conveyancers": means Frey & Slabber Inc. Save that the Seller reserves the right to appoint, in its discretion any other attorney as conveyancer;
- 1.23 Words and expressions used herein and also in the Sectional Titles Act shall have the same meanings as have been assigned to them in terms of the Sectional Titles Act;
- 1.24 The masculine shall include the feminine and other genders and vice versa and the singular shall include the plural and vice versa;
- 1.25 All schedules attached to this agreement are incorporated in and form part of this agreement.

2.

THE UNIT

It is recorded that the unit comprises:

- 2.1 The section, having the area, subject to final surveying, stated in clause A 4 and as indicated on the plan attached and measured to the median line of the boundary walls of such section;
- 2.2 Subject to the provisions hereunder set out, an undivided share (calculated on the basis of the participation quota), of the common property;
- 2.3 The right to sole utilisation of the sole utilisation areas (if any) as demarcated on the Plan.

3.

PAYMENTS

- 3.1 All payments or other costs due by the Purchaser to the Seller hereunder, shall be paid to the Seller free of exchange at the address of the Seller, or at such other place as the Seller may from time to time direct in writing to

the Purchasers. Each payment made in terms of this Agreement shall be allocated first to the payment of all other costs and charges due by the Purchaser hereunder and thereafter in reduction of the purchase price on date of registration. Notwithstanding anything to the contrary contained in this agreement, however, all monies paid by the Purchaser on account of the Purchase Price shall be dealt with, in the entire and exclusive discretion from time to time, by the Seller, subject to the terms and provisions of Section 26 of the Alienation, of Land Act of 1981.

- 3.2 Any payments due by the Purchaser to Seller in terms hereof, not made on due date, shall bear interest at a rate equal to the publicly quoted basic rate of interest certified by any manager of that bank to be charges from time to time by Nedbank to its most favoured clients on overdraft account plus 10% (TEN PERCENT) calculated from due date of payment to date of actual payment, both dates inclusive; subject to the usury Act 1968 as amended.
- 3.3 Notwithstanding anything to the contrary herein contained the purchase price is VAT inclusive determined at the current rate of 14 (FOURTEEN) percent. In the event of the rate at which VAT is chargeable being amended after the date of signature hereof by the Purchaser, but in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly. Any additional VAT shall be paid for by the Purchaser immediately upon demand by the Seller, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

4.

OCCUPATION

- 4.1 If the section and the exclusive use areas, if applicable, are not ready for beneficial occupation by the Purchaser on or before the occupation date as set out in clause A 11, then the Seller may, by giving notice at least 30 (THIRTY) days before such date to that effect to the Purchaser, extend such date and in such event that term "occupation date" shall mean the date referred to in clause A11 as extended in terms thereof.
- 4.2 The date for beneficial occupation may, in the discretion of the Seller, be brought forward by the Seller to an earlier date than that referred to in clause A 11 by the Seller giving the Purchaser at least 30 (THIRTY) days written notice in which event the term "occupation date" shall mean the date referred to in clause A 11 as brought forward in terms thereof.

- 4.3 Any dispute as to whether the section is ready for beneficial occupation aforesaid shall be referred to the Seller's architect, acting as an expert and not as an arbitrator, whose decision thereon shall be final and binding on

the parties. The Seller shall not incur any liability of whatsoever nature by reason of the Seller's failure to give such notice as referred to in clause 4.1 and 4.2, or the section not being ready for beneficial occupation on expiration of such notice. Notwithstanding anything to the contrary in the foregoing contained however, if the section is not ready for beneficial occupation within 6 (SIX) months of the date set out in clause A 11 then either party shall be entitled to resign from this Agreement and the Seller shall in the event of either party resigning refund to the Purchaser the capital amounts paid by him in respect of the purchase price against return of any guarantee furnished to the Purchaser in terms of the provisions of Section 26 of the Alienation of Land Act of 1981, as amended.

- 4.4 The Purchaser shall be entitled to and obliged to accept occupation of the section on the occupation date. The risk, profit and loss in the section shall be subject to the provisions of this Agreement and shall pass to the Purchaser upon occupation of the unit. The Purchaser shall not, in the discretion of the Seller, be entitled to take occupation of the section without complying with his obligations referred to in clauses A 8, A 9, A 10, A 12, 3, 14.3 and 31 which compliance shall be a condition precedent to the Purchaser's taking occupation as aforesaid, save that the Purchaser shall be liable in terms of this agreement from the occupation date referred to in clause A 11.

- 4.5 The Purchaser acknowledges that on date of occupation by the Purchaser of this section and his sole utilization areas, if any, construction of the building and other areas may not yet have been completed, the Purchaser accordingly hereby agrees that he will not have any claim against the Seller, its contractors, employees and invitees as a result of any damage done to the section nor in respect of any nuisance, noise and other inconvenience from whatsoever cause arising, nor withhold performance of any obligation, or payment of any amount owing by him in terms of this Agreement. In particular, the Purchaser waives his right to plead to the exception *non adimpleti* contractus in respect of any claim for payment of many or performance of an obligation by the Seller.

5.

DEFECTS

The Purchaser shall within 90 (NINETEY) days from date of occupation, deliver to the Seller a list signed by himself/herself listing any items in the section and exclusive use areas, if applicable, requiring repair by the Seller and upon repair

of such items as reasonably required repair, the Purchaser shall be deemed to have accepted that the section is in a fit and proper condition in all respects. Any dispute as to whether the said repairs reasonably require repair or have been satisfactory carried out shall be referred to the Seller's architect, acting as an expert and not as a arbitrator, whose decision thereon shall be final and binding

on the parties. If the Purchaser does not deliver such list to the Seller within the said 90 (NINETEY) days it shall be deemed that the section is in a fit and proper condition in all respects.

6.

DEVIATION

In the event of the measurements of the section and sole utilitsation areas, if applicable, stipulate herein differing by not more than 15% (FIFTEEN PERCENT) from the plan eventually registered by the Registrar of Deeds or in the event of the unit being allocated a different number in such plan, or in the event of the Purchaser's undivided share in the common property in the registered sectional plan differing by not more than 10% (TEN PERCENT) from that specified in clause A 6 of this Agreement, the Purchaser shall nevertheless accept transfer of the unit in satisfaction of the obligations of the Seller, but the participation quota shall be amended accordingly. Should the participation quota in clause A 6 not be filled in, the final participation quota reflected on the Sectional Plan shall apply thereto.

7.

RULES OF CONDUCT

Pending the establishment of a body corporate as envisaged in the Act and/or in the event that the Purchaser should take occupation prior to transfer of the unit, the following conditions shall apply:

- 7.1 The Purchaser shall not be entitled to make any alterations or additions to the section without the prior written consent of the Seller.
- 7.2 The Purchaser shall be obliged to maintain the section and exclusive use areas in a fit and proper condition and properly painted and shall also maintain the geysers of the section.
- 7.3 The purchaser shall not be entitled to divide the section for the purpose of selling, donating or in any other manner alienating, subletting or disposing of the Purchaser's rights of occupancy or any portion thereof to any other person.

- 7.4 The payments in respect of occupational rent referred to in A 12 excludes contributions payable by the Purchaser in respect of all the expenses incurred by the Seller or, Body Corporate for the administration of the building and land, and for such amounts as may be necessary for maintenance and future maintenance and other expenses connected with the building and the land. In this regard the Developer, pending establishment of a body corporate, shall be considered as if it were acting as the body corporate in terms of the Sectional Titles Act. The said

occupational rent and contribution shall be made on a monthly basis, the first payment to be made before the date that occupation of the unit is given to the Purchaser, and each and every payment thereafter on the first day of each and every succeeding month, until registration of the unit into the name of the Purchaser. Pending establishment of a body corporate these contributions (to be known as "levies") shall be paid as aforesaid to the Developer and, on establishment of a body corporate, such levies shall be paid to the Managing Agent appointed by the Developer. Such amounts as are normally charged in respect of sectional title scheme levies may be charged by the Developer or body corporate, whichever is applicable.

- 7.5 The Purchaser shall be liable for all electricity and water consumed in respect of the section from the occupation date, which amounts shall be paid by the Purchaser directly to the supplier of the service or, where applicable, included in the levies referred to in clause 7.4 above.
- 7.6 The Purchaser shall not use the section or the common property in such manner as to cause any damage thereto or to the other sections in the building, nor shall he store or permit the storage therein of any inflammable materials which may vitiate any policy of insurance in respect of the building or which is likely to have the effect of increasing the premium payable in terms of any such insurance policy.
- 7.7 The Purchaser shall be entitled to use the section only as a dwelling.
- 7.8 The Seller either personally or through its servants or agents, shall be entitled at all reasonable times to have access to the section for the purpose of inspecting it or to carry out any maintenance which the Seller may in terms hereof be obliged or entitled to perform whether such repairs relate to the section or not, and the Purchaser shall have no claim against the Seller for any disturbance in his occupation arising out of the exercise by the Seller of the rights hereby conferred.
- 7.9 The Purchaser may use and enjoy the common property which is completed and not in the process of being completed or which is not being developed by the Seller, in such manner so as not to interfere with the use

and enjoyment thereof by other section holders or other persons lawfully upon the property. The Purchaser shall ensure that his family, guests and invitees comply with the provisions of this clause.

- 7.10 The Purchaser shall not use his section or permit it to be used in such manner or for purposes as shall cause a nuisance to any occupier of a section or interfere with the amenities of the property or so as to breach any law, ordinance or by-law or any Town Planning Scheme in force in relation to the land.
- 7.11 The Purchaser shall not lease or permit occupation of the premises to any other person without the written consent of the Seller and on terms and conditions determined by the Seller.

8.

DISPOSAL

From date of signature hereof to date of registration of transfer of the unit, the Purchaser shall not in any manner alienate his rights to the unit and the exclusive use areas, except with the prior written consent of the Seller being first obtained, which consent, if given, shall be subject to such terms and conditions as the Seller may determine.

9.

OBLIGATIONS OF SELLER

- 9.1 The Seller hereby undertakes, subject to clause 7.4 above, pending the establishment of a body corporate:
- 9.1.1 To keep the building insured for its replacement value against all risks mentioned in the Rules and against any other risk which the Seller may deem it prudent to insure, on the understanding that the proceeds of any claim apart from where the building is totally destroyed, shall be applied to repair the building and where the building has been totally destroyed, shall be paid over to the Seller after the Purchaser has been refunded amounts paid by him in terms of clause A 8, A 9 and A 10 and to pay the premiums falling due thereon from time to time, which premiums shall be repayable to the Seller.
- 9.1.2 To maintain the common property and to keep it in a state of good and serviceable repair, including any structural repairs to the improvements erected thereon.

- 9.1.3 To keep in a state of good and serviceable repair and maintain the plant, machinery, fixtures and fittings used in connection with the common property.
 - 9.1.4 To maintain and repair all pipes, wires, cables and ducts existing on the land or in the building and capable of being used only in connection with the enjoyment of more than one section of the common property provided, however, that notwithstanding anything to the contrary herein contained, the Seller shall be entitled to effect any repairs to the building and/or the land even though the Seller is not obliged to effect such repairs in terms of this Agreement.
- 9.2 All warranties in respect of any item pertaining to the section received by the Seller from suppliers and/or contractors may if possible be ceded to the Purchaser.

10.

RISK

Notwithstanding anything to the contrary contained in this Agreement and pending the establishment of a body corporate the risk in the unit shall pass to the Purchaser on occupation date. In the event of the Seller being unable to transfer the unit hereby sold by reason of either destruction or expropriation or for any other reason whatsoever save such reason as may be attributed to the fault of the Seller, or in the event of destruction of the section to the extent that the Purchaser is deprived of beneficial occupation thereof, either party shall thereupon be entitled to resign from this Agreement and upon either party so doing, the Seller shall refund to the Purchaser all amounts paid by the Purchaser in terms of clause A 8, A 9 or A 10 hereof. Immediately upon such refund having been made, the Purchaser shall vacate the section, unless he has already vacated or been deprived of possession thereof and save as aforesaid shall have no further claim against the Seller.

11.

SECTIONAL TITLE REGISTER

- 11.1 The Purchaser acknowledges that it will only be possible for the Seller to give transfer of the unit to the Purchaser after a development scheme as defined in the Sectional Title Act has been approved and a sectional title register in respect of the scheme has been opened, or in the case where the unit is comprised in a further phase of the Sectional Title Register has been extended to include the unit.
- 11.2 The Seller agrees to take such steps as may be necessary to apply for and shall endeavour to obtain the approval of the development scheme

and the opening of a sectional title register and to take all steps necessary to effect transfer of the unit to the Purchaser in the manner provided in the Act.

- 11.3 The Seller undertakes to pay the expenses incurred in the opening of a sectional title register as provided in terms of the Sectional Titles Act, and all extensions thereof.
- 11.4 Immediately upon establishment of the Body Corporate and after the opening of the Sectional Title Register and until transfer of the Section to the Purchaser as hereinafter provided, the following conditions shall apply:
- 11.4.1 Until such time as the section is transferred to the Purchaser and the Purchaser becomes a member of the body corporate, the Purchaser shall comply with all rules and regulations of the body corporate, whatever form they may take, as if he were the registered owner of the unit.
- 11.4.2 The Purchaser shall do nothing to cause the Seller to be in breach of its obligations in term of the aforementioned rules and regulations or any obligations which the Seller may have to the owner of other units or to the body corporate.
- 11.4.3 The remaining terms and conditions of clause 7 shall continue to apply as between the Purchaser and the Seller mutatis mutandis.
- 11.4.4 Until the body corporate comes into existence, the Seller shall be entitled to exercise all rights and enjoy the capacity which it would in a body corporate which comes into existence in terms of the Sectional Title Act in respect of the land an building.

12.

COSTS

The Seller shall be liable for the payment of costs of this Agreement and of transfer into the Purchaser's name of the unit hereby purchased. The Buyer will pay the cost of the registration of the Mortgage Bond (**including** the admin costs, valuation and inspection fess of the Bank). The Buyer will for time and effective management purposes instruct his financial institution to use Frey & Slabber Inc., who is also the transfer attorney, for the registration of the bond at normal prescribed fees.

GOVERNING LAW

Save as may be otherwise provided to the contrary in terms of this Agreement, the Sectional Titles Act, as amended, from time to time shall in all respects govern the relationship between the Seller and the Purchaser.

TRANSFER

14.1 The Purchaser shall, as soon as reasonably possible after fulfillment by the Purchaser of its obligations in terms of A8, A 9, A 10, A 11 and A 12 and all such other obligations as may then be due, and either simultaneously with or after opening of the sectional title register in respect of the Scheme, be obliged to accept transfer of the section whether this be before or after the date of beneficial occupation, subject to:

14.1.1 All provisions of the Sectional Title Act and subject to such conditions as may be laid down by the local authority or the Administrator, as the case may be, in terms of any provision of the Sectional Titles Act.

14.1.2 Such servitudes if any, be applicable to the land and/or buildings.

14.1.3 Such conditions as are contained or referred to in the title deed to the land and the building.

14.2 Transfer shall not be passed to the Purchaser notwithstanding anything else to the contrary herein contained but subject to the provisions of this Agreement, until such time as the purchase price as set out above and all other amounts for which the Purchaser may have been liable in terms thereof to the date of transfer have been paid or secured by guarantees referred to in clause A 10.

14.3 Transfer of the section shall be effected by the Seller's conveyancers, and subject to the provisions of clause 12, at the cost of the Seller and the Purchaser shall be obliged to sign all transfer documents, and the Purchaser and all other parties as are required by the Seller's conveyancers shall sign all bond documents and comply with all the requirements of the Financial Institution for the registration of the bond, which signatures and compliance as aforesaid shall be made within 7 (SEVEN) days of written request to the Purchaser by the Seller's conveyancers. Failure by the Purchaser or any such other party to sign

the transfer and bond documents and/or to comply with the requirements of the Financial Institution or of any other lending institution within the said 7 (SEVEN) days shall be considered a material breach of this contract.

- 14.4 In the event of it becoming impossible in the discretion of the Seller to pass transfer to the Purchaser, the Seller, subject to clause 16.1 shall advise the Purchaser of this fact in writing. In such event, either party shall be entitled to resign from this Agreement and upon either party doing

so the Seller shall refund to the Purchaser all amounts paid by the Purchaser in terms of clause A 8, A 9, and A 10 against the return of any guarantees issued by the registered banking institution in terms of the Section 28 of the Alienation of Land Act of 1981, as amended. In the event of the Purchaser having already taken occupation no amounts paid as rental in terms of the clause 7.4 shall be refundable. The Purchaser shall vacate the section at the end of the calendar month in which such refund of the amounts paid in terms of clause A 8, A 9 and A 10 is made. Save as aforesaid the parties shall have no further claims against each other.

- 14.5 On fulfillment of all suspensive conditions herein contained the Purchaser shall not be entitled to withdraw from the loan approved by the Bank and the Seller's conveyancers are irrevocable and unconditionally authorised by the Purchaser to proceed with registration of transfer of the unit to the Purchaser and registration of the first mortgage bond.

15.

VOETSTOOTS

- 15.1 Subject only to the provisions hereunder set out, the section is sold voetstoots and the Purchaser agrees to accept it in the condition in which it is at the date of occupation. The Seller shall not be liable for any patent defects, except in terms of the hereinafter mentioned conditions. The Seller, however subject to the other terms of this Agreement, gives the following undertakings:

15.1.1 The Seller undertakes that the buildings will be constructed substantially in accordance with the plans and schedule of finishes made available to the Purchaser and the Purchaser undertakes to accept the section constructed substantially according to such plans and schedule.

15.1.2 The Seller shall make good or cause to be made good at the cost of the Seller any leakage in the roof of the building arising from faulty materials or workmanship occurring within 6 (SIX) months from occupation referred to in clause A 11,

such period to be extended until 5 (FIVE) days after the first heavy rain thereafter. Further, the Seller undertakes to make good or cause to make good any latent defect which becomes apparent in the unit for a period of 6 (SIX) months after occupation. The Purchaser shall, within the aforesaid periods, notify the Seller in writing of such leakage or latent defect failing which there shall be deemed to have been no leakage or defect.

- 15.2 The Purchaser further acknowledges that no warranties or representation of whatsoever nature by or on behalf of the Seller have been made except as are recorded herein and that the Purchaser was not induced to enter this Agreement as a result of any warranty or representation not contained herein.

16.

BREACH

- 16.1 Should the Purchaser fail to fulfill any of the Purchaser's obligations under this Agreement and fail to comply with his obligations within 7 (SEVEN) days after a letter has been handed to the Purchaser, or been sent by registered post or by telefax to the Purchaser at the Purchaser's *domicilium citandi et executandi* informing the Purchaser of his failure and calling upon him to fulfill the obligation in question within such period of 7 (SEVEN) days, then the Seller shall be entitled, without prejudice to any other rights the Seller may have in law:

16.1.1 To claim immediate payment of all amounts owing under this Agreement, which amounts shall be deemed to become due and payable forthwith, or

16.1.2 To cancel this sale, obtain immediate repossession of the property and eject the Purchaser therefrom or any person claiming occupation through the Purchaser and:

16.1.2.1 To retain as "roukoop" and/or as liquidated damages and compensation for occupation of the property by the Purchaser, all amounts paid by the Purchaser under this Agreement, or in lieu of such payments, to retain and/or recover an amount equivalent to 10% (TEN PERCENT) of the purchase price, whichever is the greater, together with an amount equal to any agents commission which may be payable to or have been paid by the Seller, or

16.1.2.2 To recover from the Purchaser the actual damages sustained by the Seller by reason of the Purchaser default,

and to retain all amounts paid by the Purchaser pending the determination of such damages.

- 16.2 If the Seller elects to institute action for the balance of the purchase price or any other monies which may be owing, including the taking of a judgment against the Purchaser it shall not thereby be debarred from canceling this Agreement if the judgment is not satisfied within 30 (THIRTY) days of it being granted.
- 16.3 Should the Purchaser purport to unilaterally cancel this Agreement or should he cancel same without any valid basis in law then the Seller shall be entitled without any notice having been given to the Purchaser to exercise any other of the remedies in its favor as set out in clauses 16.1.1, 16.1.2, 16.1.2.1 and 16.1.2.2 without prejudice to any other remedies which the Seller may have at law.
- 16.4 If the Agreement is cancelled as provided for in clause 16.1, 16.2 and 16.3 the Purchaser and all persons claiming a right to occupation through the Purchaser, shall forthwith be obliged to vacate the section and to deliver it to the Seller. It is specifically hereby recorded in this regard that no lease or other right or occupation in favour of the Purchaser or any person claiming occupation through the Purchaser shall be created or come into existence by virtue of this agreement.
- 16.5 If, however the Purchaser disputes the Sellers right to cancel this Agreement, then pending the determination of such dispute, the Purchaser shall be obliged to continue to pay all amounts payable by him in terms of this agreement on the due dates thereof and the Seller shall be entitled to accept such payments without prejudice to its rights to cancellation as aforesaid. If such dispute is decided in favour of the Seller, then such amounts so received by the Seller after cancellation as aforesaid shall be deemed to have been paid to the Seller prior to cancellation. The Purchaser shall also be liable to pay the Seller's legal costs on the scale as between attorney and client.
- 16.6 Should the Purchaser or any other party as referred to in clause 14.3 fail to sign all the necessary transfer and bond documents and/or comply with the requirements of the financial institution or any other lending institution required to give transfer within the 7 (SEVEN) day period referred to in clause 14.3 above, the Purchaser shall pay penalties to the Seller calculated at 20% per annum on the sale price from the date he/she was required to sign the documents to date of signature, both days inclusive.

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17.

WHOLE AGREEMENT

This agreement constitutes the whole agreement between the parties. All previous agreements entered into between the Seller and the Purchaser relating to the unit, shall be deemed to be cancelled upon the signature of this Agreement by both the Seller and the Purchaser.

18.

NON VARIATON

No variation of this agreement shall be of any force or effect unless reduced to writing and signed by the parties.

19.

INDULGENCE

No relaxation or indulgence which any party may show to the other shall in any way prejudice or be deemed to be a waiver or novation of its rights hereunder.

20.

MULTIPLE PURCHASERS

Insofar as there is more than one Purchaser in terms of this agreement, the liability of each of the Purchasers shall be joint and several.

21.

TRUSTEE FOR COMPANY, CLOSE CORPORATION, TRUST OR OTHERWISE

21.1 If the person signing this offer as Purchaser is acting for an existing company, close corporation or any other legal person or such legal person to be formed:

21.1.1 He shall be personally liable as Purchaser under this agreement unless the said company / close corporation / other legal person / trust is formed and/or ratifies and adopts this agreement within 30 (THIRTY) days of signature of this agreement by both the Seller and the Purchaser.

21.1.2 Upon such formation and ratification and adoption, he, by his signature, hereby binds himself to the Seller as surety for

and co-principal debtor in solidum with the said company / close corporation / other legal person / trust of its obligations in terms hereof and for payment of damages suffered by the Seller as a result of a breach of contract.

- 21.2 Where the person signing this offer as Purchaser, is acting in any other capacity than his personal capacity, or making the offer to purchase in his capacity as nominator of his nominee; he hereby binds himself as surety and co-principal debtor with the Purchaser he represents or nominates.
- 21.3 The Purchaser, where he does not indicate on this agreement that he acts as trustee or nominee for a legal person formed or to be formed, may only so act with the written consent and on the terms of the Seller, which terms lie solely within the discretion of the Seller.

22.

AGENTS COMMISSION

- 22.1 It is recorded that the agent introduced the parties to each other and that that the agent is the effective cause of the conclusion of this agreement between the parties. The Seller shall pay such agent's commission as the Seller and the agent may agree to from time to time, which agent's commission shall be deemed to have been earned as soon as all suspensive conditions contained in this agreement have been fulfilled, and shall be payable on date of registration of transfer of the unit into the name of the Purchaser.
- 22.2 Should this agreement be cancelled, or transfer of the property not be effected into the name of the Purchaser due to default on the part of the Purchaser to comply with his obligations in terms of the agreement, then the Purchaser shall be liable towards the agent for payment of the agent's commission referred to in paragraph 22.1 above to the agent in which event the agent shall have no claims against the Seller. Should the agent have received his agent's commission already from the Seller, the then the Seller shall be entitled to recover the amount paid in respect of the agent's commission from the agent or the Purchaser without prejudice to its other rights in terms of this agreement or in law.

23.

DOMICILIUM

Until the occupation date the Purchaser hereby chooses *domicilium citandi et executandi* for all purposes of this agreement at the Purchaser's addresses and telefax set out on page 1 of the Deed of Sale.

- 23.1 After the occupation of the Purchaser's *domicilium citandi et executandi* shall be the section alternatively the postal address alternatively the telefax number set out on page 1 of this agreement.
- 23.2 The Seller hereby chooses *domicilium citandit et executandi* for all purposes of this agreement at the address set out on page 1 of Deed of Sale.
- 23.3 Letters and notices shall be deemed to be received by the Purchaser on the fifth business day following the day after posting, if posted by registered post to the aforesaid *domicilium citandi et executandi* or on the day of delivery, if delivered by the hand at such *domicilium citandi et executandi* or on the day of transmission if sent by telefax to the fax number set out on page 1 hereof.
- 23.4 Notwithstanding anything to the contrary contained in this agreement and al notices, offers, advises, by the Purchaser to the Seller / Developer shall only be regarded as validly effected if hand delivered to the Seller / Developer and a copy thereof on the same day also delivered to the Seller's conveyancers by hand.

24.

PHASED DEVELOPMENT

It is recorded that the Seller reserves for himself, his assigns or administrators in title a right of extension of the scheme in terms of Section 25 of Act 95 of 1986 (for a period of 7 (SEVEN) years) from date of opening of the Sectional Title Register. The said right of extension will be done in phases and the Sectional Title Development is to be regarded as a development to be effected in phases.

25.

JURISDICTION

In the event that the Seller should wish to institute any action against the Purchaser, his heirs, executors or assigns, arising out of the terms of this agreement, it shall be entitled but not obliged to do so in the Magistrate's Court of the district in which the unit is situated and for the purposes hereof the Purchaser hereby consents in terms of Section 28 of the Magistrate's Court Act to the jurisdiction of such Magistrate's Court.

22

26.

LANGUAGE

The Purchaser acknowledges having chosen English as the language in which this agreement is to be drawn.

27.

SUSPENSIVE CLAUSES

Should this sale be suspended by a condition(s) in favour of the Purchaser, the period within which such suspensive condition(s) must be fulfilled, shall be limited to a period of 21 (TWENTY ONE) days. This condition shall apply only where no specific period for the fulfillment of such suspensive condition(s) implies a reasonable period during which such condition(s) must be fulfilled.

28.

NUMBER CHANGES

The Seller will be entitled to change the numbering of the unit, should the number of the unit of the Development Plan differ from the approved Sectional Plan. Should the Developer change the number of the unit in terms of this clause, the Purchaser shall sign all such documents as may be required by the Seller in order to legalise this transaction.

29.

HEADINGS

The headings have been inserted for convenience only and shall not be used for nor assist or affect its interpretation.

30.

INTEREST ON INVESTMENT

All holding deposits and monies paid into the account of the Seller or Seller's conveyancers pending registration of transfer, shall be invested in an interest bearing account, in accordance with the sole and exclusive discretion and instruction of the Seller and the interest earned on such monies shall on registration of transfer be paid to the Purchaser.

SUSPENSIVE CONDITION

- 31.1 This offer is subject to the suspensive condition that the Purchaser is able to raise a loan from the Financial Institution in the loan amount upon the security of a first mortgage bond over the unit within 30 (THIRTY) days of date hereof. The loan shall be deemed to be granted immediately once a letter is issued by a Financial Institution stating that the loan has been approved in principle.
- 31.2 Should the Purchaser fail to obtain such loan within 30 (THIRTY) days or within such further period as the Seller in its discretion may allow, then this agreement shall lapse upon the mere delivery by the Seller to the Purchaser of a notice to this effect.
- 31.3 The Purchaser undertakes to take all steps reasonably necessary to obtain the said loan within the period stated. If the Purchaser fails to take such steps or if he fails to comply with or accept any conditions reasonably imposed by the Financial Institution, he shall be deemed to be in breach of this agreement and the Seller may exercise his rights in terms of the clause 16.
- 31.4 The Purchaser undertakes on signature of this agreement to hand to the Agent a duly completed application addressed to the Financial Institution for a loan in at least the loan amount. If the Purchaser fails to comply with this conditions for any reason, then without prejudice to any other right which the Seller may have at law, the Seller or his Agent shall be entitled to complete such application. The Agent and/or the Seller is hereby authorised irrevocably and in *rem suam* on behalf of the Purchaser to sign all and any necessary documents or applications to a Bank in respect of the application for the loan.

SUSPENSIVE CONDITON IN FAVOUR OF THE SELLER

This agreement is subject to the following suspensive conditions, which suspensive conditions are to be for the benefit of the Seller, who shall have the right at any time to waive the fulfillment of any one or more of the above suspensive conditions, without giving written notice to that effect to the Purchaser.

- 32.1 The Seller to sell 80% units in the phase, which phase shall be determined by the Seller in its sole discretion, of the scheme within 90 (NINETY) days reckoned from 30 JUNE 2010

32.2 The Seller to secure the purchase and the registration of the property known as **PORTION 2 OF ERF 3362 NELSPRUIT EXTENSION 29 TOWNSHIP** into there name the Seller, being the property upon which the Scheme is to be developed and build.

SIGNED AT _____ ON THE _____

AS WITNESSES

1. _____

SELLER

2. _____

SIGNED AT _____ ON THE _____

AS WITNESSES

1. _____

PURCHASER

2. _____