

Erf No. \_\_\_\_\_  
Agent: \_\_\_\_\_

# Offer to Purchase Turnkey

Entered into by and between

**Rabe Dev Investments (Pty) Ltd**

**Reg. No. 2020/836918/07**

("the Seller")

and

1.

2.

(collectively referred to as "the Purchaser")

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Louis van Schalkwyk  
Bellingan Muller Hanekom Inc.

**CONSUMER PROTECTION ACT NOTICE**

- A** In complying with the Consumer Protection Act, certain portions of the agreement have been printed in ***bold italics***. The reason for this is to specifically draw the Purchaser’s attention to these clauses as they either: Limit in some way the risk or liability of the Seller or any other person, constitute an assumption of risk or liability by the Purchaser, impose an obligation on the Purchaser to indemnify the Seller or any other person for some cause; or are acknowledgement of a fact by the Purchaser.
- B** It is further recommended that:
- B1 the Purchaser carefully reads this Agreement (and its Annexures), and complete the recordal for this purpose on page 3 hereunder to record any representations made by the Seller or its Agent concerning material facts which the Purchaser relied on in deciding to purchase the Property and to conclude this Agreement and that are not contained in this Agreement; and
  - B2 the Purchaser consults a suitable qualified person to assist the Purchaser in the interpretation and conclusion of this Agreement; and
  - B3 the Purchaser advises the Seller in writing of any information furnished to the Purchaser in a manner or form which the Purchaser deems not to be plain and understandable language.

**I DECLARE HEREWITH THAT I HAVE READ THE IMPORTANT NOTICES SET OUT ABOVE**

<u>Purchaser 1 Signed</u>	<u>Purchaser 2 Signed</u>

**CONFIRMATION OF RECEIPT AND PERUSAL OF CONSTITUTION AND RULES OF HOMEOWNERS ASSOCIATION**

A I/We hereby confirm that we had the opportunity to peruse a copy of the draft constitution and rules of the Homeowners Association governing the Property, being:

- The Zevenbosch Homeowners Association

As provided for in Clause 16 of the Standard Terms and Conditions of this Agreement and that we are familiar with the contents thereof of which we have a good understanding.

B I/ We furthermore confirm that a copy of the abovementioned constitution and rules were made available to us and I / We also take notice that the draft Constitution and rules are available on the following website:

[www.zevenboschestate.co.za](http://www.zevenboschestate.co.za)

**I DECLARE HEREWITH THAT I HAVE READ THE IMPORTANT NOTICES SET OUT ABOVE**

<u>Purchaser 1 Signed</u>	<u>Purchaser 2 Signed</u>

**Recordal of Additional Representations in terms of the Consumer Protection Act 68 of 2008**


<u>Purchaser 1 Signed</u>	<u>Purchaser 2 Signed</u>

## SCHEDULE

### A1 THE SELLER

Name & Address:	<b>Rabe Dev Investments Proprietary Limited</b> <b>Reg. No. 2020/836918/07</b> 4 Handel Road, Arauna, Brackenfell, 7551
Phone:	(021) 981 0222
Email:	<a href="mailto:Pieter@goldstonepd.co.za">Pieter@goldstonepd.co.za</a>

### A2 THE PURCHASER

<b>Purchaser 1</b>
--------------------

Full Names / Entity								
ID/Reg. No.								
Marital Status	COP		ANC		Unmarried		Other	
Address								
Tel (W)								
Mobile No.								
E-mail								

<b>Purchaser 2</b>
--------------------

Full Names								
ID								
Marital Status	COP		ANC		Unmarried		Other	
Address								
Tel (W)								
Mobile No.								
E-mail								

**B THE PROPERTY SOLD**

The Property hereby sold in the Development is:

Erf number	
Approximate extent in square meters	
Street Address – House number	
Street name within Zevenbosch Estate	
Township and postal code	Kuils River, 7580

Being a portion of Parent Erf 27828 Kuils River, situated in the city of Cape Town, Stellenbosch division, Western Cape Province, which Erf is approved or to be improved by the Seller with the construction of a dwelling as provided for in clause 23 hereunder.

Herein referred to as “the Property” as depicted on Annexure “A” hereto.

**C PURCHASE PRICE** inclusive of Value-Added Tax at 15 %

<b>Purchase Price of the Property</b>	R _____
Purchase Price in words:	

**D DEPOSIT**

**Option A** (If the sale is subject to condition E – Mortgage Loan)

Deposit	R20 000.00
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**Option B** (Cash option - if option, **NO** in clause E hereunder is elected, or left blank)

Deposit (10% of Base Price in clause C Above)	
Amount in Words	

The balance of the deposit is payable as provided for in clause 4 of the Agreement.

**E SELECTION WHETHER THE PURCHASER REQUIRES A MORTGAGE LOAN**

Complete selection: <b>YES or NO:</b>	
Amount required	
Date by which the bond must be granted	Within 60 (Sixty) days of the Signature Date

**F SELLING AGENT**

Selling Agency	
Name of Property Practitioner	

**G SALE OF PURCHASER'S PROPERTY**

Situated at:	
For the amount of, or any lesser acceptable amount:	R
Date by which the property must be sold and all relevant suspensive conditions must be fulfilled.	30 (Thirty) days from the Signature Date
Was the property sold, leaving no unfulfilled suspensive conditions?	Please answer YES / NO. <input type="text"/>

**H OTHER**

1. Estimated Transfer Date	2 Months from the issuing of the Occupation certificate by the Local Authority.
2. Estimated monthly Levy	R1 450.00 per month

As Witnesses:

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

**PURCHASER**

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

Date: .....

Place: .....

As Witnesses:

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

**SELLER**

\_\_\_\_\_

Date: .....

Place: .....

***The Purchaser is once again alerted to the fact that by signing this agreement the Purchaser will, on signature by the Seller, be contractually bound to an agreement with the Seller. The Purchaser should therefore not sign this agreement until the Purchaser has carefully considered the merits of the agreement and allowed enough time for consideration thereof. As already mentioned on the second page of this agreement the Purchaser must ask for an explanation for any portion of this agreement which the Purchaser does not understand and preferably get the explanation in writing. The portions of the agreement that are in bold print are especially important.***

## STANDARD CONDITIONS

### Whereas

- The Seller is the registered owner of the Site and is undertaking the Development, which comprises various single-title properties to be developed in a phased manner as part of the Zevenbosch Estate.
- The Purchaser wishes to purchase the Property in the Development, subject to the terms and conditions of this Agreement and it is therefore agreed that the Seller sells to the Purchaser the Property on the terms and conditions set out in this Agreement.

### NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

#### 1 DEFINITIONS AND INTERPRETATION

- 1.1 **Agreement:** This Agreement of sale with the annexures hereto and includes any addendum and / or amendment recorded in writing and signed by the Parties or their duly authorized representatives.
- 1.2 **Anticipated date of Transfer of Services:** August 2026;
- 1.3 **Conveyancing Attorney:** The Conveyancer appointed by the Seller, being Louis van Schalkwyk of Bellingan Muller Hanekom Incorporated, Bellville, Tel. 021 9197599. E-mail: [Louis@bmhlaw.co.za](mailto:Louis@bmhlaw.co.za) ;
- 1.4 **Bond Originator:** Almarie Nel of Mortgage Max ([almarie@cmco.co.za](mailto:almarie@cmco.co.za), Tel: 0824623165;
- 1.5 **Development** means the development of the Site known as Zevenbosch Estate;
- 1.6 **Homeowners Association or HOA** means the common law Homeowners Association to be established for the single residential stands, either by the Seller or at the instance of the Relevant Authority known as: Zevenbosch Homeowners Association, of which the Purchaser shall be a member;
- 1.7 **Mortgage Loan** means a loan in terms of clause **E** of the Schedule read with clause 5 of the Standard terms and conditions;
- 1.8 **LUPO** means the Land Use Planning Ordinance No.15 of 1985 (Western Cape) as amended, and includes any superseding legislation or subordinate legislation;
- 1.9 **Parties** means the Seller and/or Purchaser;
- 1.10 **Plan** means the Site Development Plan approved by the Relevant Authority (annexed hereto and marked "A");
- 1.11 **Possession Date** means the Transfer Date;
- 1.12 **Property** is the subject matter of this sale, as defined in Clause **B** of the Schedule;
- 1.13 **Purchaser:** The Purchaser described in Clause **A2** in the Schedule, his successor in title, heirs, executors, administrators, or assigns;
- 1.14 **Purchase Price:** The price of the Property recorded in Clause **C** of the Schedule, inclusive of VAT;
- 1.15 **Relevant Authority** means the City of Cape Town and/or the Western Cape Department of Environmental Affairs and Development Planning, the Department of Water and Sanitation and/or the Department of Agriculture, Forestry and Fisheries and/or such other Relevant Authority which, from time to time, has jurisdiction over the Property, including any organ of state mentioned in the Public Finance Management Act, No. 1 of 1999, as amended, and including any ministry,

department, agency, authority, organ or body of government at local, provincial or national level of government and any other public authority, body, entity or person having jurisdiction under the laws of the Republic of South Africa over the Parties, the Units or the Development or tasked with the administration, implementation and enforcement of any Regulatory Provision;

- 1.16 **Rules:** The Conduct and/or Management Rules imposed by the Seller, which may be replaced or amended by the Developer;
- 1.17 **Schedule:** The covering Schedule forming part of and recording the salient facts of the Agreement;
- 1.18 **Seller:** The Party recorded as such in Clause **A1** of the Schedule, which is also referred to as the “Developer”;
- 1.19 **Selling Agent** means the Estate Agency responsible for the cause of the sale in terms of a mandate;
- 1.20 **Signature Date** means the date of acceptance of this offer by the Seller;
- 1.21 **Site** means parent Erf 27828, which will be subdivided and phased with erf numbers situated in the City of Cape Town, Stellenbosch Division, Western Cape Province;
- 1.22 **Stand** means any one subdivided portion of the Site as part of the Plan;
- 1.23 **Transfer Date** means the date of registration of transfer of the Property in the name of the Purchaser, which shall be as soon as possible after the Transfer of the civil and electrical services, fulfillment of all the suspensive conditions, and issuing of the Occupation Certificate by the Local Authority.
- 1.24 **VAT:** The value-added tax in terms of the Value-Added Tax Act No. 89 of 1991, as amended.
- 1.25 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other, and words importing the singular shall include the plural and vice versa.
- 1.26 The headnotes to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.27 The provisions of the Preamble and Recordal and annexures to this Agreement shall be deemed to be incorporated in and form part of this Agreement
- 1.28 *The Purchaser confirms that he has chosen English as the language of this Agreement.***
- 1.29 If any provision of this Agreement is in conflict or inconsistent with Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.30 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 1.31 The so-called *contra proferentem* rule of construction shall not apply, and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision.
- 1.32 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa. In this event, the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

## 2. RECORDAL

2.1 It is recorded that:

- 2.1.1 The Seller is presently planning and will develop the Site substantially in accordance with the Plan approved by the Relevant Authority.
- 2.1.2 ***The Plan has been studied by or on behalf of the Purchaser and the Purchaser declares that he is conversant therewith;***
- 2.1.3 No separate title has been issued in respect of the Property, which will not be a separate registerable entity until certain services have been installed.
- 2.1.4 This sale is further subject to the anticipated compliance by the Seller with the conditions imposed by the Relevant Authority when approving rezoning and subdivision of the Site and the installation of services and compliance with the formalities in terms of the Environmental Conservation Act 73 of 1989 and other relevant legislation.
- 2.1.5 ***The Purchaser agrees that any delay in transfer by the Seller due to the approval of the sub-divisional diagram by the Surveyor General or the installation of services, will not give rise to a claim for cancellation of this agreement; except for on the grounds as set out in clause 14 hereunder and it will remain in full force and effect, notwithstanding any delay in the Transfer Date.***
- 2.1.6 If the property has been erroneously described herein, such mistake or error shall not be binding upon the parties. Still, the correct description as intended by the parties shall apply, and they shall effect rectification of this contract accordingly.

## 3. SALE

The Seller sells to the Purchaser the Property, which the Purchaser purchases from the Seller for the Purchase Price stated in Clause **C** of the Schedule.

## 4. PURCHASE PRICE AND PAYMENT

The Purchase Price reflected in clause **C** of the Schedule is payable to the Seller on the Transfer Date and is to be secured as follows:

- 4.1 If the Purchaser is purchasing the Property with the assistance of a Mortgage Loan, then the deposit is payable to the Conveyancing Attorney as per Clause **D**, with an electronic funds transfer (“EFT”) within 7 (seven) days from fulfilment of the Condition Precedent in clause 5.1 hereinbelow (Mortgage Loan approval).
- 4.2 In the event of a cash purchase, then the balance of the deposit, calculated at 10% (Ten percent) of the Base Price in clause C.1 above, is payable to the Conveyancing Attorney as per Clause **D**, with an electronic funds transfer (“EFT”) within 7 (seven) days of the Signature Date.
- 4.3 All payments towards the Purchase Price shall be held in Trust by the Conveyancing Attorney in an interest-bearing account pending the Transfer Date. The Conveyancing Attorney will procure the investment thereof in terms of the provisions of Section 86(4) of the Legal Practice Act 28 of 2014, interest to accrue to the Purchaser. However, the Conveyancing Attorney may insist on compliance with the requirements of the Financial Intelligence Centre Act No.38/2001 (FICA) before investing. The Parties are aware and agree that the interest which accrues on such investment is to be paid to the Purchaser, after deducting 5% of the interest received due and payable to the Legal Practitioners Fidelity Fund in accordance with the act as mentioned above, as well as professional fees and costs for administering the investment. The amount described above will be retained in Trust until the Transfer Date or such other instance upon

which the Seller may become entitled to it at which stage it will be paid over to the Seller as part of the Purchase Price.

**4.3.1 “It is agreed that it is the Purchaser’s responsibility to verify the banking details of any recipient of funds payable in terms of this Agreement in an effort to prevent Fraudulent Cyber Intervention to divert funds into a Third-Party Banking Account.**

4.4 The Purchaser shall furnish the Conveyancing Attorney with a bank or financial institution’s guarantee within 14 (Fourteen) days after the Conveyancing Attorney provided the Purchaser with the format and requirements thereof, which shall be after the fulfilment of the suspensive condition contained in Clause 5.1 of the standard terms and conditions, if any, to secure payment of the balance of the purchase price. The guarantee, which save for providing for payment against the tendering of registration of transfer of the Property into the name of the Purchaser, shall be unconditional and shall be in terms acceptable to the Seller. The guarantee shall be issued by a registered South African Commercial Bank or other financial institution approved by the Seller in its absolute discretion for the balance of the Purchase Price. The Seller shall not be required to give any reason for any refusal of approval of the guarantee issued. **Withdrawal by a guarantor as aforesaid for any reason whatsoever shall constitute a breach by the Purchaser of his obligations to deliver a guarantee in terms of this clause and in respect of which breach the Seller shall not be required to give notice in terms of clause 10. The remedies as provided for in clause 10 shall be applicable.**

4.5 In the event of the rate at which VAT is chargeable being amended after the Signature Date and in circumstances in which the amended rate will apply to this transaction, then the Purchase Price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

**5. CONDITIONS PRECEDENT**

If Clause E of the Schedule indicates a requirement for a Mortgage Loan, this Agreement shall be subject to the following suspensive conditions.

5.1 The Purchaser be able to raise a written loan approval and accepts such loan approval from an approved financial institution for an amount equalling or exceeding the amount referred to in Clause E of the Schedule upon the relevant institution’s standard terms and conditions, including the security of a first mortgage bond over the Property, or such lesser amount as the Purchaser may accept, not later than the date as provided for in Clause E of the Schedule. The Seller may, at the Seller’s sole discretion, extend the period for the Purchaser to obtain such loan approval.

5.2 The provision of Clause 5.1 is for the benefit of the Purchaser, who may unilaterally waive compliance therewith. The Purchaser may also accept an offer of or quotation for a loan less than the amount referred to in Clause E of the Schedule, provided that no later than the date for approval of the loan referred to above, the Purchaser notifies the Seller or the Selling Agent in writing of the Purchaser’s election to accept the loan so offered (a signed copy of the Purchaser’s acceptance shall be sufficient proof of such acceptance of a lesser offer), which notification shall be accompanied by payment of the difference between the amount of the loan required and actually offered. This payment shall be made to the Conveyancing Attorney and held in trust on the same terms and conditions as provided for in clause 4.3 above. The Purchaser undertakes to fully co-operate with the Bond Originator to procure the Mortgage Loan.

**6. TRANSFER**

6.1 The Conveyancing Attorney shall effect registration of transfer and will be passed on the Transfer Date. The Purchaser will ensure that the financial institution approving the Mortgage Loan, as referred to in Clause 5.1 of this Agreement, instructs the Conveyancing Attorney or its nominee to attend to the registration of such mortgage bond, insofar as they will be able to receive such an instruction.

- 6.2 The Seller shall pay all transfer costs in connection with the transfer of the Property in the name of the Purchaser, which includes the costs of registration of transfer, VAT on the Conveyancing Attorney's fees, Relevant Authorities' clearance fees, Homeowners Association consent fees, etc. The Purchase Price is therefore inclusive of these costs.
- 6.3 The Seller shall also pay the registration costs levied by the Conveyancing Attorney for the registration of the mortgage bond, in fulfillment of the suspensive condition in clause E of the Schedule. **However, the Purchaser is liable for the Initiation fee or any other fee due to the financial institution.** Should the financial institution appoint another firm of Attorneys other than the Conveyancing Attorney to register this mortgage bond, the Seller shall pay such costs or a portion thereof at its discretion.
- 6.4 ***The Purchaser acknowledges and accepts that the Purchaser has bought property in a development where a development Mortgage Bond is likely to have been utilized by the Seller, and thus, transfer to the Purchaser may be simultaneous with transfers to other Purchasers necessitated by the property sold having to be released from the operation of the Mortgage Bond. Accordingly, the Purchaser acknowledges and accepts that lodgement of the Purchaser's transfer documents at the Deeds Office shall be entirely in the discretion of the Conveyancing Attorney.***
- 6.5 The Purchaser undertakes to sign all transfer documents within 10 (ten) days of being called upon to do so by the Conveyancing Attorney. Failure to comply with this provision shall constitute a material breach of this Agreement.
- 6.6 The Conveyancing Attorney is hereby irrevocably authorised by the Purchaser to sign all relevant documentation and declarations to enable the Conveyancing Attorney to obtain a transfer duty exemption from the South African Revenue Services.
- 6.7 It is recorded that it will only be possible for the Seller to give transfer of the Property to the Purchaser after registration of the subdivision(s) of the Site.

## 7. POSSESSION

- 7.1 Possession shall be given to the Purchaser on the Transfer Date, from which date it will be at the sole risk, profit or loss of the Purchaser.
- 7.2 The Purchaser shall be liable for payment of all rates, taxes, and other legal government levies or charges in respect of the Property calculated as from the Transfer Date, and the Purchaser shall refund the Seller a proportionate share of such charges paid by the Seller in advance. If requested to do so, the Purchaser shall, on demand, pay to the Conveyancing Attorney an estimated pro rata portion of such rates, etc., in advance to enable the said Conveyancing Attorney to pay such rates, etc. before the Transfer Date.
- 7.3 The Purchaser acknowledges that on the Transfer Date, construction of parts of the Development, including recreational facilities, roads and other infrastructure, pathways, other phases, etc, may not yet have been completed. The Purchaser accordingly hereby acknowledges that he might be subjected to nuisance, noise, and other inconvenience from whatsoever cause arising and howsoever arising. The Purchaser shall have no claim whatsoever against the Seller, nor shall the Purchaser be entitled to any reduction in the purchase price or interest thereon by reason of any such inconvenience and/or interruption. The Seller shall, however, use his best endeavours to procure that such inconvenience or interruption is kept to a minimum.
- 7.4 The Seller is liable for payment of all bulk services levies and charges usually payable to any Relevant Authority in respect of the Property.

7.5 The Seller is liable for the payment of all service connection fees to the Relevant Authority.

## 8. CONDITIONS OF TITLE AND VOETSTOOTS

8.1 The Property is sold subject to the title conditions as set out in the existing Title Deed or deeds and to such further conditions as may be imposed by the Relevant Authority when approving the subdivision(s) of the site.

8.2 The Property is sold Voetstoots, and the Seller will not be entitled to any remuneration in respect of any minor excess and will not be liable for any minor shortfall in the extent of the Property which may become apparent in any re-survey thereof, and the Purchaser shall accept the site as constructed Voetstoots on the Transfer Date.

8.3 ***The Seller shall not be required to indicate the position of any of the beacons or pegs on the Property or any boundaries thereof other than those to be marked by the Land Surveyor upon subdivision survey. The Purchaser shall not have a claim for damages or otherwise for any deviation in actual size in the Property from that represented to the Purchaser, if such deviation does not exceed 5% (five percent) of the total actual size of the Property.***

8.4 ***It is recorded that the Seller may impose a condition at the instance of the Relevant Authority as follows: The title deed of each erf shall include the condition that the property owner shall conform to any conservation and/or rationing program or scheme introduced, adopted or implemented by sphere of government or relevant regulating body by reducing his/her electricity consumptions as required in terms of such program or scheme.***

8.5 ***The Purchaser acknowledges that it may be necessary for the Seller to erect mini substations throughout the Development during construction and the installation of bulk services. If any such mini-substations should need to be erected upon the Property, the Purchaser consents to the erection thereof and consents to the creation of a servitude in the title deed for the Property providing for such mini-substation to be erected on a space not exceeding 4m<sup>2</sup> (four square meters).***

## 9. INTEREST

9.1 Any amounts due by the Purchaser to the Seller or the Conveyancing Attorney and not paid on the date in terms of this Agreement, will bear interest at the rate of 3% (three percentage points) above the prime interest rate of Absa Bank Limited, calculated from the date upon which it becomes due until the date of final settlement.

9.2 In the event of transfer being tendered by the Seller as described in clause 6 above, and the Purchaser not being able to take transfer or the Transfer Date is delayed due to the non-fulfillment of any condition or requirement of this Agreement, then the Seller reserves the right to claim interest from the Purchaser as described in clause 9.1 above, calculated on the full purchase price and from the date upon which registration of transfer of the Property was tendered by the Seller, until the Transfer Date.

## 10. DEFAULT

10.1 If a party commits a breach of this agreement and/or fails to comply with any of the provisions hereof, then the other party shall be entitled to give the defaulting party 7 (Seven) days' notice in writing to remedy such breach and/or failure and if the defaulting party fails to comply with such notice, then the other party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which such party may have in law, including the rights to claim damages,

to cancel this Agreement or to claim immediate performance and/or payment of all the defaulting party's obligations in terms hereof. If the defaulting party is the Purchaser and the Seller elects to cancel the agreement, then it will be entitled, but not obliged, to retain all amounts paid by the Purchaser as a genuine pre-estimate of damage suffered by the Seller

- 10.2 Should the Seller take steps against the Purchaser pursuant to a breach by the Purchaser of this Agreement, the Seller shall, in addition to the rights aforementioned, be entitled to recover from the Purchaser who shall be liable to the Seller for payment of all the Seller's legal costs incurred on the scale between Attorney and own Purchaser, including tracing fees and collection commission paid by the Seller.
- 10.3 The Purchaser shall not be entitled for whatever reason to withhold, set off or retain any amounts owing by the Purchaser to the Seller, nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of this agreement by reason of any breach or alleged breach of the Seller's obligations hereunder.
- 10.4 If any dispute arising from or in connection with the interpretation of any term or condition of this agreement, it may be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator appointed by the Foundation.

## 11. SELLING AGENTS COMMISSION

The Seller shall pay the Selling Agents' commission for the sale of the Property as agreed between them, which commission shall only be deemed to be earned on the Transfer Date. The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any Property Practitioner other than the Selling Agent named in clause F of the Schedule. **The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against/suffered by the Seller arising out of a breach of any of the aforementioned warranty.** In the event of this Agreement being cancelled as a consequence of a breach on the part of the Purchaser, the Purchaser shall be liable for any sales commission due by the Seller to the Property Practitioner who introduced the Property.

## 12. TRUSTEES OF LEGAL ENTITIES TO BE FORMED AND, NOMINATIONS AND SURETYSHIPS

- 12.1 If more than one Purchaser is a party to this Agreement, then such Purchasers shall jointly, severally, and *in solidum* (joint and several) be liable for the due performance of their respective obligations in terms of this Agreement, and the parties hereby renounce all benefits arising from the legal exemptions *de duobus vel pluribus, reis debendi*. (the debtor from whom the full amount is claimed cannot avail himself of the benefit that he is only liable for his share and thereby avoids having to pay the full debt).
- 12.2 **If the Purchaser is acting for or as a nominee of as a Trustee for a Company to be formed, or in any other representative capacity, then the Purchaser shall be personally liable as Purchaser in terms of this Agreement unless the said Company is formed and in addition adopts, ratifies and confirms the terms of this Agreement, within 30 (thirty) days after notification by the Conveyancing Attorney. If the said Company so formed adopts the nomination and ratifies and confirms all the terms of this Agreement then the Purchaser by his signature hereto binds himself to the Seller as Surety and co-principal debtor *in solidum* (joint and several) with the said Company under renunciation of the benefits or excussion, division and cession of action for the due performance by the said Company of its obligation in terms hereof.**
- 12.3 In the event of a registered Company/Close Corporation or the Trustees of a Trust being the Purchaser of the Property, the signature on behalf of such Company/Close Corporation or the Trust, by virtue of his signature hereto, binds himself as surety and co-

**principal debtor jointly and severally with the Company/Close Corporation or Trust for the fulfillment of all the terms and conditions of this Agreement.**

**13. OFFER**

If this Agreement is signed by the Purchaser only, then this document constitutes an irrevocable offer to the Seller, which must be accepted within 30 (Thirty) days from the date on which the Purchaser signed this Offer, by failure of which the offer shall lapse and be of no further effect.

**14. PRESALES, FORCE MAJEUR AND CANCELLATION**

14.1 If the Seller can't pass transfer of the Property to the Purchaser within a period of 18 (eighteen) ~~12 (twelve)~~ months from the Signature Date as a result of the fact that the Seller did not receive a Rates Clearance Certificate or any other consent and/or documentation from the Relevant Authority, or any consent, from any other person, whosoever, necessary in the discretion of the Seller, to enable him to pass transfer to the Purchaser, then the Seller may cancel this agreement with a written notice to the Purchaser.

14.2 The Seller may intend to develop the site with the assistance of a Development Bond, and it is also necessary for the Seller to sell a certain minimum number of Stands in the Development to make it economically viable. Should the Seller not sell the required number of Stands to make the Development, in the Seller's own and absolute discretion, financially feasible or not meet the requirements of the development loan, then the Seller may cancel this Agreement by written notice to the Purchaser. The Purchaser shall have no recourse against the Seller as a result of this cancellation.

14.3 If it is or becomes unlawful for the Seller to conduct business or is restricted in any way to conduct its business under regulations issued in terms of the Disaster Management Act No 57 of 2002 or any other legislation, then the Seller may, by written notification to the Purchaser, cancel this Agreement.

14.4 With a *force majeure* event, which will be regarded as an event beyond the reasonable control of the Seller, which causes material physical damage or destruction to the Property and/or prevents the immediate performance of any obligation of the Seller, it may, by written notification to the Purchaser, cancel this Agreement.

14.4.1 The abovementioned *force majeure* event may include acts of God, war, strike, sanctions, any pandemic, or changes in laws, regulations, ordinances, acts by government or any other authority relevant to this Agreement or development or the like made by any competent authority, or other circumstances wholly outside the control of the Seller.

14.5 The Seller will have the right to cancel this Agreement with written notification to the Purchaser if this Development, in the sole discretion of the Seller, becomes, for whatsoever reason, reasonably considered not economically viable to continue with the Development. If this Agreement terminates in terms of this clause 14, then the Seller and Purchaser shall be restored to, as near as possible, to the position they would have been, before entering into this Agreement. The parties shall have no claims against each other in connection with this sale, except as may arise from a breach of contract.

**15. BUILDING OPERATIONS, PHASING AND LAYOUTS**

15.1 ***The Purchaser acknowledged that the Development is not fully developed yet and that building operations will take place upon, adjacent or neighbouring subdivisions or Stands and that the said building operations may cause the Purchaser particular inconvenience.***

***The Purchaser agrees that he shall have no claim either against the Seller or against the building arising out of such building operations.***

- 15.2 The Purchaser hereby grants access to the Seller or its nominated Seller constructing dwellings within the development, after the Transfer Date, to have access over the Property to an adjacent property purely to complete construction of improvements on the neighbouring stand, insofar as may be necessary. This access will not unreasonably interfere with the Purchaser's use of the Land, and this right to access terminates once the construction on the neighbouring property is completed.
- 15.3 ***The Purchaser acknowledges that the Development may take place in phases and that the Seller reserves the right to change and amend in his sole discretion the layout and phasing of the development from time to time.***
- 15.4 The Purchaser acknowledges that he is aware that the view currently enjoyed and/or the projected view from the Property hereby sold, may be affected by the construction of any further buildings on the Land or any adjacent Stand/development in the vicinity of the Property. The Purchaser accordingly acknowledges and agrees that the Purchaser shall have no claim or right of action whatsoever against the Seller arising from such impact on or impairment of the view from the Property, or any derogation from the value thereof, as a result of any such ongoing development or further buildings.
- 15.5 The Purchaser declares that he is aware of the fact that the development will consist of various phases for which site development plans will be approved and that further development rights, may not yet been approved and that the Purchaser hereby irrevocably consent to the development rights, any amendments to the current and future further site development plans to be approved and or development rights in respect thereof, as may be agreed between the Seller, in its sole discretion, and the Relevant Authority or imposed in terms of LUPO or any other relevant legislation. The Purchaser irrevocably waives its rights to object to the development rights or any amendment as provided for in this clause. The Purchaser undertakes to sign all documents necessary to give effect to the aforesaid.

## 16. HOMEOWNERS ASSOCIATION

***The Purchaser acknowledges that the Site will be governed by a Home Owners Association (herein referred to as the "HOA") to regulate, control and manage the common interests of the owners of properties specifically in the Zevenbosch Estate.***

- 16.1 On the Transfer Date, the Purchaser will become a member of the HOA and be bound by its constitution and rules. ***The Purchaser acknowledges explicitly that from the Transfer Date, he will be liable for the payment of levies imposed by this Association.***
- 16.2 It is recorded that the HOA has been incorporated to promote the communal interest of all owners of properties governed by the HOA, which will include but not be limited to maintenance of security facilities, gate houses and security gates, roads, fencing, open spaces, communal dams, servitudes, and all communal facilities.
- 16.3 ***The Purchaser acknowledges that he has acquainted himself with the provisions of the Constitution and the Management and Conduct Rules.***
- 16.4 ***The Purchaser undertakes that upon the Transfer Date, he shall automatically become and remain a member of the HOA and hereby agrees to be bound by the Constitution and Management and Conduct Rules for as long as he is the registered owner of the Property.***
- 16.5 The Seller shall be entitled to procure that, in addition to other conditions of title and/or subdivision referred to herein, the following conditions of title *inter alia* be inserted in the Deed of Transfer in terms of which the Purchaser takes title to the Property for the benefit of the HOA:

- 16.5.1 The Property may not be sold or transferred save with the written consent of the Zevenbosch Homeowners Association, which consent will not be unreasonably withheld.
- 16.6 In the event of the Registrar of Deeds requiring the amendment of the conditions in Clause 16.5 above in any manner to affect registration of the same, the Purchaser hereby agrees to such amendment.
- 16.7 The Purchaser also accepts any amendment of the constitution to meet the requirements of the Relevant Authority to approve the draft constitution.

## 17. SALE OF PROPERTY

If it is indicated in Clause **G** of the Schedule that this Agreement is subject to the sale of the Purchaser's property, then this Agreement is subject to such sale on the conditions contained in the said Clause **G**. The Seller may extend the relevant period in the Seller's sole discretion, on request by the Purchaser. It is furthermore agreed that for the Developer to accept this condition, which may suspend the registration of transfer of the Property until at least the registration of transfer of the Purchaser's Property, it is agreed that the Purchaser shall also instruct the Developer's Conveyancing Attorney to attend to this transfer. This condition is imposed based on accountability for the Developer's benefit

## 18. 72 HOUR CLAUSE

Should the Seller at any time before the fulfilment of all suspensive conditions, receive another offer to purchase the Property, which in the discretion of the Seller contains more favourable conditions or if the Seller and further purchaser entered into a sale agreement of which the suspensive conditions have been fulfilled and which agreement was subject to the cancellation of this Agreement, then the Seller may in his sole discretion notify the Purchaser of such fact in writing, which notice may contain a copy of the new offer to purchase, and shall have 72 (seventy two) hours (excluding Saturdays, Sundays and public holidays) from the time of receipt of such notice to either have the remaining suspensive conditions fulfilled or to waive in writing the benefit of all suspensive conditions in this Agreement thereby binding the Purchaser unconditionally to the Agreement failing which, the Agreement will lapse and be of no further force or effect.

## 19. NOTICES AND DOMICILIA

- 19.1 The parties to the Agreement choose the addresses set out in **A1** and **A2** as their respective *domicilia citandi et executandi* (means **The physical address given by you which you have chosen where summonses, legal documents and notices can be served on you**) for all purposes arising hereout and as their respective addresses for the service of any notices required to be served upon them hereunder.
- 19.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give such notice by email.
- 19.3 Either party may, by notice to the other, change the physical address chosen as its/his *domicilium*, or may advise the email address or change the email address, provided that such change(s) shall only become effective on the sixth business day after the date of receipt or deemed date of receipt of such notice by the addressee.
- 19.4 Any notice to a party shall:
- 19.4.1 If sent by pre-paid registered post, it is deemed to have been received on the fourth business day after posting unless the contrary is proved.
- 19.4.2 If delivered by hand, it shall be deemed to have been received on the day of delivery or on the next business day if the day of delivery is not a business day.

19.4.3 If sent by email, it shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day, unless the contrary shall otherwise be proved.

19.5 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a party to this Agreement shall be an adequate written notice or communication to it/him notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi* or transmitted to such party's email address as stipulated herein.

## 20. DIRECT MARKETING COOLING OFF RIGHT

20.1 In terms of section 16 of the CPA, if this sale has resulted from direct marketing by the Seller or its agents, the Purchaser has the right to cancel this agreement without reason or penalty by written notice within 5 (five) business days after the agreement was concluded, or within 5 (five) business days after delivery of the Property.

20.2 The Seller is unable to accept the risk of cancellation without reason within 5 (five) business days of delivery, as the Seller could, in the interim, have sold the Property to someone who was not so affected. In addition, if the transaction is cancelled after delivery to the Purchaser, the Seller will be left to carry the holding costs of the Property for an uncertain period whilst looking for a replacement Purchaser. This has the potential to create substantial losses for the Seller.

20.3 The Seller is therefore not prepared to enter into this Agreement with any Purchaser if the transaction has resulted from direct marketing.

**20.4 *The Purchaser therefore warrants that this transaction has not resulted from direct marketing and the Seller enters into this transaction relying entirely upon such a warranty.***

**20.5 *After delivery, if the Purchaser successfully cancels this Agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the CPA, the Purchaser shall be liable for the damages suffered by the Seller as a result thereof based on the Purchaser's breach of warranty.***

## 21. LEVY STABILISATION FUND

21.1 The Parties confirm that they are aware of the contribution towards the Levy Stabilization Fund (the "LSF") on alienation or disposal of the Property or an interest therein as follows:

21.1.1 As soon as the HOA comes into existence it shall establish a Levy Stabilization Fund (The "LSF") for the purpose of supplementing normal- or special levies or meeting of any extraordinary expenditure or expenditure of a capital nature to be incurred by the HOA or for any purpose that the HOA may deem fit in carrying out its main objects and the provisions in terms of its Constitution.

21.1.2 It is a condition of membership of the HOA that its members (except the Developer) shall be liable to contribute 0.50% (zero comm five zero percent) of the gross selling price of the Property (or a portion thereof), or the fair market value thereof, whichever is higher, or in the absence of a selling price the gross market value of the Property (or a portion thereof) that has been alienated, to the LSF, which amount shall become due and payable as set out in clause 21.1.4 and 21.1.5 below.

21.1.3 When a Stand in the Development is sold by private treaty or otherwise or in any way disposed of (except for the exclusion in clause 21.1.2 hereunder), the Purchaser shall be obliged to pay the LSF contribution to the HOA.

- 21.1.4 In the case of an alienation of 50% (fifty percent) or more of the shares in a Company or 50% (fifty percent) or more of a membership in a Close Corporation or the cession of 50% (fifty percent) or more of the beneficiaries in a Trust of their interest in such a trust, a contribution to the LSF shall upon such alienation becomes due and payable as envisaged in clause 21.1.2 above.
- 21.1.5 Notwithstanding that any of the named entities remains the owner of the Property, the object, in this regard, shall be to ensure that where there is a material change in the beneficial ownership or controlling interest of that entity, such entity shall become liable for a contribution to the LSF on the same basis that would have applied if the said entity had become a new owner of the Stand.
- 21.1.6 Notwithstanding the above, a material change in beneficial ownership or in the controlling interest which results from alienation by way of succession, whether testate or intestate, shall not give rise to an obligation on the part of the Purchaser or to contribute to the LSF.
- 21.1.7 All payments are payable on the date of registration of the transfer of the Property or on the effective date of transfer of any of the other provisions.
- 21.1.8 In the event of a dispute as to whether a selling price or value of disposal is at the fair market value, then such fair market value shall be determined by the 50% (fifty percent) of the aggregate of two sworn appraisements. The HOA shall nominate one sworn appraiser, and the Purchaser the other one. The HOA and the Purchaser shall share the costs of these two sworn appraisals.
- 21.1.9 The HOA shall not issue a levy clearance certificate or give its consent to transfer the Property unless the payment due to the LSF has been secured to the satisfaction of the HOA.
- 21.2 The provisions of this clause 21 shall not apply to the Developer.

## **22. POPI**

The parties to this Agreement agree to provide their personal information to the Conveyancing Attorneys, Selling Agent, Mortgage Loan registration Attorneys, as well as the Bank granting the Development Loan and its Attorneys, as well as the Bond Originator, if required (The "Institutions"), on the express understanding that:

- 22.1 This constitutes a consent, as required under Section 11(1)(a) of the Protection of Personal Information Act 4 of 2013 ("POPI").
- 22.2 The Institutions will have access to your personal details, which have been furnished to them for their mandates and matters ancillary thereto.
- 22.3 The Institutions are authorised to release personal information not only between them, but also to the financial institution investing funds or to consider a mortgage loan application, involved in this transaction, relevant municipal authority, as well as any litigation attorney tasked with the mandate to assist with the enforcement or cancellation of the transaction, or a claim for damages, or action or application proceedings pertaining to the transaction (if necessary), solely for this transaction.
- 22.4 The personal data will be used only for the purposes as set out above.
- 22.5 The Institutions will in addition to its POPI compliance store your details, as provided for and specified by its governing body, from time to time.

## 23 CONSTRUCTION OF THE DWELLING

- 23.1 The Seller undertakes in a proper and workmanlike manner to erect a building or buildings (“the Works”), if it is not yet erected and completed on the Signature Date on the Property in accordance with the Architectural Building Plan and the Specifications and Finishing Schedule (Annexure “B” and “B1”).
- 23.2 Extras shall mean work which cannot reasonably be inferred from the Works as agreed upon herein;
- 23.3 No variations, extras, or omissions shall vitiate this agreement, and no dispute concerning variations or extras will render the remaining provisions of this agreement null and void.
- 23.4 The execution of such extras, variations, or omissions will only be done if agreed so in writing between the parties. The Purchaser will be liable for payment of all costs for such variations or extras over and above the Purchase Price as are payable before the construction of the agreed variations and extras, and within 7 (Seven) days from the Seller’s request for payment.
- 23.5 It is hereby expressly agreed that the Seller will under no circumstances be compelled to agree to such extras, variations, or omissions.
- 23.6 The Purchaser shall, within 7 (seven) days after the Transfer Date, notify the Seller in writing of all or any defects in the Works, failing which the Purchaser shall be deemed to have accepted the Works in good order and condition. The Purchaser shall not be precluded from exercising his/her rights in terms of Section 56 read with Section 55 of the Consumer Protection Act, insofar as it may be applicable.
- 23.7 The Seller shall only be responsible in terms of clause 23.6 for defects caused by faulty materials and/or workmanship, and the Seller shall under no circumstances be liable for any consequential loss or damage. The Purchaser hereby waives any such claim.
- 23.8 The Seller shall remedy any deviation from the terms, Plans and specifications of this agreement or any deficiency related to design, workmanship or material, manifesting itself within 180 (One Hundred and Eighty) days of the Transfer Date, provided that the Purchaser notifies the Seller thereof in writing within the said period, failing which the Purchaser shall be deemed to have accepted the Works in good order and condition.
- 23.9 The Seller shall remedy any roof leak of which it was notified within 1 (one) year of the Transfer date.
- 23.10 The Purchaser benefits from the National Home Builders Registration Council’s (NHBR’s) structural guarantee of 5 (Five) years for major structural defects.
- 23.11 The Seller shall cause all such reasonable repairs as notified by the Purchaser within such period to be affected as soon as reasonably possible thereafter at the Seller’s cost.
- 23.12 Clauses 23.6, 23.7, and 23.8 are the Seller’s guarantee. Although the Seller strives to erect a building of outstanding quality and the highest standards, the guarantee cannot cover any loss or damage as a result of misuse, neglect, carelessness, accident, or any risks, which are generally insured against in an insurance policy, as required by Financial Institutions with mortgage loans. This guarantee also excludes the following types of repair work:
- 23.12.1 Any touch-up paintwork whatsoever;

- 23.12.2 Hairline cracks on any plasterwork. These types of cracks are unavoidable and are caused by the natural shrinkage of materials during the first 6 (six) months after Transfer. When walls are repainted, the hairline cracks will disappear. The Seller is not responsible for repairing or repainting cracks of this nature.
- 23.12.3 Water may be blown through the garage door into the garage up to a distance of 1.5m inside the garage. There is no guarantee that the rubber on the garage door will keep this water out if blown in by the wind.
- 23.13 The Seller has made every effort to incorporate the Purchaser's consumer rights, as provided for in the Consumer Protection Act ("CPA"), into this agreement. If any provision in this agreement is found to contravene the CPA, the parties agree that such provision shall be severed from this agreement and be treated as if it were not part of this agreement.
- 23.14 In the event of a dispute between the parties as to whether the Seller is liable to make good a defect or whether the defect has been adequately repaired and not resolved between the parties within 60 (Sixty) days of receipt of a notice referred in paragraph 23.6, 23.7 or 23.8 above, then a certificate issued by the Seller's Architect to the effect whether the Seller is liable or that any defect has been made good shall be final and binding on both parties and shall relieve the Seller from any further obligation in respect of such defect.
- 23.15 In the event of any defect manifesting itself after the period referred to in clause 23.6, 23.7 or 23.8 above for which the Purchaser agrees, the Seller shall not be liable, the Seller does hereby cede and make over to the Purchaser its rights to claim from the contract or nominated sub-Seller/supplier to the extent that the Seller is not precluded therefrom.
- 23.16 The final extent of the Works may vary from the extent indicated on the Plans. If the difference in extent is less than 10% (Ten Percent) of the extent stipulated on the , Architectural Building Plan the parties will have no recourse against each other.
- 23.17 All undertakings hereby given to the Purchaser are personal to the Purchaser and cannot be alienated and disposed of by him in any way.
- 23.18 The Purchaser shall not be entitled for whatever reason to withhold, set off, or retain any amounts owing by the Purchaser to the Seller, nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of this Agreement by reason of any breach of the Seller's obligations hereunder.

## **24. GENERAL**

- 24.1 The parties hereto acknowledge that this Agreement represents the entire Agreement between them and that no other conditions, stipulations, warranties, and/or representations whatsoever express or implied have been made by either party or their agents other than as outlined in this Agreement.
- 24.2 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.
- 24.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice, or derogate from the rights of such party in respect of this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.

- 24.4 The parties hereby consent in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28(1) of the said Magistrate's Court in any action or court procedure instituted by the Seller arising out of this Agreement.
- 24.4.1 Notwithstanding the above, the Seller shall be entitled to institute any action or court procedure against the Purchaser arising out of this Agreement in any court having jurisdiction.
- 24.5 The Purchaser may only sell the Property before the Transfer Date with the written consent of the Seller.
- 24.6 Should the Purchaser dispose of his Stand, before taking transfer thereof, to a third party with the consent in clause 24.5 above then that transaction must be registered simultaneously with the initial transfer to the Purchaser, then the Purchaser undertakes also to appoint the Conveyancing Attorney to attend to such transfer, to eliminate the possibility of any delays in the registration process. The instruction of the Conveyancing Attorney shall be a condition of the Seller's consent obtained in clause 24.5 above.
- 24.7 Should any provision of this Agreement be held to be unenforceable, illegal, or invalid for any reason whatsoever, such provision shall in the first instance be construed and interpreted to the minimum extent necessary to comply with the relevant legislation or law. Should such interpretation not be possible, then such provision shall be treated as *pro non scripto* and will be separate and severable from the remaining provisions of this Agreement, which shall continue to be of full force and effect. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein. In such an event, this Agreement shall be carried out as nearly as possible according to its original terms and intent, and the Parties further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- 24.8 ***The Purchaser acknowledges that all artistic, architectural, photographic and in any way visual presentation material, including but not limited to models, brochures and pamphlets, used by the Seller or its agents in the marketing and selling of the Property hereby purchased and sold, have been prepared and distributed as advertising material only and that the Seller shall in no way be bound. The Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby, and the Seller hereby makes no representation, and the parties shall be bound by the terms contained in this Agreement only.***
- 24.9 In terms of the National Environmental Management: Biodiversity Act 10/2004 Alien and Invasive Species Regulations, 2014, The Seller declares that to the best of his knowledge, there are no Invasive Alien Species, as per the National register of alien and listed invasive species, present on the property.

**(Insert Site development Plan here)**

**Annexure “A”**

**(Insert Architectural Building Plan here)**

**Annexure “B”**

**(Insert Specifications and Finishing Schedule here)**

**Annexure “B1”**