



**DEED OF SALE  
AND  
CONSTRUCTION AGREEMENT**

**“ THE SUMMIT SECTIONAL TITLE SCHEME”**

Entered into by and between:

**DALMAR BELEGGINGS PROPRIETARY LIMITED**

**Registration No: 1972/001237/07**

**(“the Seller”)**

and

\_\_\_\_\_ (ID. No. \_\_\_\_\_)

and

\_\_\_\_\_ (ID. No. \_\_\_\_\_)

**(“the Purchaser”)**

IN RE: BLOCK: \_\_\_\_\_ UNIT: \_\_\_\_\_ THE SUMMIT SECTIONAL TITLE SCHEME

**A. SCHEDULE OF INFORMATION AND DEFINITIONS****1. DETAILS OF SELLER**

DALMAR BELEGGINGS PROPRIETARY LIMITED

Registration No: 1972/001237/07

c/o Miltons Matsemela Oosthuizen Incorporated

71 Montagu Street

Mossel Bay

6500

**2. DETAILS OF PURCHASER (NB: IF MARRIED IN COMMUNITY OF PROPERTY, FILL IN BOTH SPOUSES' INFORMATION PLEASE)**

Purchaser's full name / company name:	
Identity Number / Registration Number:	
Purchaser's Marital Status (ANC / COP / FORGEIN LAW):	
Purchaser's physical address:	
Purchaser's email address:	
Purchaser's Telephone Numbers	
Cell:	Home:
Business:	

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3. **PROPERTY**

3.1	Block No. _____ Unit No. _____, The Summit Sectional Title Scheme, consisting of a section measuring:	±_____m <sup>2</sup> ;
3.2	and, Exclusive Use Areas: Garden _____; and Parking _____(if applicable); and,	Extent ±_____ m <sup>2</sup> ; Extent ±_____ m <sup>2</sup>
3.3	an undivided share in the common property	
as shown on the Draft Development Plan/Draft Sectional Title Plan – <b>Annexure “A”</b> hereto, hereinafter referred to as <b>“the Property”</b> .		

4. **PURCHASE PRICE**

Purchase Price ( <b>VAT INCLUSIVE</b> )	R
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5. **PAYMENT OF PURCHASE PRICE**

5.1	A non-refundable <b>Reservation Fee</b> , payable within <b>24-hours</b> , of Date of Signature	<b>R 15 000,00 (fifteen thousand Rand)</b>
5.2	A Deposit of at least 10 % (ten percent) of the Purchase Price, less the Reservation Fee, as stipulated in 5.1 above, within 14 (fourteen) days of date of signature.	R
5.3	Balance of the Purchase Price secured in terms hereof, payable to the Seller against registration of transfer.	R

6. **MORTGAGE BOND**

If the sale is subject to the Purchaser obtaining a mortgage bond as per clause B.5 of the terms and conditions:-

Mortgage bond amount	R
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***If not completed, the sale is unconditional and clause B 5 of the terms and conditions does not apply.***

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Purchaser specifically acknowledges this clause.

7. **ESTIMATED OCCUPATION DATE**

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## 8. SELLER'S BOND ORIGINATOR

<b>Ooba Home Loans: Contact person - Mariana Grobler.</b> E-mail: <a href="mailto:Mariana.grobler@ooba.co.za">Mariana.grobler@ooba.co.za</a> . Cell No. 083 628 9907
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## 9. NAME OF SELLING AGENT

<b>Company:</b>
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<b>Agent:</b>
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## 9. DEFINITIONS

- 9.1 **“Agreement”** means the Agreement recorded herein;
- 9.2 **“Alienate”** means to alienate any Sectional Title Unit, or part thereof, by way of the sale, exchange, donation, deed, testate and intestate succession, cession, assignment, court order, insolvency or liquidation, thereof, irrespective of whether such alienation is subject to a suspensive or resolutive condition and "Alienation" shall have a corresponding meaning;
- 9.3 **“Alienation Levy”** means the amount, equal to one (1) percent of the sales price plus VAT, if applicable, of any Sectional Title Unit, that is Alienated, after the initial purchase from the Developer, payable by the alienating member to the Conveyancer, for distribution to the Association and Body Corporate, on a 60/40 – basis, with 60% allocated to the Association and 40% allocated to the Body Corporate;
- 9.4 **“Approved Bond”** means the issue of a quotation and Pre-Agreement as received from the banking institution as per Section 92 of the National Credit Act, 2005 (Act No. 34 of 2005);
- 9.5 **“Body Corporate”** means the **“The Summit Body Corporate”**, which Body Corporate shall be established in terms of the relevant provisions of the Sectional Titles Act, 1986 (Act No. 95 of 1986) and the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), and which shall, in addition to the Prescribed Management and Conduct Rules, *[which are attached as Annexures 1 and 2 to the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011)]* and, if applicable, as amended by the Developer and/or the Body Corporate – *[such amended Rules, to be approved in terms the relevant provisions of the Community Schemes Ombud Services Act, 2011 (Act No. 9 of 2011)]*, be governed by the Constitution and the Rules of the **Home Owners’ Association**.

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- 9.6 “**Business Day**” means any day other than Saturday, Sunday or a Public Holiday;
- 9.7 “**Contractor**” means the building contractor appointed by the Seller, in its sole and absolute discretion, to construct the building/s in the Housing Development Scheme;
- 9.8 “**Conveyancer**” means **Miltons Matsemela Oosthuizen Incorporated**  
71 Montagu Street, Mossel Bay, 6500  
Tel: 044 – 601 8700  
E-Mail: [sonjab@mmolaw.co.za](mailto:sonjab@mmolaw.co.za)  
ABSA BANK, Mossel Bay Branch  
Trust account number: 4099414359  
Branch code: 635 005  
Swift code: ABSAZAJJ  
Reference: Purchaser’s Surname and Unit Number;
- 9.9 “**Day**” means any calendar day;
- 9.10 “**the Development**” means the larger residential housing development being developed by the Seller, (consisting of individual residential erven, sectional title schemes and housing development schemes), under the name and style of URBAN COUNTRY ESTATE, within the boundaries of which *inter alia* this, the **The Summit Sectional Title Scheme**, is included;
- 9.11 “**the Estimated Initial Monthly Levy**” means the initial monthly levy, for which the Purchaser shall be liable, from the date of occupation, or the date of transfer, whichever date occurs first, as stipulated in clause B. 11.6, (“PROPRIETARY CHARGES”), below;
- 9.12 “**Happy Letter**” means a completion form or letter signed by the Purchaser, certifying his satisfaction that the Property has been satisfactorily and finally been completed, and from date of signature of which, the Purchaser shall have no claim against the Seller, and the Seller shall have no further obligations towards the Purchaser in terms of this Agreement, save and except for the Seller’s obligations as contemplated below.
- 9.13 “**the Homeowners’ Association**” means the Urban Country Estate Homeowners Association, a legal *persona*, established or to be established for the Urban Country Estate Development in terms of the George Land-Use Planning By-Law, 2015, or any statutory re-enactment or amendment thereof and the word “association” will

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have the same meaning;

- 9.14 **“the Property”** means the Sectional Title Unit, as defined in clause A.3 of the schedule of information, above;
- 9.15 **“the Purchase Price”** means the purchase price as per clause A. 4 of the schedule of information, above;
- 9.16 **“the Purchaser”** means the Purchaser/s as per clause A.2 of the schedule of information, above;
- 9.17 **“the Right to Exclusive Use”** means the right to the exclusive use of the areas of the common property, as detailed in clause A 3.2 of the schedule of information, above, subject to the terms as set out in clause B. 8, below;
- 9.18 **“the Right of Extension of the Scheme”** means the real right to extend the Sectional Title Scheme, in terms of the provisions of section 25, as read with section 11 (2) of the Sectional Titles Act, 1986 (Act No. 95 of 1986) and amended by the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), as reserved by the Developer/Seller, in clause B. 15, below;
- 9.19 **“the Schedule of Finishes”** means the detailed schedule of finishes and specifications attached hereto as **Annexure “C”**;
- 9.20 **“the Schedule of information”** means the schedule of information contained in paragraph A, above, which forms an integral part of this Deed of Sale;
- 9.21 **“the Sectional Title Scheme”** means the **The Summit Sectional Title Scheme**, to be developed in accordance with the SDP.
- 9.22 **“the Seller”** shall mean the Seller as per the Schedule of Information, clause 1;
- 9.23 **“the SDP”** means the Site Development Plan approved by the Municipality in respect of the Development on The Remainder of 6182 George, Erf 6179 George and Erf 6156 George;
- 9.24 **“the Transfer date”** means the date of registration of transfer of the Property into the name of the Purchaser;
- 9.25 **“VAT”** means value added tax as determined by the Value Added Tax Act, as amended from time to time.

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**WHEREAS:**

- (a) The Seller is the registered owner of the Property and the Developer of the Development.
- (b) The Seller intends to develop The Summit Sectional Title Scheme, within the Development.
- (c) The Seller has agreed to sell to the Purchaser, who has agreed to purchase the Property.

**NOW THEREFORE IT IS AGREED THAT: -****B. TERMS AND CONDITIONS****1. SALE OF THE PROPERTY**

The Seller herewith sells to the Purchaser, and the Purchaser herewith purchases, the Property, to be erected in the Sectional Title Scheme, at the Purchase Price, and subject to the terms and conditions as contained in this Agreement, and further subject, specifically to the Conditions Precedent, as contained in clause B 2, below.

**2. CONDITIONS PRECEDENT**

2.1 Notwithstanding anything to the contrary herein contained, or implied, the coming into force of the entire Agreement, is conditional upon the fulfilment of the following Conditions Precedent: -

2.1.1 The Seller procuring a sufficient number of perfected pre-sales, in order to satisfy the conditions and requirements, as imposed by the financier/s of this phase of the Development, this being a pre-requisite for the approval and subsequent granting of a Development Loan, for *inter alia* the installation of engineering services, (but not limited thereto), in this phase of the Development, by no later than 30 June 2026

2.2 The Conditions Precedent as contained in clause B 2.1.1 above, is inserted for the benefit of the Seller.

2.3 The Seller may, on written notice to the Purchaser prior to the expiry of the period of compliance as stipulated therein, (the "Due Date"), extend such Due Date, by a further period of time, or waive such condition, again prior to the due date for fulfilment thereof;

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- 2.4 If the Conditions Precedent, as contained in clause 2.1.1 above, is not fulfilled or waived (as the case may be) on or before the Due Date therefor, (as may be extended in terms of clause 2.3 above), this Agreement, save for such provisions which shall survive due to the necessity thereof, and which shall remain in full force and effect, shall never become of any force or effect and no Party shall have any claim against the other Party for anything done hereunder or arising here from, and the Parties shall be restored to the *status quo ante*;
- 2.5 In the event of the Conditions Precedent, as contained in clause 2.1.1, having been fulfilled or waived this Agreement will be deemed to have commenced on the first Business Day, following the date on which the Conditions Precedent are fulfilled, or waived (the "Commencement Date") and will thereafter remain in full force and effect for an indefinite period, or until terminated in accordance with its terms.

**3. PROPOSED AMENDMENTS TO THE DRAFT SITE DEVELOPMENT PLAN/ DRAFT SECTIONAL TITLE PLAN AND OTHER UNCERTAINTIES**

- 3.1 It is recorded that the Seller reserves the right, to amend the Draft Site Development Plan/Draft Sectional Title Plan, as annexed hereto as Annexure "A", in the proposed Sectional Title Scheme. As a result the position and/or locality of the Property, as indicated on the said draft Site Development Plan/Draft Sectional Title Plan (Annexure "A"), as accepted by virtue of the Purchaser's signature hereto, may be changed by the Seller, in its sole and absolute discretion. No changes shall however be made to the floor lay-out (Annexure "B") or finishes (Annexure "C") applicable to the Property, except as provided for in clause B 6, below, or otherwise specified herein.
- 3.2 The Purchaser acknowledges the contents of clause B 3.1 above, and agrees and shall accept the new position/locality of the Property, which shall for all intents and purposes be considered to be the Property as defined in this Agreement;
- 3.3 The precise boundaries of the section, forming part of the Property hereby sold, shall be depicted upon the final sectional plan as and when approved in terms of the provisions of the Sectional Titles Act, 1986 (Act No. 95 of 1986) read with the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).
- 3.4 The Purchaser further acknowledges that he is aware of, fully acquainted with, and accepts the fact that: -

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- 3.4.1 the Property is sold subject to the provisions of clauses B 3.1 and B 3.2 above, and in accordance with a draft of the sectional plan and that the participation quota endorsed thereon, which may, as and when approved, be subject to any modifications or alterations, which may be made thereto, from time to time, in accordance with the provisions of the Sectional Titles Act, 1986 (Act No. 95 of 1986) and the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), or of any authority and subject to any applicable conditions of title which may be incorporated therein;
- 3.4.2 if the areas of the common property are found not to correspond to those as set out in this Agreement, the Seller shall not be liable for any shortfall therein, nor shall it be entitled to claim compensation for any surplus.

#### **4. PAYMENT OF THE PURCHASE PRICE**

- 4.1.1 The non-refundable Reservation Fee, as stipulated in clause 5.1 of the Schedule of Information, within 24 (twenty-four) hours of signature hereof by the Purchaser to the Conveyancer, and is to be held in trust until registration of transfer, and shall be invested in an interest-bearing trust account with interest to accrue to the Purchaser. The Reservation Fee shall be non-refundable in the event that the suspensive conditions are NOT fulfilled, for whatever reason. It shall be payable to the Seller on cancellation of the Agreement.
- 4.1.2 A Deposit of 10 % (ten percent) of the Purchase Price, less the Reservation Fee, as stipulated in clause 5.2 of the Schedule of Information, to the Conveyancer, within 14 (fourteen) days from the Signature Date, which amount shall be held in trust until registration of transfer, and shall be invested in an interest bearing trust account with interest to accrue to the Purchaser, on transfer.
- 4.1.3 The balance purchase price, as stipulated in clause 5.3 of the Schedule of Information, shall be paid by the Purchaser, alternatively, the Purchaser shall deliver to the Seller's Conveyancer a written guarantee, issued by a Registered South African Commercial Bank, acceptable to the Seller, for the due payment of the balance of the Purchase Price, within thirty (30) days from written notice therefor by the Conveyancer. The Purchaser hereby waives the right that the Seller can only call for a guarantee when the

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transfer is lodged in the Deeds Office and hereby agrees that the Seller can request a guarantee as stipulated herein above.

- 4.1.4 If applicable, the amount stated in clause 5.3 of the Schedule of Information shall be paid within 7 (seven) days of the date on which the Conveyancer requests the Purchaser to make such payment. This amount shall be held in trust until registration of transfer and will be invested in an interest-bearing trust account, with the interest accruing to the Purchaser. The interest will be payable to the Purchaser upon registration of transfer of the Property into the name of the Purchaser at the Deeds Office.
- 4.2 The Conveyancer shall be entitled and obliged and is hereby authorised by the parties hereto in terms of Section 86(4) of the Legal Practice Act, 2014 (Act 28 of 2014), to invest the deposit and any other amount paid to them in terms of this Agreement in an interest-bearing trust account, interest accruing to the Purchaser. The Purchaser hereby authorises the Conveyancer to make payment to the Seller in accordance with this Agreement from any monies held on trust by them on behalf of the Purchaser.
- 4.3 The Purchaser's attention is specifically drawn to the following: Due to the ongoing cyber fraud, the Purchaser must personally verify the Conveyancer's banking details before making any payments to the Conveyancer in terms of this Agreement. The Conveyancer will not be responsible for any losses resulting from payments made into an incorrect bank account.

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***The Purchaser acknowledges this clause specifically***

- 4.4 The Conveyancers are authorised to pay the Purchase Price to the Seller upon registration of transfer.
- 4.5 The Purchaser hereby authorises the Conveyancers to pay the capital contribution levied by the municipality to obtain the Section 28 certificate (George Municipality's Land Use Planning By-Law) to enable registration of transfer, from the Purchase Price held in Trust, prior to registration of transfer. Should registration of transfer not be effected due to this Agreement being cancelled, for whatever reason, the Seller shall, within 3 (three) business days, refund this amount to the Purchaser.
- 4.6 All amounts payable by the Purchaser in terms of this Agreement shall be paid to the Seller's Conveyancer free of exchange or commission and without deduction or

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set off in cash or by means of a bank guarantee issued by a South African registered commercial bank.

## 5. MORTGAGE BOND (IF APPLICABLE)

- 5.1 This Agreement is subject thereto that the Purchaser obtain an approved loan from a bank or other recognised financial institution for not less than the amount (if any) stated in clause 6 of the Schedule of Information, or any lesser amount in the discretion of the Purchaser, (without derogating from the provisions of clause 4 above), upon the security of a first mortgage bond to be registered against the title of the Property.
- 5.2 The Purchaser shall use its best endeavours to obtain such loan, as soon as is reasonably possible, after signature of this Agreement, by the Seller.
- 5.3 In the event of such loan not being approved in principle within 30 (thirty) days after signature of this Agreement by the Seller, then this Agreement shall become of no force or effect, *ab initio*, in which event the Seller shall refund to the Purchaser the amounts paid in terms of clause 3 above, together with accrued interest thereon, The Seller shall, in its absolute and sole discretion, have the right to extend the 30 (thirty) day period, as mentioned herein above, for a further reasonable time.
- 5.4 The suspensive condition, as contained in clauses 5.1 to 5.3 above, shall be fulfilled and this Agreement shall become unconditional, on the date that a quotation from a financial institution, confirming that the loan as referred to in clause 5.1 above, has been granted, **in principle**, is received, by the Conveyancer and or Seller.
- 5.5 Should the Purchaser fail to apply for the loan, as stipulated in clause 5.1 above, the Seller shall be entitled to appoint a bank or a bond originator for the purposes of granting loan finance to the Purchaser for the purchase of the Property, in which event the Seller or its agent is hereby irrevocably authorised and empowered to apply to the bank so appointed for the required loan on behalf of the Purchaser. The Purchaser shall be obliged to furnish the information normally requested by banks to the bank so appointed in order to assess the granting of the required loan. If the Purchaser is a company, close corporation, trust or married woman, and the loan is granted subject to the condition that the directors, shareholders, members, trustees and/or spouse, as the case may be, shall bind themselves as sureties and co-principal debtors with the Purchaser, the Purchaser undertakes to procure the signatures of such person/s. Should the Seller so arrange such loan finance, the

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provisions of clause 5.1 above, shall be deemed to have been fulfilled and the Purchaser shall be obliged to sign all bond and other documentation to give effect thereto and to pay all costs and charges relating to the registration of a first mortgage bond over the Property.

## 6. CONSTRUCTION AND FINISHING OF THE PROPERTY

- 6.1 The general nature and type of the Property, is set out in the Floor Lay-out Plan, attached hereto as Annexure "B";
- 6.2 The construction of the Property shall commence within a reasonable time, from the Commencement Date of this Agreement;
- 6.3 The Property shall be built and finished off in accordance with the detailed schedule of finishes and specifications, attached hereto as Annexure "C", which schedule the Purchaser, by his signature hereto warrants that he has carefully inspected and scrutinized and is satisfied with;
- 6.4 Any non-standard/optional items, not specified in the schedule of finishes and specifications, attached hereto as Annexure "C", as required by the Purchaser, shall be communicated to the Seller in writing, prior to the start of construction. The Seller shall not be obliged to adhere to any such request from the Purchaser, but where it is practically possible in the sole and absolute opinion of the Seller, to make such changes to the finishes of the Property, the Seller shall cost such items and inform the Purchaser in writing of the additional costs associated with such non-standard/optional items. Should the Purchaser be satisfied with the said additional costs he shall forthwith inform the Seller in writing of the acceptance thereof and secure the costs thereof by depositing the additional costs with the Conveyancer, within seven days from the date of acceptance of the said costs by the Purchaser, failing which the provisions as contained herein will lapse and be of no force or effect;
- 6.5 Due to the fact that the buildings (the Property and common amenities) in the Sectional Title Scheme will only be built in the near future, it may be possible that the specific materials or equipment as listed in the schedule of finishes and specifications, attached hereto as Annexure "C", may not be easily available at the time that it is needed. The Seller shall under these circumstances, after informing the Purchaser thereof, be entitled, in its sole and absolute discretion, to substitute

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the unavailable material or equipment, with replacement materials or equipment of equal, or better quality.

6.6 The Seller acknowledges that the Purchaser is considered as a “Housing Consumer”, in accordance with the relevant provisions of the Housing Consumers Protection Measures Act, 1998 (Act No. 95 of 1998) and warrants and shall ensure that the Contractor: -

6.6.1 is registered as a “Home Builder”, as defined in the said act, with the National Home Builders Registration Council (herein after referred to as the “NHBRC”), a copy of which registration certificate, will lay available for inspection at the offices of the Seller, during business hours; and

6.6.2 that the Contractor, prior to construction, enrolls the Sectional Title Scheme, with the NHBRC, a copy of which enrolment, will lay available for inspection at the offices of the Seller, during business hours;

6.6.3 constructs the Property in a workmanlike manner and ensure that it is fit for habitation;

6.6.4 complies with the NHBRC Technical Requirements , to the extent applicable to the Property at the date of enrolment of the Property with the NHBRC, and that the construction is in accordance with the terms, plans and specifications, as stipulated in this Agreement.

6.7 The Purchaser shall have no claim whatsoever against the Seller, or be relieved from any of the Purchaser’s obligations, in terms of this Agreement, or be entitled to any remission or rebate of any charges payable by the Purchaser, hereunder, in the event of any non-compliance by the Contractor, and/or delay in obtaining approval of the Sectional Title Scheme, or the opening of the sectional title register, in respect thereof, for whatever reason.

6.8 The Purchaser is not entitled, to in any way interfere with the construction of the Property, any other building/s, or structure/s and the landscaping of the gardens in the Sectional Title Scheme, and shall refrain from such action;

**7. HOMEOWNERS’ ASSOCIATION AND BODY CORPORATE (CONTROL, ADMINISTRATION AND MANAGEMENT OF THE SECTIONAL TITLE SCHEME)**

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- 7.1 It is recorded that the Development constitutes a residential scheme, upon which individual residential erven, sectional title units, as well as Sectional Title Schemes, will be present. It is recorded that the Property, as defined herein, constitutes a unit within the Sectional Title Scheme, and as such the Purchaser is bound by the provisions of the Sectional Titles Act, 1986 (Act No. 95 of 1986) (hereinafter referred to as the "STA") and the Sectional Title Schemes Management Act, 2011 (Act No. 8 of 2011) (hereinafter referred to as the "STSMA").
- It is further recorded that the Homeowners' Association has been established for the benefit of all owners of all categories of property in the Development and to control and maintain roads, services and amenities within the Development, as well as to perform such other functions, as obligated in terms of the Constitution.
- 7.2 The Purchaser confirms that he is aware that he is bound to become a member of the Body Corporate, in terms of the provisions of the STA and/or the STSMA, on registration of transfer of the Property, into the Purchaser's name.
- 7.3 In addition to becoming a member of the Body Corporate, as envisaged in clause B 7.2 above, the Purchaser shall and hereby agrees to become a member of the Homeowners' Association, against transfer of the Property into his name, and agrees to remain a member of both the Home Owners' Association and the Body Corporate, for as long as the Purchaser is the registered owner of the Property.
- 7.4 The Purchaser will, *alternatively*, has been furnished with copies of the Constitution and Rules of the Homeowners' Association, including the architectural guidelines, as well as the Rules pertaining to the Body Corporate, and will acquaint himself/herself with the provisions thereof and further agrees and undertakes to abide thereto.
- 7.5 It is a term of this Agreement, that a title deed condition shall be registered against the Property in terms of which the Property shall not be transferred, without the written consent of the Body Corporate and the Homeowners' Association, in accordance with the provisions of the Constitution of the Homeowners' Association, and the Rules of the Body Corporate, and that all successors in title shall be bound to the same provisions contained herein.
- 9.26 The Purchaser acknowledges, agrees and irrevocably authorises the Conveyancer to, on the Alienation of the Property, by the Purchaser, to any third party, retain one (1) percent of the then sales price of the Property, plus VAT (if applicable), (which amount is payable by the alienating member as an ***Alienation Levy***), for

distribution, on the date of registration of transfer of the Property into the name of the third party purchaser, to the Home Owners' Association and Body Corporate, on an 60/40 – basis, with 60% allocated to the Association and 40% allocated to the Body Corporate;

- 7.6 The Seller shall be entitled to, and the Conveyancers shall ensure that, in addition to all other conditions of title, the following, or substantially similar, conditions of title be inserted in the Title Deed in terms of which the Purchaser takes title to the Property: -

*“Homeowners’ Association:-*

*This Property is subject to the following conditions imposed by the transferor in favour of Urban Country Estate Homeowners’ Association, a legal persona, established or to be established for the Urban Country Estate development in terms of Section 29 of the George Land-Use Planning By-Law, 2015, or any statutory re-enactment or amendment thereof and the word “association” will have the same meaning.*

- 1. The transferee, his successors in title or assigns (his heirs, executors, administrators or assigns) is compelled to be a Member of the Homeowners’ Association and Body Corporate, from the date of registration of the Property, into his name.*
- 2. The transferor, his successors in title or assigns (his heirs, executors, administrators or assigns) shall not be entitled to alienate the Property in any manner, or transfer it, without obtaining the prior written permission of the Association and Body Corporate, and then only subject to the condition that the Purchaser will become a Member of the said Association and Body Corporate, on the date of registration of transfer of the Property, into his name.*
- 3. The transferee undertakes to apply in writing, to the Home Owners’ Association for Membership and confirms and accepts that, irrespective of such written application, his ownership in the Property, shall be subject to the Constitution of the Association, any Rules made by the Association, as well as the Body Corporate’s Rules, copies of which shall be signed by the transferee for confirmation purposes. Copies of the Constitution of the Association, its Rules and the Rules of the Body Corporate, are available for inspection at the offices of the Managing Agent (if appointed) or can be obtained from the Association and Body Corporate.*
- 4. The transferee will remain a Member of the Association and Body Corporate and shall be bound to its provisions for as long as he remains the registered owner of the Property.*
- 5. As from date of transfer, the transferee shall be liable for payment to the Association and Body Corporate of all levies and contributions, as determined by the Association and the Body Corporate, from time to time”*

- 7.7 It is recorded that the Body Corporate shall, at all reasonable times, have access through any Property in the Sectional Title Scheme, to any ceiling void and/or service duct from time to time as may be necessary for the purpose of the installation and/or maintenance of any services contained therein.
- 7.8 The Purchaser undertakes not to interfere with or hinder any other Purchaser or owner of any Property forming part of the Sectional Title Scheme in the exercise by him of any exclusive rights granted to him (if any).
- 7.9 It is recorded that the Body Corporate will pay consumption deposits in respect of water and electricity on behalf of the Sectional Title Scheme to the local authority. Accordingly, the Purchaser, as owner of the Property, shall be liable for a *pro-rata* share, determined in accordance with the participation quota, of the amount of such consumption deposits payable by the Body Corporate.
- 7.11 The Body Corporate shall recover the *pro-rata* share of the consumption deposits, as referred to in clause B 7.10, above, from all Purchasers in the Sectional Title Scheme, in accordance with their participation quotas.
- 7.12 The Purchaser shall be liable for and pay rates and taxes to the local authority from date of transfer of the Property, to the Purchaser.
- 7.13 The Purchaser acknowledges that he is aware of and fully acquainted with the matters hereinafter set forth, namely that: -
- 7.13.1 the Property is sold in accordance with the sectional plan and the participation quota endorsed thereon, as and when approved, and subject to any modification or alterations which may be made thereto from time to time in accordance with the provisions of the STA or STSMA or of any authority, and subject to any conditions of the applicable zoning, conditions of consolidation, and any conditions of title;
- 7.13.2 it will only be possible for the Seller to give transfer of the Property to the Purchaser after approval and registration of the sectional plan and the opening of a sectional title register in respect of the Sectional Title Scheme;
- 7.13.3 if the areas of the common property or exclusive use areas (if any) are found not to correspond to those set out in this agreement, the Seller shall not be liable for any shortfall nor shall it be entitled to claim compensation for any surplus;

- 7.13.4 the Seller intends to procure that upon the opening of the Sectional Title Register and the establishment of the Body Corporate, the management and conduct rules contained in the regulations to the STSMA shall apply, subject to any changes and modifications allowed by the STSMA and as envisaged in this Agreement and which the Seller may deem necessary for the proper management and control of the Development.
- 7.14 By his signature hereto the Purchaser irrevocably and *in rem suam* appoints the Seller as his agent and proxy, to attend any meetings of the Body Corporate, at which the Purchaser is entitled to be present, but does not attend, either in person, or by proxy, and to vote, on behalf of the Purchaser, in respect of any matter including, but not limited to, the appointment of a managing agent and the amendment of the Rules.
- 7.15 The Purchaser shall: -
- 7.15.1 maintain, the Property, in a fit and proper condition, and keep it neat and tidy, and from time to time replace, as may be necessary, all the interior fittings, electrical and service installations therein, keep the walls, floors and ceilings thereof in proper repair, and generally undertake all such maintenance and repairs required to upkeep the Property, excluding those repairs required to be made by the Body Corporate in terms of the STA or STSMA;
- 7.15.2 not be entitled to divide the Property;
- 7.15.3 be liable for all electricity, gas and water consumed in respect of the Property, whether and to the extent that such are separately metered whether by pre-paid metres or otherwise, or allocated on a *pro-rata* basis;
- 7.15.4 not use the Property in such manner as to cause any damage thereto or to the other Properties in the building, nor store or permit the storage therein of any inflammable materials which may vitiate any policy of insurance;
- 7.15.5 be entitled to use the Property as a residential dwelling in terms of the permitted zoning and for no other purposes, save with the prior written consent of the Seller/ Body Corporate. On transfer, a condition of title, in a format acceptable to the Registrar of Deeds, may in the discretion of the Seller, be inserted into the title deed of the Property, to the effect that it may

not be used for any other purposes other than as a residential dwelling, save with the prior written consent of the Seller/ Body Corporate.

- 7.15.6 Permit the Seller, whether personally or through the Seller's employees, agents, authorised representatives, or the Body Corporate's duly appointed functionaries, to have access to the Property at all reasonable times, upon prior arrangement, for the purpose of inspecting the Property or carrying out any maintenance or repairs which the Seller or the Body Corporate is obliged or entitled to perform in terms hereof, whether such repairs relate to the Property or not. The Purchaser shall have no claim against the Seller or the Body Corporate for any disturbance to occupation arising from the lawful exercise of the rights conferred in this clause.
- 7.15.7 use and enjoy the common property in such manner so as not to interfere with the use and enjoyment thereof by other Property owners or Purchasers thereof or other persons lawfully upon the Development and shall comply with any rules which the Seller/Body Corporate may, in its reasonable discretion make in regard thereto;
- 7.15.8 not use the Property or permit it to be used in such a manner or for such purposes as shall cause a nuisance to any other person or interfere with the amenities of the Development/Sectional Title Scheme or so as to breach any law, ordinance or by-laws or any town planning scheme in force in relation to the Development;
- 7.15.9 ensure that the Purchaser's employees or invitees comply with the obligations aforesaid;
- 7.16 Whilst the Seller intends effecting transfer of the Property to the Purchaser, simultaneously with the opening of the sectional title register, in the event that such transfer does not occur simultaneously, then immediately after the opening of the sectional title register and until transfer, the following provisions shall apply:
- 7.16.1 the Purchaser shall comply with all Rules and Regulations of the Body Corporate whatever form they may take as if the Purchaser was the registered owner of the Property;
- 7.16.2 the terms and conditions of clause B 7.13, above, shall continue to apply as between the Purchaser and the Seller, *mutatis mutandis*;

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- 7.16.3 the Seller shall be entitled to exercise all the rights and enjoy the capacity which it would have in a Body Corporate which comes into existence in terms of the STA and/or the STSMA in respect of the land and the buildings.
- 7.17 If the measurements of the section as stipulated herein differ from those contained in the sectional plan registered by the Registrar of Deeds, by not more than 5%, the Purchaser shall accept transfer of the Property, as set out in the registered sectional plan in satisfaction of the obligations of the Seller in terms of the Agreement. In the event that the measurement of the section as stipulated herein differs from that reflected in the sectional plan approved by the Surveyor General, by more than 5%, the Purchase Price shall automatically be increased or decreased by an amount calculated by multiplying the excess over the abovementioned 5% accepted variation, by a rate per square metre determined by dividing the Purchase Price stipulated in clause 4 of the schedule of information, by the area of the section. Notwithstanding the aforesaid, either party shall be entitled within 10 days of approval of the said sectional title plan, on written notice to the other, to cancel this agreement in the event that the said measurements differ by more than 15% from those reflected on the approved sectional plan.
- 7.18 In the event that the Purchase Price of the Property is increased as provided for in clause B 7.17, above, the Purchaser shall, within 10 days of the Conveyancer's request, either pay the said amount to the Conveyancer to be held by them or, alternatively, secure payment of the aforesaid amount by the furnishing of bankers guarantees to the said Conveyancer in a format acceptable to the Conveyancer and expressed to be payable on transfer of the Property to the Purchaser.
- 7.19 The Purchaser acknowledges and agrees that, during the construction period, the Seller, shall be entitled to appoint a clear majority of trustees, to the Body Corporate.
- 7.20 The Sectional Title Scheme, will be controlled, managed and administered by the Body Corporate, to whom the functions and powers, as stipulated in sections 3, 4 and 5 of the STSMA, shall be assigned.

## 8 CREATION OF MINOR EXCLUSIVE USE AREAS

- 8.1 In terms of Section 27A of the Sectional Titles Act, 1986 (Act No. 95 of 1986) and the corresponding section in the Sectional Titles Schemes Management Act, 2011

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(Act No. 8 of 2011), the Seller or Body Corporate has conferred, or may confer, rights of exclusive use of parts of the common property upon members of the Body Corporate, including the Purchaser, as stipulated in clause B 7.13.3, above;

8.2 The rights vested in terms of this clause, shall not be real rights as contemplated in section 27(6) of the Sectional Title Act and consequently not be capable of being mortgaged.

8.3 The Purchaser's rights in terms of this clause, may not be alienated or in any manner be disposed of to anyone, except the person to whom the Purchaser sells or disposes the Property to, alternatively, and only on the prior written consent of the Seller or Body Corporate, first being had and obtained, to another owner of a unit within the Sectional Title (Sectional Title) Scheme;

## 9 TRANSFER OF THE PROPERTY

9.1 The Purchaser acknowledges and accepts that it will only be possible for the Seller to give transfer of the Property, after approval and registration of the sectional title plan and the opening of a sectional title register in respect of the Sectional Title Scheme and the Property has been released from the mortgage bond (if any) registered, at any time, over the land, or properties in the Development, or the Sectional Title Scheme, as such;

9.2 The Seller shall, without delay endeavour and take all reasonable steps to obtain the approvals and release as envisaged in clause B 9.1 above, in order that transfer of the Property, may be given to the Purchaser, as expedient as possible;

9.3 Transfer shall be effected by the Conveyancer as soon as practically possible, after compliance with the matters as mentioned in clause B 9.1 above.

9.4 The Purchaser must sign the transfer documents and return same to the conveyancer within 7 (seven) days of being called upon to do so.

9.5 The Purchaser shall pay all costs of transfer, registration fees and procuring of certificates to enable the Conveyancing Attorneys to effect registration of the property into the name of the Purchaser.

9.6 The Conveyancers shall attend to the registration of all bonds. The fees to register the mortgage bond (if applicable) as specified in clause 5 above shall be for the account of the Purchaser.

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9.7 Should transfer be delayed by the Purchaser for whatever reason and/or the Purchaser fail to deliver guarantees and/or meet any other financial obligation in this Agreement, then the Purchaser shall pay to the Seller interest on the full purchase price at the prime overdraft rate, plus 5 % (five per centum) charged by the Seller's bankers from time – to - time, calculated from the date that the Seller's attorneys (acting as experts) certify in writing that in their opinion the transfer ought reasonably to have been registered, but for such delay. In the event of non-fulfilment of a financial obligation or failure to deliver a guarantee such penalty interest shall accrue from the due date for delivery of the guarantee/payment up until the actual date of delivery of the guarantee/payment or the date upon which the Purchaser has complied with all of the Purchaser's obligations relating to transfer (whichever is the later). The penalty interest shall be paid by the Purchaser to the Seller, prior to transfer of the Property.

## **10. POSSESSION, OCCUPATION AND RISK**

10.1 Subject to the Purchase Price, and any other amount due by the Purchaser in terms of the provisions of this Agreement, have been paid or secured, possession and occupation of the Property, shall be given to and taken by the Purchaser, against registration of transfer.

10.2 The Seller may, notwithstanding the provisions as contained in clause B 10.1 above, in its sole and absolute discretion, offer and allow the Purchaser to take possession and occupation of the Property, on a date prior to the date of registration of transfer: Provided that the Purchaser has complied with all his obligations in terms of this Agreement, the remedial work as stipulated in clause 12 below, having been completed and an occupation certificate in respect of the Property having been issued by the George Municipality.

10.3 If "early" possession and occupation as provided in clause B 10.2, above, is given to and taken, by the Purchaser, he shall be liable and pay Occupational Rental, calculated at 0,8 % (zero comma eight percent) of the Purchase Price, per month, or on a *pro-rata* basis, for a period which is not a full calendar month, in advance, on or before the 7<sup>th</sup> day of each following month, until the date of registration of transfer, to the Seller;

10.4 The Purchaser is aware that, on date of occupation, the external works and buildings that form part of this Sectional Title Scheme, may be incomplete and that the Purchaser may necessarily suffer inconvenience from the construction of such external works or buildings, due to noise and dust associated with such construction works. The Purchaser

shall however, neither be entitled to cancel this Agreement, nor have any claim for damages, or whatsoever, against the Seller, by reason of the afore going.

- 10.5 Until such time as the Property is transferred to the Purchaser and the Purchaser becomes a member of the Body Corporate, the Purchaser shall comply with all the Rules and Regulations of the Body Corporate, and the Home Owners' Association, whatever form it may take, as if the Purchaser was the registered owner of the Property.
- 10.6 All risk and benefit in the Property shall pass to the Purchaser either on occupation in terms of clause B 10.2, above, or against registration of transfer, whichever, occurs first.
- 10.7 The Purchaser, acknowledges, having inspected the Sectional Title Scheme, based on the plans in respect the Property, the Facilities, and the Common Property (including the areas relating to the Rights to Exclusive Use, allocated in terms thereof), that he is satisfied with regard to the circumstances, nature, position, extent and planning thereof, as well as the general suitability thereof, according to, and for the purposes of the Purchaser's needs.

#### **11. PROPRIETARY CHARGES (LEVIES, RATES AND TAXES, ETC.)**

- 11.1 The Purchaser shall be liable for and pay his share of the monthly levies, pertaining to the Property, as initially determined by the Seller, and ratified, or amended, by the Body Corporate, at its first (inaugural) general meeting. These levies will include an administrative fund levy, a reserve fund levy, the CSOS levy, and may include any levies imposed for a specific purpose.
- 11.2 The levies referred to in clause B 11.1 above, are payable by the Purchaser, to the Seller, in the manner as provided for in clause B 11.5 below, with effect from "early" occupation in terms of clause B 10.2 above, until the date of registration of transfer, and thereafter, to the Body Corporate.
- 11.3 The administrative- and reserve fund - levies, cover and represent all costs incurred by the Seller, and the Body Corporate, relating to the management, control, maintenance, improvement of and repairs to the Sectional Title Scheme, and comprise, but is not limited to, all costs relating to the supply of electricity, fuel, gas, water, sewerage services, refuse removal charges, insurance premiums, employees' wages and all other costs, of any nature whatsoever.
- 11.4 The Purchaser shall be liable and pay for his own consumption of all utility services, the rates and taxes levied by the George Municipality on the Sectional Title Scheme and/or the Property, as well as any other proprietary charges, which may be made applicable

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to the Sectional Title Scheme, and/or the Property, by any controlling authority, from the date of occupation, or date of transfer, whichever occurs first;

- 11.5 The Purchaser shall upon request by the Conveyancer, pay such levies, rates, taxes and other proprietary charges, as envisaged in clauses B 11.1 and B 11.4 above, to the Conveyancer;
- 11.6 For budgeting purposes it is confirmed that the Estimated Initial Monthly Levy, will be an amount of R\_\_\_\_\_ (\_\_\_\_\_) The Seller or Body Corporate (as applicable) may however, at any time, but after following due process, adjust the amount of the levy, as stipulated in this clause, should the need arise, due to increases in the costs as stipulated in clause B 11.3 above;
- 11.7 It is further recorded and the Purchaser acknowledges that, in terms of the Constitution of the Homeowners' Association, the Purchaser is required to pay a **stabilization levy** to the Homeowners' Association, in the amount of R10 000,00 (ten thousand Rand), on registration of the Property into the Purchaser's name, and will also be liable for payment of monthly levies to the Homeowners' Association, as per the Constitution of the Homeowners' Association, last mentioned to be paid strictly on or before the first day of each following month.

## 12. CONTRACTOR'S LIABILITY FOR DEFECTS AND DAMAGE

12.1 The Contractor shall be liable, and make good, at its cost, any defects: -

- 12.1.1. in the Property, which have been identified by the Purchaser during the opportunity granted to the Purchaser by the Seller to list such defects, in one singular "snag list", prior to the occupation of the Property;
- 12.1.2 The Seller shall within a reasonable time from the date of receiving the "snag list", ensure that all items so listed by the Purchaser, are rectified, (hereinafter referred to as the "Remedial Work");
- 12.1.3 A Purchaser shall not be entitled or allowed to take occupation of the Property, until a written confirmation ("Happy Letter") is signed by the Purchaser, confirming that the aforementioned "Remedial Work" have been attended to and that he is satisfied with the over-all appearance and standard of the Property;
- 12.1.4 Should any latent defect/s occur, the Purchaser shall furnish the Seller with a detailed report on such latent defect/s, by no later than during the last week of a period of 90 (ninety) calendar days from the date of the "Happy

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Letter”.

- 12.1.5 The Seller will on receipt of the latent defect/s list from the Purchaser, make an appointment for the inspection and evaluation of the defect/s. The Seller will after the inspection and evaluation, agree with the Purchaser on the items to be rectified by the Seller and the completion date for the rectification thereof;
- 12.1.6 The first revision list will be final, and no further revisions will be accepted/entertained by the Seller.
- 12.2 The Contractor shall further, at its cost, and upon written demand by the Purchaser:-
- 12.2.1 rectify major structural defects in the Property, caused by non-compliance with the NHBRC Technical Requirements, and occurring within a period of five (5) years, from the occupation date, only;
- 12.2.2 repair roof leaks, attributable to poor workmanship, design, or materials, within a period of twelve months, from the occupation date, only;
- 12.3 Without derogating from the relevant provisions of the NHBRC, pertaining to structural defects, the Purchaser shall have no claim against the Seller for any defects in the Property, whether such defects are latent or patent, after the expiry of the time period contemplated by clause B 12.1.4 above.
- 12.4 The Seller shall not be liable under any circumstances, or at any time prior to, during, or after, construction of the Property, for any indirect or consequential damages of any nature which the Purchaser may suffer, at any time and for whatever reason.
- 12.5 The Seller undertakes to cede to the Purchaser any warranties or guarantees from third Parties which are capable of being ceded, relating to the Property.

### **13. CONSUMER PROTECTION ACT, 2008 (ACT NO. 68 OF 2008) (the “CPA”)**

- 13.1 It is recorded that the Seller is a “Producer” and “Supplier”, as defined in the CPA and that the Property is sold, with an “implied warranty of quality”, as provided for in section 56 of the CPA, being a warranty that the Property complies with the requirements and standards contemplated in section 55 of the CPA, which section

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provides that the Purchaser has a right to receive the Property on the basis that: -

- 13.1.1 it will be reasonably suitable for the purposes for which it is generally intended;
  - 13.1.2 it is of good quality, in good working order and free from any defects;
  - 13.1.3 it will be useable and durable for a reasonable period of time, having regard to the use to which the Property, would normally be put and to all the surrounding circumstances, of its supply, except to the extent to which the Property have been altered, after having left the control of the Seller.
- 13.2 It is however (as provided for in section 55 (6) of the CPA) recorded that: -
- 13.2.1 The Purchaser agrees to accept the Property, as it stands: Provided that the Property is erected in a workmanlike fashion and substantially in terms of the attached plans and specifications;
  - 13.2.2 In the event of a dispute as to whether the Property shall have been erected in a workmanlike fashion and substantially in terms of the attached plans and specifications, the matter shall be referred to an independent architect, agreed upon between the Parties (or in the event of the Parties failing to reach such agreement, within three (3) days, an architect appointed by the President of the Institute of Architects of the Cape Province), which architect, acting as an expert and not as an arbitrator, shall determine whether the Property has been erected in a workmanlike manner and substantially in accordance with the attached plans and specifications. If the architect determines that same is not the case, the Seller shall do everything required by that architect, until the architect is satisfied, that the Property shall have been so erected. The Seller shall be responsible and pay the Architect's fees under these circumstances. If the architect, however, after his first inspection, determines that, the Property, has in fact been erected in a workmanlike fashion and substantially in terms of the attached plans and specifications, the Purchaser shall be obliged to pay the architect's fees.

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***The Purchaser acknowledges this clause specifically***

#### **14. SERVITUDES AND RESTRICTIONS AGAINST THE SECTIONAL TITLE SCHEME**

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14.1 The Seller shall be entitled to register such servitudes, across the Erf on which the Sectional Title Scheme will be developed, within the Development, and/or the Sectional Title Scheme, as may be necessary for the purposes of the installation of services, including the following servitude which the Sectional Title Scheme, shall be required to register, any and all without payment of compensation:-

14.1.1 To allow gas mains, electricity, telephone - and television - cables and/or - wires, main and/or other waterpipes, foul sewers, stormwater pipes, ditches and channels of any other property or properties to be conveyed across the Sectional Title Scheme and/or the Property, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon if considered necessary by the local authority or the Homeowners' Association, in such manner and position as may from time to time be reasonably required, and further including the right of access to the Sectional Title Scheme and/or the Property, at any reasonable time for the purposes of constructing, altering, removing or inspecting any works connected with the above; and

14.1.2 To receive such material or permit such excavation in the Sectional Title Scheme, as may be required to allow use of the full width of an abutting road and provide a safe and proper slope to its bank, necessitated by differences between the level of the road as finally constructed and the level of the Sectional Title Scheme or the Property; unless the Sectional Title Scheme elects to build retaining walls, to the satisfaction of and within a period to be determined by the local authority, and/or the Homeowners' Association.

14.2 The Seller reserves the right to install solar panels on the roofs of the buildings for the generation of solar power, which the Seller may, for its own gain, sell to the occupiers of the Properties, within the Sectional Title Scheme, and the Purchaser acknowledges and agrees to this reservation in favour of the Seller;

14.3 The Purchaser shall further accept transfer of the Property, subject to: -

14.3.1 Such registerable conditions as may be imposed by the Seller, as allowed in terms of section 11 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and as amended by the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011); and

14.3.2 Such conditions, reservations and servitudes, as may be contained, or referred to in the title deed of the land on which the Sectional Title Scheme, will be established.

## **15. PHASED DEVELOPMENT IN TERMS OF SECTION 25 OF THE SECTIONAL TITLES ACT**

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- 15.1 It is hereby disclosed, by the Seller, as required in terms of the provisions of section 25 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and as amended by the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), that the Development will be developed on a phased basis and that the Seller may in its sole discretion, simultaneously with the registration of the sectional plan, reserve a real right to extend the Sectional Title Scheme, as provided in the afore mentioned legislation;
- 15.2 The Seller intends to develop and market the Development in phases, as the Seller deems fit and for as long as it may be necessary. The Seller shall enjoy unrestricted rights with regard to the marketing of the Development and in particular, the right to have a sales office and erect signage within the Development in its sole discretion.
- 15.3 The Purchaser further acknowledges, as also provided for in clause B 10.4 above, and which provisions are herein reiterated, that inconvenience due to building operations may be experienced from time to time. The Purchaser shall, as indicated in the aforementioned clause B 10.4, not be entitled to cancel the Agreement, or claim damages as a result of such building operations.

## **16. BREACH BY PURCHASER**

- 16.1 If the Purchaser commits a breach of this Agreement and/or fails to comply with any of the provisions hereof, then the Seller shall be entitled to give the Purchaser not less than 7 (seven) days' notice, in writing, to remedy such breach and/or failure and if the Purchaser fails to comply with such notice, then the Seller shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Seller may have in law, including the right to claim damages to:-
- 16.1.1 To this Agreement (in which event the Purchaser shall forfeit all monies paid to the Seller or its attorneys or agent/s in terms of this Agreement and all interest thereon, as predetermined and liquidated damages); and/or
- 16.1.2 To claim immediate specific performance and/or payment of all the Purchaser's obligations in terms of this Agreement; and/or
- 16.1.3 To recover from the Purchaser all wasted costs and agents' commissions payable by the Seller, in respect of this transaction.
- 16.2 Should the Seller take steps against the Purchaser pursuant to a breach by the Purchaser of this agreement, then without prejudice to any other rights which the Seller may have, the Seller shall be entitled to recover from the Purchaser all legal costs incurred by it including

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attorney/client charges, tracing fees and such collection commission as the Seller is obliged to pay to its attorneys.

## **17. PURCHASE ON BEHALF OF A COMPANY / CLOSE CORPORATION / TRUST / OTHER LEGAL ENTITY**

17.1 Should the Purchaser act as representative of a Company to be formed, the Purchaser undertakes to register the Company only within 30 (thirty) days after this Agreement has been signed.

17.2 In the event of the Company: -

17.2.1 not registering in time; or

17.2.2 failing to ratify this transaction in terms of the Companies Act; or

17.2.3 failing to honour the obligations and terms of the Agreement for whatever reason; or

17.2.4 failing to furnish proof of ratification to the Seller's attorneys;

the Purchaser agrees that he/she (the signatory hereto as "Purchaser") shall personally be responsible and shall be obliged to honour the obligations in terms of this Agreement and to take transfer of the Property in his / her name.

17.3 The person who signs the Agreement on behalf of any Company, Close Corporation or Trust, shall be liable, jointly and severally, with the Purchaser to the Seller as surety and co-principal debtor for all the obligations of the Purchaser to the Seller arising out of or in connection with this Agreement.

## **18. DOMICILIA AND NOTICES**

18.1 For the purposes of this Agreement, including the giving of notices and the serving of legal process, the parties choose as their respective *domicilium citandi et executandi* ('domicilium') as follows: -

18.1.1 The Seller: as contained in clause 1 of the Schedule of Information; and

18.1.2 The Purchaser: as contained in clause 2 the Schedule of Information.

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18.2 A party may at any time change his *domicilium* by notice in writing, provided that the new *domicilium* is in the Republic of South Africa and consists of or includes a physical address at which process can be served or notices given.

18.3 All notices shall be in writing and shall be delivered by hand or via email, together with proof thereof, to the *domicilium* chosen by the party concerned and shall, if posted, be deemed to have been duly delivered 7 (seven) days after the day on which such notice was posted.

## 19. WARRANTIES

19.1 The Purchaser acknowledges that the Seller has made no representations and given no warranties in respect of the Property or in respect of anything relating thereto, whether express or implied, not expressly contained herein, and he/she has not been influenced by any representation made by or on behalf of the Seller to enter into this Deed of Sale, save as set out herein.

19.2 ***Without limiting the generality of the afore going, it is recorded that the marketing model and artists impressions of URBAN COUNTRY ESTATE, and THE SUMMIT SECTIONAL TITLE SCHEME, are subject to final approval by local authority in terms of future developments within the Development. The Seller shall not be held liable for any changes to the layout, design of buildings, water features, landscaping, etc as it appears on the model and/or the draft or final site development plan or sectional plan.***

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*Purchaser specifically acknowledges above clauses 19.1 and 19.2*

## 20. ARBITRATION

20.1 If any dispute, difference or question arises at any time between the parties out of or in regard to any matters arising out of, or the rights and duties of any of the parties, or the interpretation of, or termination of, or any matter arising out of the termination of, or the rectification of this agreement, or any other matter such dispute shall be submitted to and decided by arbitration on notice in writing given by either party to the other of them in terms of this clause.

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20.2 Such arbitration shall be held in Mossel Bay in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965) (as amended or replaced from time to time) save that the arbitration shall be informal and the arbitrator shall have the absolute discretion to determine the procedure to be adopted, it being the intention that the arbitration shall be held and concluded without delay.

20.3 The arbitrator shall be such independent and suitably qualified person as may be agreed upon between the parties in writing, and failing such agreement, the arbitrator shall be appointed by the Auditors for the time being of the Homeowners Association.

20.4 This clause 20 is severable from the rest of this Agreement and shall remain in force notwithstanding the termination of this Agreement for whatever reason.

## **21. CO-OPERATION**

Each of the parties hereby undertakes to: -

21.1 Sign and/or execute all such documents (and without limiting the generality of the afore going, same shall include the execution of the necessary power of attorney and VAT / transfer duty declarations);

21.2 Pass, and to procure the passing of all such resolutions of directors or shareholders of any company.

## **22. JOINT AND SEVERAL LIABILITY**

Should there be more than one Purchaser, the Purchasers shall be liable, *in solidum*, for the payment of all monies hereunder and for the carrying out of all the terms of this Agreement.

## **23. CONCESSIONS**

No extension of time, allowances or concessions allowed to, and no temporary variation of the terms of this Deed of Sale by any party will be regarded as a waiver of his/her/its rights hereunder. The Seller may furthermore at any time and without prior notice expect the Purchaser to strictly and timeously comply with each and every term and condition.

## **24. JURISDICTION**

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For the purposes of the proceedings arising from this Agreement, the Parties hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction over the person of the defendant, in terms of section 28 of the Magistrate's Court Act, 1944 (Act No. 32 of 1944), notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the Court, pursuant to section 45 of the Magistrate's Court Act, 1944 (Act No. 32 of 1944), or any amendment thereof. However, the Seller shall have the right, at its sole option and discretion, to institute proceedings in any other competent Court in respect of any claim which, but for the afore going, would exceed the jurisdiction of the Magistrate's Court.

## **25. 72 HOUR CLAUSE**

Should the Seller, at any time prior to the fulfilment of any other suspensive conditions, excluding the suspensive condition in clause 5 (Mortgage Bond), if applicable, receive another unconditional cash offer to purchase the Property, which offer it, in its discretion, finds more acceptable, and wishes to accept, then the Purchaser herein shall be notified of such in writing and shall have 72 hours from the time of receipt of such notice, 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 and effect.

## **26. CONSENT IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT**

The Parties hereby, as required by the relevant provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), **expressly** agree and grant permission that their personal information, as contained in this Agreement, any Annexure thereto, or provided in consequence of any term or condition thereof, may be shared with mortgage bond originators and/or financial institutions for the purpose of obtaining finance in respect of this transaction, the Conveyancers, the South African Revenue Services, the Financial Intelligence Centre, the Municipality of George, the Body Corporate, the Homeowners' Association, the Registrar of Deeds, the Master of the High Court (last mentioned, if the Purchaser is a Trust and it is required), and/or any **third party**, for the purposes of giving effect to and finalising the transaction as contemplated in and by this Agreement.

## **27. AGENT'S COMMISSION**

27.1 The parties record that the agent specified in clause 9 of the schedule of information, was the effective cause of this transaction;

27.2 The Seller shall pay the agents commission.

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27.3 The Purchaser warrants and undertakes to the Seller that the Purchaser has not been introduced to the Seller, the Property or the Development by any third party entitled to commission other than the agent specified in clause 9 of the schedule of information and indemnifies the Seller against any claim that may be instituted by any agent claiming that he/she introduced the Property and is the effective cause of the sale.

**28. GENERAL**

28.1 This agreement constitutes the whole agreement between the parties.

28.2 No variation of this agreement will influence the terms of this agreement, unless such variations are put in writing and signed by both parties.

28.3 The parties acknowledge that they have not been pursued to sign this agreement by any promises, presentations or guarantees of any sort.

28.4 The Purchaser will not be entitled to sell his/her property prior to registration of transfer, without the written consent of the Seller.

**29. ACKNOWLEDGEMENT**

The Purchaser by his/her signature hereto acknowledges he/she has read this Agreement and all Annexure thereto, and is satisfied with the contents thereof.

**30. SPECIAL CONDITIONS**

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**SIGNED AT**

**THIS**

**DAY OF**

**202\_**

Initial here

AS WITNESSES:

1. ....

for and on behalf of

2. ....

.....

**SELLER**

**SIGNED AT**

**THIS**

**DAY OF**

**202\_**

AS WITNESSES:

1. ....

.....

2. ....

.....

- 1. **PURCHASER** or duly authorised representative who warrants that he/she is duly authorised
- 2. As surety in terms of clause B 17.3 hereof

**ANNEXURE "A"**

Initial here

# **DRAFT DEVELOPMENT PLAN/ DRAFT SECTIONAL TITLE PLAN.**

**(Refer clauses A 9.12 and B.3.1 )**

**ANNEXURE “B”**

Initial here

# **PROPERTY FLOOR LAY-OUT PLAN.**

**(Refer clauses B.3.1)**

Initial here