

ANNEXURE "A"

AGREEMENT OF SALE: SHAKA'S GATE

between

EAGLE CREEK INVESTMENTS 289 (PROPRIETARY) LIMITED

Registration No 2004/027079/07

of 1st Floor Accord House, 2 Golf Course Drive, Mount Edgecombe

("the SELLER")

and

Represented by _____

("the PURCHASER")

Identity/Registration No. : _____

Postal address : _____

Physical address : _____

Telephone No. (Work) : _____ Cell No. _____

Telephone No. (Home) : _____ Fax No. _____

Email address : _____

1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of the AGREEMENT, unless the context indicates to the contrary:

1.1.1 "ACT" means the Sectional Titles Act 95 of 1986 (as amended);

1.1.2 "AGREEMENT" means the AGREEMENT OF SALE and all annexures;

1.1.3 "ARCHITECT" means Bruce Wotherspoon Architects and Paton Taylor Architects or their successors nominated by the SELLER;

1.1.4 "ARCHITECTURAL CONTROLS" means the architectural controls applicable to the POINT PRECINCT and the PROPERTY, which controls are provided for in the DEVELOPMENT MANUAL;

1.1.5 "ASSOCIATION" means the Durban Point Waterfront Management Association (an Association incorporated under Section 21 of the Companies Act of 1973), Registration No. 1998/001781/08;

1.1.6 "BODY CORPORATE" means the Body Corporate of the SCHEME to be established under section 36 of the ACT;



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- 1.1.7 "BUILDING or BUILDINGS" means the buildings to be erected by the SELLER'S contractors;
- 1.1.8 "COMMON PROPERTY" means the land included in the SCHEME as well as all parts of the BUILDING as are not included in any of the SECTIONS;
- 1.1.9 "CONVEYANCERS" means Shepstone & Wylie of 35 Aliwal Street, Durban, KwaZulu-Natal, Telephone No. (031) 302-0111 and Fax No. (031) 305-1486 ior Fawzia Khan & Associates of 1st Floor Accord House, 2 Golf Course Drive, Mount Edgecombe, Telephone No. (031) 5025670/7 and Fax No. (031) 5394063 or Siwendu & Partners Incorporated of Suite 22 Delmat House, 27/29 Jan Hofmeyr Road, Westville, 3630 Telephone No (031) 2671263/4/5 and Fax (031) 2671275;
- 1.1.10 "DESIGN REVIEW COMMITTEE" means the design review committee of the ASSOCIATION;
- 1.1.11 "DEVELOPER" means Durban Point Development Company (Proprietary) Limited, Registration No. 2001/020065/07;
- 1.1.12 "DEVELOPMENT MANUAL" means the Durban Point Development Manual which deals with various architectural controls, layout issues, building requirements andrestructures and similar matters;
- 1.1.13 "DIRECTORS" means the directors of the ASSOCIATION;
- 1.1.14 "EFFECTIVE DATE" means the date that the SELLER signs the AGREEMENT;
- 1.1.15 "EXCLUSIVE USE AREA" means the exclusive use area/s relating to the basement parking bays, balconies, patio/gardens and roof gardens specified in clause 8, that may have been acquired by the PURCHASER;
- 1.1.16 "FLOOR PLAN" means the plan showing the floor layout of the SECTION attached as Annexure "C";
- 1.1.17 "LOCATION PLAN" means the plan showing the position of the proposed SECTION within the SCHEME, attached as Annexure "D";
- 1.1.18 "LOCAL AUTHORITY" means the eThekwini Municipality;
- 1.1.19 "OCCUPATION DATE" means the date specified in clause 3.15, or if applicable, the earlier or later date as specified by the SELLER in terms of clause 9.2.1 as the date by which the SECTION is sufficiently complete for beneficial occupation;
- 1.1.20 "PARTIES" means the SELLER and PURCHASER;
- 1.1.21 "PLANS" means the FLOOR PLAN, LOCATION PLAN, building plans and SPECIFICATIONS;
- 1.1.22 "POINT PRECINCT" means all the land which is acquired by the DEVELOPER for the purposes of the "Point Development Project" as more fully described and provided for in the Point Development Framework Plan as presented to the ethekwini Municipality, it being recorded that the PROPERTY is situate within the POINT PRECINCT;
- 1.1.23 "PREMISES" means the UNIT together with the EXCLUSIVE USE AREA(S), if applicable, as referred to in clauses 3.1 and 8;
- 1.1.24 "PROPERTY" means Portion 74 of Erf 12524 Durban, Registration Division FT, Province of KwaZulu-Natal, in extent approximately 7846 square metres, as reflected on the diagram SG 553/2006, a copy of which is attached marked "B", together with the



- additional land that has been acquired as referred to in clause 14.1.9, which is reflected on the diagram attached marked "B1";
- 1.1.25 "PURCHASER" means the purchaser reflected on page 1 of the AGREEMENT;
- 1.1.26 "PURCHASE PRICE" means the total PURCHASE PRICE of the UNIT and EXCLUSIVE USE AREA including VAT referred to in clause 3.6;
- 1.1.27 "QUANTITY SURVEYOR" means BTKM Quantity Surveyors or their successors nominated by the SELLER;
- 1.1.28 "REGISTER" means the sectional title register to be opened on the PROPERTY by the SELLER in respect of the SCHEME;
- 1.1.29 "RESALE AGENT" means Point Waterfront Realty (Proprietary) Limited Registration No 1998/02365/07, or such other agent nominated by the SELLER;
- 1.1.30 "RULES" means the rules of the BODY CORPORATE referred to clause 20 together with the rules of the ASSOCIATION;
- 1.1.31 "SECTION" means the proposed section in the SCHEME to be depicted on the SECTIONAL PLANS to be prepared by the SELLER'S land surveyor and which shall correspond to the UNIT as reflected in clause 3.1.1 ;
- 1.1.32 "SECTIONAL PLAN" means the proposed plan to be approved by the Surveyor General which is described as a sectional plan and which shows the BUILDING in the SCHEME as divided into two or more sections and COMMON PROPERTY and which complies with section 5 of the ACT;
- 1.1.33 "SCHEME" means the proposed sectional title development scheme to be developed on the PROPERTY and which is to be known as "SHAKA'S GATE";
- 1.1.34 "SIGNATURE DATE" means the date the PURCHASER signs this AGREEMENT;
- 1.1.35 "SPECIFICATIONS" means the Unit Specifications and the Optional Extras attached as Annexures "E" and "F1, F2, F3 and F4", which have been selected by the PURCHASER;
- 1.1.36 "SELLER" means Eagle Creek Investments 289 (Proprietary) Limited, as reflected on page 1 of the AGREEMENT, and its successors in title or assigns;
- 1.1.37 "SELLING AGENT" means the agent referred to in clauses 3.17 and 26;
- 1.1.38 "TRANSFER DATE" means the date of registration of transfer of the UNIT from the SELLER to the PURCHASER';
- 1.1.39 "UNIT" means the proposed SECTION corresponding to the UNIT number, as will be indicated on the proposed SECTIONAL PLAN for the SCHEME, including an undivided share in the COMMON PROPERTY, apportioned to the SECTION in accordance with the participation quota of the SECTION to be determined in accordance with the provisions of Section 32(1) of the ACT.
- 1.2 Defined terms appear in capital letters in the AGREEMENT.
- 1.3 Words importing a gender shall include all genders and the singular shall include the plural and vice versa.
- 1.4 Clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate.



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2. INTRODUCTION

- 2.1 The SELLER is the registered owner of the PROPERTY as reflected on the attached cadastral diagram marked "B", which PROPERTY is situated within the POINT PRECINCT.
- 2.2 The SELLER intends to erect the BUILDING on the PROPERTY which will accommodate a residential component, an office component, various retail units, various floors of undercover parking for the visitors and occupants of the BUILDING, as well as a specific parkade for parking by the public, including visitors of uShaka Marine World, materially in accordance with building plans prepared by the ARCHITECT.
- 2.3 The SELLER intends applying in terms of the ACT for the opening of the REGISTER in respect of the BUILDING on the PROPERTY.
- 2.4 The PURCHASER wishes to purchase and the SELLER wishes to sell a proposed UNIT in the SCHEME as more fully described in clause 3 of the AGREEMENT in accordance with the PLANS, with effect from the EFFECTIVE DATE.

3. THE SCHEDULE

- 3.1 The PREMISES, being:
- 3.1.1 the proposed UNIT number _____
the position, layout and areas of which are shown on the attached FLOOR PLAN and LOCATION PLAN, which have been initialled by the parties for identification purposes.
- 3.1.2 no of basement parking bay(s) included _____
- 3.1.3 no of additional parking bays purchased _____
- 3.2 Purchase price of PREMISES (excluding additional bays and optional extras) R _____
- 3.3 Cost of additional parking bay/s R _____
- 3.4 Optional extras purchased:
- 3.4.1 Home automation R _____
- 3.4.2 Home theatre R _____
- 3.4.3 Wall bed system R _____
- 3.4.4 Penthouse finish upgrade R _____
- 3.5 Total cost of optional extras R _____
- 3.6 Total PURCHASE PRICE of PREMISES (incl. VAT) R _____



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3.7	Less 10% deposit due within 14 days from SIGNATURE DATE	R _____
3.8	Less initial deposit already paid	R _____
3.9	Less balance of 10% deposit due within 14 days from SIGNATURE DATE .	R _____
3.10	Less amount to be provided by guarantee	R _____
3.11	Balance of PURCHASE PRICE	R _____
3.12	Bank loan required by PURCHASER	R _____
3.13	Date by which loan is to be granted (See clause 4)	30 days from SIGNATURE DATE
3.14	Estimated monthly levy to BODY CORPORATE	R15 per square metre of SECTION size
3.15	OCCUPATION DATE	15 December 2009 but subject to changes referred to in clause 9.2
3.16	OCCUPATIONAL INTEREST	prime rate of interest charged by Nedbank Limited from time to time on the PURCHASE PRICE referred to in clause 3.6.
3.17	SELLING AGENT	_____
3.18	CONVEYANCER	_____

4. CONDITIONS AND PURCHASERS LOAN

- 4.1 Save for clauses 3, 4, 6, 7, 37 and 38, this AGREEMENT is subject to and conditional upon the following :
- 4.1.1 if clause 3.12 provides that the PURCHASER requires a loan, the PURCHASER then obtaining a loan from a recognised financial institution, secured by the registration of a first mortgage bond over the UNIT upon its usual terms and conditions, in the amount referred to in clause 3.12, within 30 days after the SIGNATURE DATE, subject to the extension granted by the SELLER in terms of clause 4.3;
- 4.1.2 by not later than 30 April 2008 the SELLER being satisfied that it will receive the proceeds of the development loan that it requires to enable it to undertake the development of the SCHEME, and the building plans for the BUILDING have been approved by the ASSOCIATION and the LOCAL AUTHORITY.
- 4.2 This condition referred to in clause 4.1.1 shall be deemed to have been fulfilled as soon as the PURCHASER or his agent has received confirmation that the loan in question has been approved in principle by the financial institution, irrespective of any loan agreement between the PURCHASER and the institution and regardless of any conditions imposed by the institution in granting such loan.



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- 4.3 Should the PURCHASER'S loan not be approved within the 30 day period referred to in clause 4.1.1 then such period shall be automatically extended until the SELLER gives the PURCHASER notice in writing advising that the extended period has terminated.
- 4.4 Should the condition referred to in clause 4.1.1 not be fulfilled prior to the date the SELLER gives the PURCHASER the letter contemplated in clause 4.3, then this sale shall lapse and be of no further force and effect whereupon neither party shall have any claim against the other, save that the SELLER shall procure that the CONVEYANCERS refund to the PURCHASER all monies paid by the PURCHASER on account of the PURCHASE PRICE, including interest earned thereon, less the CONVEYANCERS fee referred to in clause 6.4.
- 4.5 Should the condition referred to in clause 4.1.2 not be fulfilled timeously, then the date referred to in that clause shall be automatically extended by a further 6 month period, and thereafter if the condition is still not fulfilled at the end of such period, this AGREEMENT shall be of no force and effect and neither party shall have any claim against the other, save that the SELLER shall procure that the CONVEYANCERS refund to the PURCHASER all monies paid by the PURCHASER on account of the PURCHASE PRICE, less the CONVEYANCERS fee referred to in clause 6.4.
- 4.6 The PURCHASER hereby undertakes to do all such things and to sign all such documents as may be necessary and/or requisite in order to apply for and procure the grant of the said loan from a bank or other financial institution and to furnish written proof to the SELLER of the granting or refusal thereof.
- 4.7 In order to facilitate the efficient and expeditious fulfilment of the condition referred to in clause 4.1.1 and transfer of the UNIT, it is recorded that it is the SELLER'S requirement that the PURCHASER'S loan be granted by either First National Bank, Nedbank or processed by a mortgage originator of the SELLER'S choice when making application for the loan.
- 4.8 The SELLER and/or the SELLING AGENT shall be entitled to apply for the loan referred to in clause 4.1.1 on the PURCHASER'S behalf and to obtain such written approval, consent and authority from either First National Bank, Nedbank, or through a mortgage originator and the PURCHASER undertakes to sign all documents and do whatever may be necessary to be done, and in this regard the PURCHASER hereby irrevocably appoints the SELLER as his agent to make application in terms of this clause.
- 4.9 Should Nedbank, and/or First National Bank and or any bank approached by the mortgage originator referred to in clause 4.7 decline to approve the PURCHASER'S loan, then the PURCHASER shall be entitled to approach another institution of his choice in order to obtain such loan.
- 4.10 The PURCHASER acknowledges that he is fully aware of the requirements of the banks and/or other financial institutions with regard to the maximum loan which banks and/or other financial institutions are prepared to grant on the basis of income and commitments of the borrower and the PURCHASER hereby warrants that his income is sufficient in relation to his commitments to meet the requirements of the bank and/or other financial institution in this regard and having regard to the amount of the loan to be applied for.
- 4.11 Where the PURCHASER is married in community of property the spouse of the PURCHASER must sign this AGREEMENT, or where the PURCHASER is a company or close corporation (whether to be formed or already formed), such spouse or the person/s signing this AGREEMENT on behalf of, or as trustee for, the relevant company or close corporation, by his/their signature hereto, undertakes to sign any documents which may be required by any person or institution in order to procure the loan and/or register the bond contemplated in clause 4.1.1, including without limitation, any deed of suretyship, loan application and the power of attorney to pass the bond.



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5. **SALE**

The SELLER sells to the PURCHASER, who hereby purchases the PREMISES subject to the conditions contained in this AGREEMENT including all annexures.

6. **PURCHASE PRICE AND PAYMENT**

6.1 The PURCHASE PRICE of the PREMISES shall be the amount reflected in clause 3.6 and shall be paid by the PURCHASER as follows :

6.1.1 the deposit reflected in clauses 3.7 to 3.9 shall be paid in cash by no later than the date referred to in that clause, to be lodged with the CONVEYANCERS by the PURCHASER and to be released to the SELLER on the TRANSFER DATE;

6.1.2 any bank guarantee referred to in clause 3.10, shall be in a form acceptable to the SELLER, expressed to be payable on the TRANSFER DATE and must be delivered to the CONVEYANCERS within 30 days after the SIGNATURE DATE;

6.1.3 if the PURCHASER requires a loan for the amount reflected in clause 3.12, the balance of the PURCHASE PRICE reflected in clause 3.11 shall be paid on the TRANSFER DATE and secured pending such date by the PURCHASER delivering (a) bank guarantee(s) to the CONVEYANCERS, which guarantee(s) shall be in a form acceptable to the SELLER and which shall be delivered to the CONVEYANCER within 14 days after the PURCHASER is requested to do so in writing by the CONVEYANCER, which written request shall not however be made prior to 30 days after the EFFECTIVE DATE;

6.1.4 if the PURCHASER does not require a loan for the balance of the PURCHASE PRICE then such balance shall be paid in cash to the CONVEYANCERS, or be secured in the form of a bank guarantee, which guarantee(s) shall be in a form acceptable to the SELLER and which cash or guarantee, as the case may be, shall be delivered to the CONVEYANCERS within 14 days after the PURCHASER is requested to do so in writing by the CONVEYANCERS, which written request shall not however be made prior to 30 days after the EFFECTIVE DATE.

6.2 Should the deposit referred to in clause 6.1.1 not be paid timeously, then the SELLER shall be entitled at it's discretion, to cancel this AGREEMENT, whereafter the deposit referred to in clause 3.8 together with any interest thereon shall be forfeited to the SELLER, and the CONVEYANCERS are authorized to immediately release such deposit to the SELLER, less the CONVEYANCERS fee referred to in clause 6.4..

6.3 Notwithstanding anything to the contrary herein contained, in the event of the rate at which VAT is chargeable being amended after the EFFECTIVE DATE in circumstances in which the amended rate will apply to this transaction, then the VAT at 14% included in the PURCHASE PRICE shall be adjusted accordingly, (including that in respect of the optional extras) 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.

6.4 Any cash payments made by the PURCHASER shall be placed in an interest bearing bank account, interest thereon to be for the benefit of the PURCHASER and the signature of this AGREEMENT by the PURCHASER constitutes written consent in terms of Section 78(2A) of the Attorneys Act authorising the CONVEYANCERS to invest the monies in accordance with this clause. The interest shall accrue for the benefit of the PURCHASER until the TRANSFER DATE whereupon the CONVEYANCERS shall release the capital to the SELLER, and all interest, less their usual commission, to the PURCHASER. Should the transaction not proceed for any reason attributable to the PURCHASER, then the CONVEYANCERS shall be entitled to charge the PURCHASER an additional fair and reasonable fee in their discretion, to cover their reasonable costs and



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disbursements in administering this transaction, which fee shall be deducted from the deposit and/or any interest due to the PURCHASER under this clause.

7. PLACE OF PAYMENT

7.1 All payments to be made by the PURCHASER to the SELLER in terms of this AGREEMENT shall be made, without deduction or demand or set off and free of exchange to the CONVEYANCERS. Shepstone & Wylie, Fawzia Khan & Associates and Siwendu & Partners Inc have jointly been appointed as the CONVEYANCERS for the SCHEME.

7.2 The deposit referred to in clause 6.1.1 shall be paid into the trust account of the CONVEYANCER referred to in clause 3.18 which has been nominated to attend to the conveyancing for this transaction. The details of the CONVEYANCERS trust account is referred to in clause 7.3.

7.3 Payments may be made directly into the Trust Account of the CONVEYANCERS, the details of which are as follows:

7.3.1 Shepstone & Wylie

Name of Account:	Shepstone & Wylie Trust Account
Bank	Standard Bank
Account No.	05028 1690
Branch Code	Durban Branch - 040026
Swift Code	SBZAZAJJ

7.3.2 Fawzia Khan & Associates

Name of Account:	Fawzia Khan Trust Account
Bank	First National Bank, Durban
Account No.	62029178961
Branch Code	221426

7.3.3 Siwendu & Partners Incorporated

Name of Account:	Siwendu & Partners Trust Account
Bank	Standard Bank, Westville
Account No.	252503112
Branch Code	045426

7.4 The PURCHASER must quote reference to Shakas Gate and his name when making an electronic payment of the deposits into the above Trust Accounts. Confirmation of payment of the deposit should be faxed to Shepstone & Wylie on 031- 3051486, Fawzia Khan & Associates on 031-5394063 and Siwendu & Partners Incorporated on 031-2671275.

7.5 Notwithstanding the allocation of this transaction to the CONVEYANCER referred to in clause 3.18, the SELLER shall be entitled in its discretion to change the CONVEYANCER allocated to this matter to one of the other two conveyancers referred to in clause 7.3, on condition that the SELLER gives written notice to the PURCHASER advising of such change.

8. EXCLUSIVE USE AREAS

8.1 All the basement parking bays shall be designated as EXCLUSIVE USE AREAS. Subject to availability, the PURCHASER shall be entitled to purchase additional parking bays, in addition to any that may have been allocated to the PURCHASER in terms of this AGREEMENT.



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8.2 In addition, the balconies, patio/garden areas and roof gardens will also be allocated as EXCLUSIVE USE AREAS.

8.3 The EXCLUSIVE USE AREAS referred to in this clause 8.1, shall be allocated in terms of the amended management rules.

9. OCCUPATION DATE AND RISK

9.1 Provided the PURCHASER has paid or properly secured the total PURCHASE PRICE referred to in clause 3.6, the PURCHASER shall be entitled to possession and occupation of the UNIT on the OCCUPATION DATE reflected in clause 3.15. It is recorded that this date is an estimated date and is likely to change depending on progress with the development of the SCHEME.

9.2 If, however, the SELLER is of the opinion that, for whatever reason, the SECTION will not be sufficiently complete for beneficial occupation by the date specified in clause 3.15, then:

9.2.1 the SELLER shall notify the PURCHASER in writing of such fact at least 30 days before such date and in such event the PURCHASER shall accept possession, occupation and use of the SECTION on the date the SELLER notifies him in writing that the SECTION will be sufficiently complete for beneficial occupation, and such subsequent date (or dates, if the SELLER needs to further revise its estimates when the SECTION will be ready for occupation) shall be deemed for all purposes to be the OCCUPATION DATE. For any notices subsequent to the first 30 days notice, the SELLER shall be entitled to give the PURCHASER 14 days notice; and

9.2.2 the PURCHASER shall have no claim of whatsoever nature or howsoever arising against the SELLER for failing for any reason to give occupation and use of the SECTION to the PURCHASER on or before the OCCUPATION DATE.

9.3 The SELLER shall also be entitled to give the same notice periods referred to in clause 9.2.1 in the event that the date the SECTION will be complete is earlier than the date referred to in clause 3.15.

9.4 In the event of any dispute as to when or whether the SECTION is sufficiently complete for beneficial occupation, a certificate by the ARCHITECT (acting as an expert and not an arbitrator) certifying that the SECTION is sufficiently complete for beneficial occupation, shall be final and binding upon the PARTIES.

9.5 The risk and benefit in and to the PREMISES shall pass to the PURCHASER on the TRANSFER DATE.

9.6 The PURCHASER acknowledges that on the OCCUPATION DATE the SCHEME and the POINT PRECINCT may be incomplete and that he and every person claiming occupation and use through him may suffer inconvenience from building operations and from noise and dust resulting therefrom and the PURCHASER shall have no claim whatsoever against the SELLER, the ASSOCIATION or the DEVELOPER by reason of any such inconvenience.

9.7 From the OCCUPATION DATE the PURCHASER:

9.7.1 shall be entitled to beneficial occupation of the PREMISES and the SECTION shall be used only for purposes for which it was intended and for no other purpose whatsoever and the maximum number of persons that shall be entitled to occupy a residential SECTION shall be determined by multiplying the number of bedrooms in the SECTION by two;



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- 9.7.2 waives all claims against the SELLER, DEVELOPER and ASSOCIATION for any loss or damage to property or any injury to person which the PURCHASER may sustain in or about the PROPERTY, the SCHEME or the POINT PRECINCT and indemnifies the DEVELOPER, the SELLER and the ASSOCIATION against any such claim that may be made against them by an employee of the PURCHASER or any tenant, nominee, invitee or any other person who occupies the SECTION and/or goes upon the SCHEME or the POINT PRECINCT by virtue of the PURCHASER'S rights thereto, for any loss or damage to property or injury to person suffered in or about the SECTION, SCHEME or POINT PRECINCT howsoever such loss or damage to property or injury to person may be caused;
- 9.7.3 shall be obliged to maintain the UNIT in a fit and proper condition and properly painted, and shall also maintain the geyser(s) included in the SECTION;
- 9.7.4 shall not be entitled to divide the SECTION for the purposes of selling, donating or in any other manner alienating or disposing of the PURCHASER'S rights of occupancy or any portion thereof to any other person;
- 9.7.5 shall not use the PREMISES or the COMMON PROPERTY in such manner as to cause any damage to the other units in the BUILDING and/or the PROPERTY, nor shall he store or permit the storage therein of any inflammable materials which may vitiate any policy of insurance in respect of the BUILDING or which is likely to have the effect of increasing the premium payable in terms of any such insurance policy;
- 9.7.6 shall at his cost maintain adequate public liability insurance and insurance against all risks that the PURCHASER bears and without limiting the foregoing shall include cover for the PURCHASER'S fixtures and fittings, all vehicles parked on the PREMISES and the PROPERTY, damages resulting from fire, storm and special perils, explosions, flood, earthquake, tempest, hail, riot and robbery;
- 9.7.7 may use and enjoy the COMMON PROPERTY, but shall do so in such a manner so as not to interfere with the use and enjoyment thereof by other unit holders or other persons lawfully upon the PROPERTY and the PURCHASER shall ensure that his visitors and invitees comply with the provisions of this clause;
- 9.7.8 shall not use the PREMISES, or permit them to be used in such manner or for such purposes as shall cause a nuisance to any occupier of a unit or interfere with the amenities of the PROPERTY or so as to breach any law, ordinance or by-law or any town planning scheme in force in relation to the PROPERTY.

10. **OCCUPATIONAL INTEREST**

From the OCCUPATION DATE until the TRANSFER DATE, the PURCHASER shall pay OCCUPATIONAL INTEREST to the CONVEYANCERS on behalf of the SELLER in the amounts reflected in clause 3.16, which OCCUPATIONAL INTEREST shall be paid monthly in advance from the OCCUPATION DATE to the TRANSFER DATE, and pro rated in respect of any portion of a month, but subject to the provisions of clause 32.

11. **BUILDING NOT YET CONSTRUCTED**

- 11.1 The BUILDING comprising the PREMISES has not yet been constructed, but will subject to clause 11.2, be done so substantially in accordance with the building plans, the PLANS and the National Building Regulations.
- 11.2 The SELLER shall be entitled to vary the building plans and/or PLANS for the BUILDING to such extent as may, in the SELLER'S opinion, be reasonably necessary to :
- 11.2.1 meet any requirements of any competent authority;
- 11.2.2 meet any special features of the UNIT;



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- 11.2.3 meet any special impediments such as water, sewer or electrical lines either above or under ground or within the BUILDING, or any rock or other soil condition;
- 11.2.4 give effect to any changes in materials, finishes or fittings (including without limitation the colours and aesthetics of the BUILDING) which the SELLER considers to be appropriate or which may not be readily available at the time due to shortage in supply of such materials, finishes or fittings, without however detracting from the quality of the BUILDING and/or the PREMISES;
- 11.2.5 obtain the approval of the sectional title development scheme and/or the opening of the REGISTER.
- 11.3 Should the actual area of the constructed SECTION ("the actual area") be 5 % more, or 5 % less than the anticipated area of the UNIT referred to in clause 3.1.1 and the PLANS ("the anticipated area") then the SELLER shall be entitled to adjust the PURCHASE PRICE upwards or downwards in the same proportion that the anticipated area bears to the PURCHASE PRICE referred to in clause 3.2. By way of example, if the PURCHASE PRICE in clause 3.2 was R1 000 000,00 with the anticipated area being 100 m² and the actual area was 104 m² there shall be no adjustment to the PURCHASE PRICE, but if the actual area was 106 m² then the PURCHASE PRICE shall be adjusted upwards to R1 060 000,00.
- 11.4 The SELLER shall not be required to indicate the position of the beacons or pegs on the PROPERTY.

12. RECTIFICATION OF DEFECTS AND VOETSTOOTS SALE

- 12.1 The SELLER shall rectify any defect or fault in the PREMISES which arises from faulty materials or workmanship and which appears within a period of 30 days from the OCCUPATION DATE, provided that notice of any defects or faults are given in writing by the PURCHASER to the SELLER within the 30 day period. In the event that the PURCHASER fails timeously to notify the SELLER of any defects, the PURCHASER shall have no further claim against the SELLER for rectification of such defects.
- 12.2 The ARCHITECT shall settle any dispute between the SELLER and PURCHASER which arises as to:
- 12.2.1 whether or not any of the foregoing defects are due to faulty materials or workmanship on the part of the SELLER;
- 12.2.2 the nature of the remedial work to be undertaken;
- 12.2.3 whether or not such remedial work has been properly completed.
- 12.3 Once such defects or faults referred to in this clause have been made good to the satisfaction of the ARCHITECT, the PURCHASER shall have no further claim against the SELLER.
- 12.4 In no way detracting from the generality of any other provision in this AGREEMENT, it is recorded that the SELLER may, at the SELLER'S discretion, elect not to install any item on the SPECIFICATIONS, provided that the SELLER installs a similar item of a similar quality in its place. In the event of there being any dispute as to whether the item installed by the SELLER is of a similar quality, a certificate by the ARCHITECT (acting as an expert and not as an arbitrator) certifying that such item is of a similar quality, shall be final and binding on the parties.
- 12.5 Save for the provisions of clauses 12.1 to 12.4, the PURCHASER acknowledges that the PREMISES are purchased and sold voetstoorts, without any warranties, expressed or implied, and the SELLER and its agents shall be free from any liability for any damage or



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loss suffered by the PURCHASER by reason of any defect existing or arising in the PREMISES or the COMMON PROPERTY.

12.6 The PREMISES are purchased subject to all conditions and servitudes, whether contained in the title deeds of the PROPERTY, imposed by the local or any other competent authority in terms of the applicable town planning scheme, contained in the CONVEYANCERS Section 11(3)(b) certificate relating to the SCHEME, the SECTIONAL PLAN and the RULES, and the PURCHASER acknowledges having made himself fully acquainted with the UNIT, its nature, situation and extent, the PLANS, the SPECIFICATIONS, the RULES, and all other relevant documents.

12.7 Without prejudice to the provisions of this clause, the SELLER shall not be liable under any circumstances or at any time prior to, during or after construction of the BUILDING, or PREMISES for any indirect or consequential damages of any nature which the PURCHASER may suffer at any time and for whatever reason, nor shall it have any liability whatsoever for any defects caused by or related to the soil or the geological condition of the PROPERTY.

13. DEVELOPMENT OF THE PARKADE

13.1 It is recorded that the SELLER is obliged to develop a parkade ("the PARKADE") on levels 2 to 8 inclusive on the PROPERTY which will accommodate parking for approximately 1400 vehicles for use by the public, particularly visitors to uShaka Marine World.

13.2 The SELLER shall be entitled in its discretion, to elect whether the PARKADE shall :

13.2.1 be depicted on the SECTIONAL PLAN as a section or sections; or

13.2.2 comprise certain smaller sections within the PARKADE area, with the individual PARKADE parking bays comprising the PARKADE being allocated to the owner of such sections as exclusive use areas in terms of the management rules of the BODY CORPORATE.

13.3 The SELLER shall be entitled, whichever method it selects in clause 13.2, to provide in the RULES and/or the Conveyancers certificate in terms of section 11(3)(b) of the ACT, that the allocation of levies to that portion of the SCHEME comprising the PARKADE is treated on a similar basis to the levies allocated to the non PARKADE parking bays in the BUILDING. Consequently if the entire PARKADE is depicted as a section on the SECTIONAL PLAN, it shall not be allocated a participation quota based on the ratio of the floor area in comparison to the floor area of all sections in the SCHEME, but rather a participation quota based on a similar contribution to be made by owners who have the exclusive use of individual parking bays in the basement.

14. PURCHASER'S ACKNOWLEDGEMENTS AND UNDERTAKINGS

14.1 The PURCHASER:

14.1.1 acknowledges that he is aware of the intended future development of the POINT PRECINCT by the DEVELOPER and that such development is intended to involve the establishment of high quality business and commercial premises and residential dwellings on various portions of the POINT PRECINCT and so designed as to facilitate the establishment of the POINT PRECINCT as an upmarket, attractive and aspirational development;

14.1.2 undertakes that he will, at all times, co-operate with the DEVELOPER and SELLER in an endeavour to facilitate the success of the said development and undertakes that he shall not unreasonably interfere with any such proposed development nor unreasonably lodge any objection with any competent authority in respect of any such development;



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- 14.1.3 agrees that he will not object to any application made by or on behalf of the DEVELOPER, its nominee or agent for special usage consent, licences for shopping, commercial or filling station rights, rezoning, removal of conditions of title under the Removal of Restrictive Conditions Act or by way of any application to Court or to any local or other competent authority in respect of any property within the POINT PRECINCT;
- 14.1.4 specifically acknowledges that owners of land surrounding the PROPERTY will be erecting buildings and other structures on surrounding land which may block or otherwise interfere with the views from the PROPERTY and the PURCHASER agrees he shall have no right to object to the construction of any building or other structure on land in the POINT PRECINCT on the basis that such building or other structure blocks or otherwise interferes with the views from the PROPERTY, nor will he have any claim for any alleged diminution in the value of the PROPERTY arising out of any interference with the views from the PROPERTY by reason of the construction of any such building or structure;
- 14.1.5 acknowledges that no buildings or alterations or extensions to existing buildings or any other structures may be erected on the PROPERTY other than in accordance with plans approved by the ASSOCIATION acting through the DESIGN REVIEW COMMITTEE and the PURCHASER agrees that he will have no claim whatsoever, arising out of whatever cause, against the ASSOCIATION, any members of the DESIGN REVIEW COMMITTEE or the DEVELOPER or the SELLER for any loss suffered by reason of the DESIGN REVIEW COMMITTEE refusing to approve or delay the approval of any plans submitted by the PURCHASER save where the PURCHASER can prove male fides on the part of the DESIGN REVIEW COMMITTEE or where the decision was not made in accordance with the ASSOCIATION'S Articles of Association as read with the DEVELOPMENT MANUAL and the ARCHITECTURAL CONTROLS;
- 14.1.6 acknowledges that he is aware that the various sections in the SCHEME will be used for office, commercial, residential, retail, restaurant purposes, and depending on the election referred to in clause 13.2, for parking purposes;
- 14.1.7 acknowledges that the ASSOCIATION is entitled to prescribe the type of retail operations that may be conducted from the retail sections and that there are certain usages which the ASSOCIATION has specifically disallowed;
- 14.1.8 acknowledges that as the SELLER requires additional bulk for the SCHEME, the SELLER has negotiated to acquire from the owner of Portion 75 of Erf 12524 Durban, (which lies between the PROPERTY and Portion 76 of Erf 12524 Durban) an area of 939 square metres (over which a access servitude is to be registered) which shall subsequently be consolidated with the PROPERTY;
- 14.1.9 acknowledges that there will be two structures built on the terrace area of level 9, one which will comprise a section and related exclusive use area and the other will be part of the common property to be used by the BODY CORPORATE.

15. **OPTIONAL EXTRAS**

- 15.1 The PURCHASER has selected and agreed to purchase the optional extras, if any, specified in the schedules attached marked "F1, F2, F3 and F4 ", payment for which may be made at the time that the PURCHASER is obliged to pay for the PREMISES.
- 15.2 For the purposes of this clause 15, "optional extras" means the home automation system, home theatre system, wall bed system and penthouse finish upgrade detailed in the schedules attached marked "F1,F2, F3 and F4 ", which includes a price list.
- 15.3 The PURCHASER acknowledges that:



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- 15.3.1 the price that the suppliers of the optional extras are able to supply their respective equipment is linked to the exchange rate, which may fluctuate between the time of signing this AGREEMENT and the time the equipment is installed in the UNIT; and
- 15.3.2 there is likely to be improvements and advancements in technology affecting the optional extras over the same period.
- 15.4 Following the acknowledgements referred to in clause 15.3, the SELLER shall be entitled, in its sole discretion, at the time the optional extras need to be installed in the UNIT, to substitute any models of the optional extras contemplated in Annexures "F1, F2 and F3", with other models, on the basis that the SELLER will use its best endeavours, to supply equivalent or better models, containing the best available technology and functionality at the time, at the same price paid by the PURCHASER for the respective optional extras.
- 15.5 In the event of there being any dispute as to whether the optional extras referred to in clause 15.4 which are installed, are of a similar functionality to that selected by the PURCHASER, or whether they are the best available technology at the time for the price paid by the PURCHASER, a certificate by the ARCHITECT (acting as an expert and not as an arbitrator) certifying that such item is of a similar functionality and the best available technology, shall be final and binding on the parties.
- 15.6 The optional extras are sold voetstoots although the SELLER will ensure that the PURCHASER is provided with warranties from the manufacturers of such equipment.

16. **RESALE OF PREMISES**

- 16.1 The PURCHASER acknowledges that :
- 16.1.1 if the PURCHASER wishes to dispose of the PREMISES, or any share therein, he shall, to the extent that he requires the services of an estate agent in regard to such disposal, do so in accordance with this clause;
- 16.1.2 this clause is inserted for the benefit of the SELLER, and RESALE AGENT who shall be entitled to enforce its terms by law;
- 16.1.3 any PURCHASER who acquires the PREMISES and who thereafter wishes to dispose of the PREMISES, shall –
- 16.1.3.1 only use sales documentation that has been approved of by the SELLER and the RESALE AGENT or such other agent as nominated by the SELLER;
- 16.1.3.2 to the extent that he requires the services of an estate agent he must do so exclusively through the RESALE AGENT or such other agent as nominated by the SELLER and in consideration for its rights herein, the SELLER shall procure that the commission payable to the RESALE AGENT shall not exceed the average of the commissions being charged from time to time by estate agents in the Durban area;
- 16.1.3.3 be entitled to use the services of any other agent if the RESALE AGENT has not secured a conclusive sale at a current market related price of similar units in the POINT PRECINCT within a period of 90 days from the date the RESALE AGENT has been mandated to sell the PREMISES, save that the PURCHASER shall be obliged to utilise the services of the RESALE AGENT for a further period of 90 days in the event that the PURCHASER of the PREMISES reduces the price that he requires for the PREMISES from that price marketed by the RESALE AGENT during the initial 90 day period;
- 16.1.3.4 whether or not he utilises the services of an estate agent, include a clause in any document pursuant to which he disposes of the PREMISES on the same terms precisely as this clause so that the SELLER shall always have the right to appoint the estate agent when the PREMISES are sold or otherwise disposed of;



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- 16.1.4 when the SELLER appoints an estate agent in terms hereof, it will do so as an agent *in rem suam* on behalf of the owner.
- 16.1.5 the EXCLUSIVE USE AREAS may only be owned by an owner of a UNIT in the SCHEME.
- 16.2 "Dispose" for the purposes of this clause 16 shall include to sell, donate, exchange or bequeath which results in the transfer of the PREMISES or any portion thereof.
- 16.3 The PURCHASER further acknowledges that in the event of the PURCHASER being an artificial person, such as a close corporation, company or trust, and in the event of the member, director, shareholder, trustee or beneficiary of the PURCHASER (as the case may be) wishing to dispose of the member's interest, shares or beneficial interest in the PURCHASER (as the case may be) he shall to the extent that such party requires the services of an estate agent in regard to such disposal, the provisions of clause 16.1 shall apply *mutatis mutandis*.
- 16.4 The PURCHASER shall be obliged to take transfer of the UNIT subject to a condition registered against the title deed to the PROPERTY (and hence UNIT) to the effect that the PROPERTY (and hence UNIT) or any portion thereof or interest therein shall not be sold or transferred without the written consent of the ASSOCIATION first being had and obtained, it being recorded, however, that the ASSOCIATION will grant its consent if the transferee binds himself to become and, for the duration of his ownership of the PROPERTY, to remain a member of the ASSOCIATION and to comply with the Rules of the ASSOCIATION relating to its members including rules pertaining to the use of standard sale agreements for properties forming part of the POINT PRECINCT and including the rule that a seller of property in the POINT PRECINCT will pay a 1% (ONE PERCENT) commission (that is 1% plus VAT, if applicable of the selling price of the property) to the DEVELOPER; (notwithstanding the foregoing it is recorded the SELLER shall not when selling the sectional title units it intends developing on the PROPERTY, be required to pay the commission referred to above, although when the parties who purchase such units from the SELLER, in turn sell such sectional title units, the aforesaid commission shall be payable).
- 16.5 The PURCHASER acknowledges that in the event of the PURCHASER disposing or transferring the PREMISES or in the event of the PURCHASER being an artificial person, such as a close corporation, company or trust and the member's interest, shares or beneficial interest (as the case may be), being disposed, of privately, (i.e. without the assistance of an estate agent), then in that event, the PURCHASER acknowledges that the sale must be processed through the RESALE AGENT and that he shall be responsible for payment of an administration fee charged by the RESALE AGENT in consideration for attending to supervise the transaction and the formalities of the ASSOCIATION in this regard. The aforesaid administration fee charged by the RESALE AGENT shall be 1% of the purchase price (plus Value Added Tax thereon) of the PREMISES, member's interest, shares or beneficial interest (as the case may be) or in the event of the PREMISES, member's interest, shares or beneficial interest (as the case may be) not being sold, shall be equal to 1% plus VAT of the market value of the PREMISES, member's interest, shares or beneficial interest (as the case may be) at the date of transfer or cession of same.
- 16.6 The PURCHASER shall not be entitled to dispose of or otherwise transfer ownership of the PREMISES unless it is a suspensive condition of such sale or other transfer that the transferee, in a manner acceptable to the ASSOCIATION, agrees to become a member and is admitted as a member of the ASSOCIATION.
- 16.7 In order to protect the DEVELOPER'S, SELLER'S and RESALE AGENT'S rights contained in this clause 16, the PREMISES shall be transferred to the PURCHASER, subject to a title condition in the SCHEME to the effect that the PREMISES, or any portion thereof or interest therein shall not be alienated or otherwise transferred without the prior written consent of the ASSOCIATION and SELLER first being had and obtained. The SELLER may at any time cede and assign its rights in this connection to the RESALE AGENT, which cession and assignment the PURCHASER agrees to, as far as needs be.



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- 16.8 Notwithstanding the provisions of clause 38, in the event of a breach of this clause 16, the ASSOCIATION and SELLER shall be entitled in their absolute discretion to refuse their written approval as required to the sale and transfer of the PREMISES until the provisions of this clause 16 are complied with and no party to this AGREEMENT shall have any claim for damages arising out of the ASSOCIATION'S or SELLER'S refusal to give such written approval.
- 16.9 The market value for the purposes of clause 16.5 shall be the average price paid for similar premises in the SCHEME, or if there are no similar sales which can be used, others in the POINT PRECINCT, as agreed by the seller of the PREMISES and the RESALE AGENT, save that if the parties do not agree on such value then the President of the Institute of Estate Agents shall appoint a person to act as an expert and not an arbitrator, to determine the market value. The ruling of the person so appointed shall be final and binding on the parties and the costs of the expert shall be borne by the parties jointly.

17. LEVIES TO BODY CORPORATE AND ASSOCIATION

- 17.1 From the OCCUPATION DATE, the PURCHASER shall be responsible to pay two monthly levies, one to the BODY CORPORATE in respect of those items referred to in section 37(1) of the ACT, and the second to the ASSOCIATION in accordance with the Articles of Association of the ASSOCIATION
- 17.2 The following shall apply in respect of the levy to the BODY CORPORATE:
- 17.2.1 the estimated monthly levy payable by the PURCHASER in terms hereof shall be payable monthly in advance from the OCCUPATION DATE to the SELLER until the TRANSFER DATE and to the BODY CORPORATE after the TRANSFER DATE;
- 17.2.2 the amount to be levied against the PURCHASER is to be calculated in accordance with the participation quota of the SECTION and the figure stated in clause 3.14 is an estimate of such levy, made in good faith by the SELLER and the SELLER shall not be responsible for any inaccuracy in this estimation;
- 17.2.3 notice of any increase in the amount of the levy payable by the PURCHASER in terms hereof may be given in writing by or on behalf of the SELLER at any stage after the EFFECTIVE DATE.
- 17.3 The levy payable to the ASSOCIATION shall not be calculated in accordance with the participation quota of the SECTION, but in accordance with the provisions of the Articles of Association of the ASSOCIATION.
- 17.4 The participation quota of all SECTIONS in the SCHEME including those to be used for non-residential purposes shall be calculated on the area comprising the living/working area only and the balconies, patio/gardens, roof gardens and parking bays will be designated on the SECTIONAL PLAN as exclusive use areas. The PURCHASER acknowledge that the levies on a rate per square metre basis for the areas comprising the parking bays, balconies, patio/gardens and roof gardens shall be 10% of the rate per square metre applicable to the SECTION.
- 17.5 For the purposes of calculating the participation quota of the SECTION and other sections in the SCHEME, these shall be calculated on a similar basis, being the ratio that the area of a respective section bears to the total area of all sections in the SCHEME. The estimated participation quota for all units in the SCHEME is reflected in the schedule attached marked "G".
- 17.6 The PURCHASER shall with effect from the OCCUPATION DATE be liable for the payment of all services to the PREMISES which may not be included in the levy to the



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BODY CORPORATE, including electricity, water, telephone service and any deposits payable in connection with the supply of any such services.

17.7 The PURCHASER acknowledges that the SELLER may appoint Copper Lake Investments 22 CC, trading as The Point Precinct Management Group, or such other entity ("the Managing Agent"), as the first managing agent to manage the SCHEME as provided for in section 46 of the Management Rules contained in Annexure 8 of the ACT, with effect from the date of establishment of the BODY CORPORATE. In so far as may be necessary, the PURCHASER hereby irrevocably nominates, constitutes and appoints the SELLER to attend any meeting of the BODY CORPORATE of the SCHEME, called for the purposes of appointing the Managing Agent on the PURCHASER'S behalf, and to vote in favour of appointing the Managing Agent.

18. SPECIAL PROVISIONS APPLICABLE FROM OCCUPATION DATE TO TRANSFER DATE

Between the OCCUPATION DATE and the TRANSFER DATE, the following provisions shall apply to the PARTIES:

18.1 THE PURCHASER

18.1.1 shall not be entitled to make any alterations or additions to the PREMISES without the prior written consent of the SELLER;

18.1.2 shall not have any claim of any nature whatsoever, whether for cancellation, damages or otherwise against the SELLER for any loss or damage caused to or sustained by the PURCHASER or any of the PURCHASER'S servants, customers, clients or visitors or to any of their respective assets in the PREMISES as a result of vis major or causus fortuitous or any other cause whatsoever, for any loss or damage sustained by the PURCHASER by reason of any act, omission or delay whatsoever on the part of the SELLER or its servants or agents including consequential loss, by reason of the PREMISES or any part thereof being in a defective condition or state of disrepair, as a result of the PREMISES or the BUILDING being damaged or destroyed, or by theft, including any damages caused by theft;

18.1.3 shall not let the PREMISES or in any other manner dispose of or part with, whether temporarily or otherwise, his rights of occupation thereof except with the prior written consent of the SELLER, which consent shall not be unreasonably withheld;

18.2 THE SELLER

18.2.1 Either personally or through its employees or agents shall be entitled at all reasonable times to have access to the PREMISES for the purpose of inspecting them and/or to carry out any maintenance or repairs which the SELLER may in terms hereof be obliged or entitled to perform, whether such repairs relate to the PREMISES or not, and the PURCHASER shall have no claim against the SELLER for any disturbance in his occupation arising out of the exercise by the SELLER of the rights hereby conferred.

18.2.2 In the event of the SELLER being unable to transfer the UNIT hereby sold by reason of either destruction or expropriation or for any other reason whatsoever save such reason as may be attributed to the fault of the SELLER, or in the event of destruction of the UNIT to the extent that the PURCHASER is deprived of occupation thereof, either party shall thereupon be entitled to resile from this AGREEMENT and upon either party doing so, the SELLER shall refund to the PURCHASER all monies paid by the PURCHASER. Immediately upon such refund having been made, the PURCHASER shall vacate the PREMISES, unless the PURCHASER has already vacated or been deprived of possession thereof and save as aforesaid shall have no further claim against the SELLER.

18.2.3 The SELLER shall not be responsible for:

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- 18.2.3.1 any damage to or the loss of any furniture, equipment or other effects, possessions or articles in the PREMISES, the BUILDING, or the PROPERTY (whether the property of the PURCHASER or anyone else) by rain, wind, hail, lightning, earthquake or tremor or fire or by reason of riot, strikes or state enemies or as a result of theft, burglary or forced entry or through any other cause whatsoever;
- 18.2.3.2 any personal injury which may be sustained in or about the PREMISES, by any of the servants, employees, agents or invitees of the PURCHASER or any occupants for the time being of the PREMISES or any person whomsoever, whether to the person so injured or any dependent of any such injured person, howsoever such injury may be caused unless caused by the negligence of the SELLER;
- 18.2.3.3 the death, howsoever caused of any person occurring in the PREMISES, whether to dependants or otherwise.

19. **MEMBERSHIP OF THE DURBAN POINT WATERFRONT MANAGEMENT ASSOCIATION**

By virtue of the purchase of the PREMISES by the PURCHASER, the PURCHASER shall, through the BODY CORPORATE be obliged to become a member of the ASSOCIATION within the meaning of and subject to the conditions set out in the ASSOCIATION'S Memorandum and Articles of Association and undertakes that he and all persons deriving use of the PROPERTY or any part thereof, through him from the OCCUPATION DATE, will duly comply with all the obligations imposed upon members under the ASSOCIATION'S Memorandum and Articles of Association.

20. **RULES OF THE BODY CORPORATE AND ASSOCIATION**

- 20.1 The RULES of the BODY CORPORATE will be the management and conduct rules contained in Annexures 8 and 9 to the ACT, as amended by the SELLER upon opening of the REGISTER, and the PURCHASER is deemed to have acquainted himself therewith and hereby binds himself to the provisions thereof.
- 20.2 The PURCHASER acknowledges that the SELLER shall be entitled to include in the amended management rules, any of the rights and obligations of the SELLER and PURCHASER in terms of this AGREEMENT.
- 20.3 The PURCHASER acknowledges that the DIRECTORS have the power to make rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the POINT PRECINCT, for the purposes of giving proper effect to the provisions of the Memorandum and Articles of the Association and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those members who fail to comply with the provisions of the Articles or the rules.
- 20.4 The PURCHASER acknowledges that, subject to the provisions of this AGREEMENT and the DEVELOPMENT MANUAL, the DIRECTORS shall be entitled at all times to lay down rules in regard to -
- 20.4.1 the preservation of the natural environment,
- 20.4.2 vegetation and flora and fauna in the POINT PRECINCT,
- 20.4.3 the placing of movable objects upon or outside the buildings included in the POINT PRECINCT, including the power to remove any such objects,
- 20.4.4 the storing of flammable and other harmful substances,



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- 20.4.5 the conduct of any persons within the POINT PRECINCT and the prevention of nuisance of any nature to any owner of immovable property in the POINT PRECINCT,
- 20.4.6 the use of land within the POINT PRECINCT,
- 20.4.7 the use of roads, pathways, canals and open spaces;
- 20.4.8 the imposition of fines and other penalties to be paid by members of the ASSOCIATION,
- 20.4.9 the management, administration and control of the common areas and open spaces;
- 20.4.10 the Design Guidelines for the erection of all buildings and other structures, including service connections to buildings;
- 20.4.11 the Design Guidelines for the establishment, installation and maintenance of gardens, both public and private;
- 20.4.12 the use by owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;
- 20.4.13 the use of adjoining sidewalks, road frontages and parking areas;
- 20.4.14 any other matter which the ASSOCIATION from time to time considers appropriate and in the best interests of its members,

and the PURCHASER undertakes and shall be obliged, with effect from the OCCUPATION DATE, to abide by such rules as if he was the owner of the PREMISES and to ensure that all tenants, nominees, invitees and other persons who occupy or enter upon the PREMISES and its surrounds by virtue of the PURCHASER'S rights thereto, do likewise.

- 20.5 The PURCHASER shall be obliged to bring the RULES to the attention of any tenant prior to such tenant taking possession of the PREMISES or any portion thereof.

21. MUNICIPAL SERVICES

The PURCHASER acknowledges that should the local authority or any other service provider not have the means, or be unwilling, or agree to delegate the obligation to the ASSOCIATION, to maintain or provide municipal services within the POINT PRECINCT, the ASSOCIATION may, if the ASSOCIATION in its sole discretion deems it appropriate, take over the responsibility for providing and maintaining such services and/or enhanced services.

22. PHASED DEVELOPMENT

- 22.1 As it is anticipated that there will be a lengthy construction period for the entire SCHEME, the SELLER shall be entitled to stagger the construction in various phases which will allow the SELLER to complete and transfer the units in the BUILDING in phases.
- 22.2 The SELLER shall in terms of section 25 of the ACT be entitled to develop the SCHEME initially in various phases. While it is anticipated that the various phases will follow the first phase in a short period, the SELLER reserves to itself the right to complete the second and further phases within a period of 10 years from the date the REGISTER is opened.
- 22.3 The effect of the phasing of the SCHEME in two, or three phases will be to enable purchasers whose units are in a particular phase, to obtain transfer of their unit purchased once the sectional plan in respect of that phase has been registered.



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- 22.4 The SELLER or its successors-in-title shall notwithstanding the transfer of various units in the SCHEME to purchasers, be entitled to erect, in addition to the buildings to be incorporated into the first sectional plan, a vertical and/or horizontal extension to the existing buildings and other improvements to be erected in the further phases and to divide the buildings into sections and common property and to confer the rights of exclusive use over parts of such common property to an owner or owners.
- 22.5 The PURCHASER shall be obliged to take transfer of his UNIT as soon as the sectional plan relating to the PURCHASER'S UNIT has been registered in the Deeds Office.
- 22.6 The SELLER or its successors-in-title shall be entitled to procure the registration of a plan or plans in respect of the relevant extensions comprising such subsequent phases in terms of section 25 of the ACT, to the exclusion of any other owner or mortgagee in the SCHEME.

23. **TRANSFER AND COSTS**

- 23.1 The SELLER shall not be obliged to pass transfer of the UNIT to the PURCHASER, notwithstanding anything to the contrary herein contained, until such time as the total PURCHASE PRICE and all other amounts for which the PURCHASER may be liable have been paid and/or payment thereof has been secured as herein provided, and the PURCHASER has complied with all its obligations under this AGREEMENT.
- 23.2 Transfer of the UNIT shall be effected by the CONVEYANCERS and all expenses of and incidental to the preparation and registration of the transfer and bond if applicable (plus VAT thereon), including cession of the EXCLUSIVE USE AREAS, if applicable, and conveyancing fees in respect of such transfer and bond, shall be borne by the PURCHASER.
- 23.3 The PURCHASER shall within 7 days of being called upon to do so by the CONVEYANCERS, furnish all such information, sign all such documents and pay all such costs which are for the PURCHASER'S account and which may be necessary or required to enable the CONVEYANCERS to pass transfer and to register any bond.
- 23.4 In particular the PURCHASER must ensure that his tax affairs and the tax affairs of his representatives, if applicable, are up to date as required by SARS to facilitate prompt issue by SARS of the transfer duty exemption.
- 23.5 The SELLER will be unable to effect transfer of the UNIT into the name of the PURCHASER until all suspensive conditions of the AGREEMENT have been fulfilled and the REGISTER has been opened.
- 23.6 If however, by 1 July 2010 it is still not possible to transfer the UNIT to the PURCHASER, then unless the SELLER, prior to 1 July 2010 has extended such period (which it shall be entitled to do for a further period of 6 months), either party shall be entitled to cancel this AGREEMENT by giving written notice to that effect to the other party and in such event:
- 23.6.1 the PURCHASER and every person claiming occupation through the PURCHASER shall vacate the PREMISES on a date stated in such notice to the SELLER provided that such date shall not be a date later than 30 days from the date of the notice, and the PURCHASER shall re-deliver the PREMISES to the SELLER in the same good order and condition as at the OCCUPATION DATE, fair wear and tear excepted;
- 23.6.2 the PURCHASER shall be entitled, upon redelivery of the UNIT pursuant to clause 23.6.1, to be refunded all monies paid on account of the PURCHASE PRICE;
- 23.6.3 save as herein provided, neither of the PARTIES shall in such event have any further claims whatsoever against the other, nor shall the PURCHASER be entitled to claim or allege any right of occupation or tenancy of the PREMISES.



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24. PROPERTY SUBJECT TO VARIOUS SERVITUDES

The PROPERTY will be subject to various servitudes which shall include:

SECURITY SERVICES

- 24.1 The ASSOCIATION shall in accordance with the provisions of its Articles of Association, and any direction given by members in general meeting from time to time, provide security services within the POINT PRECINCT. The PURCHASER agrees that no liability shall rest upon the SELLER or the ASSOCIATION for any failure or inefficiency of any of the security services in the POINT PRECINCT, irrespective of the cause thereof, or for any consequential damage the PURCHASER may suffer by reason of such failure or insufficiency.

ARCADE AND GENERAL SERVICES SERVITUDE

- 24.2 The PROPERTY shall be subject to an arcade and general services servitude as shown on the diagram attached hereto marked "B".

COMMUNICATION AND SECURITY SERVITUDE

- 24.3 The PROPERTY is sold subject to a communication and security servitude in favour of the ASSOCIATION which shall grant the ASSOCIATION, *inter alia*, all such rights as the ASSOCIATION may require in order to install and maintain an electronic surveillance security and data communications system in the POINT PRECINCT (including the PROPERTY). The aforesaid servitude shall also grant the ASSOCIATION the right to lay cables generally, to transmit data through such cables and the right to enter upon the PROPERTY to maintain same.

PROHIBITION ON THE USE OF PROPERTY

- 24.4 Notwithstanding anything contained herein, in the town planning scheme of the LOCAL AUTHORITY or elsewhere, the PROPERTY shall under no circumstances whatsoever be used as a petrol filling station.

TELECOMMUNICATIONS ROOM SERVITUDE

- 24.5 The PROPERTY shall be subject to a telecommunications room servitude in favour of the ASSOCIATION, entitling the ASSOCIATION, *inter alia*, to erect, maintain and service a telecommunications room on the PROPERTY.
- 24.6 Although the position of the aforesaid telecommunications room and its design shall be decided by the DESIGN REVIEW COMMITTEE in consultation with the SELLER, the final decision in this regard shall be in the sole discretion of the DESIGN REVIEW COMMITTEE.
- 24.7 The aforesaid servitude shall grant the ASSOCIATION and any service provider(s) or other parties, nominated by the ASSOCIATION, all such rights as may be required in order to erect, maintain and operate the telecommunications room. These rights shall include, but shall in no way be limited to, the right to have 24 hour vehicular and pedestrian access to the telecommunications room and the rights to lay and maintain all electric and other cables across the PROPERTY to the telecommunications room that may be required in order to properly operate the aforesaid telecommunications room.



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25. SALE, CESSION AND ASSIGNMENT OF RIGHTS

25.1 The PURCHASER shall not, prior to the TRANSFER DATE, be entitled to cede, delegate or assign all or any of his rights or obligations under this AGREEMENT nor shall he sell or otherwise dispose of the PREMISES nor dispose of any shares in any company, members interest in a close corporation or beneficial interest in a trust that may have acquired the PREMISES.

25.2 The SELLER shall be entitled at any time prior to the TRANSFER DATE, to cede and assign its rights and obligations under this AGREEMENT to a third party of its choice.

26. SELLING AGENT'S COMMISSION

To the extent that an agent has been the effective cause of this sale, the SELLER shall be liable for and shall pay agreed commission to the SELLING AGENT, which commission of 4% plus VAT is included in the PURCHASE PRICE.

27. JURISDICTION

The PURCHASER hereby consents in terms of Section 45 of the Magistrates' Courts Act, No 32 of 1944, as amended, to the jurisdiction of any Magistrate's Court having jurisdiction over its person under Section 28 of that Act, notwithstanding that any action or proceeding arising out of this AGREEMENT would otherwise be beyond the jurisdiction of such Court. The SELLER shall, however, have the right to institute action in any other Court of competent jurisdiction.

28. COSTS

The PARTIES agree that in the event of either party instructing its attorneys and/or taking legal proceedings against the other party pursuant to a failure by the party in breach to fulfil any of its obligations in terms hereof, then the party in breach shall pay all legal costs plus VAT incurred by the other party in connection therewith as between attorney and own client, including collection commission laid down at the tariff rate applicable.

29. JOINT AND SEVERAL LIABILITY

Should this AGREEMENT be signed by more than one person as PURCHASER the obligations of all the said signatories shall be joint and several.

30. TRUSTEE FOR COMPANY OR CLOSE CORPORATION TO BE FORMED

If this AGREEMENT is entered into by the signatory for the PURCHASER in his capacity as trustee for a company or close corporation to be formed, then:

30.1 the said signatory, by his signature hereto, hereby binds himself in favour of the SELLER as surety and co-principal debtor, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company or close corporation in terms of or arising out of this AGREEMENT or any cancellation hereof; and

30.2 without prejudice to the provisions of clause 30.1, in the event of such company or close corporation not being formed within 60 days after the EFFECTIVE DATE, and/or failing within 14 days of incorporation to ratify and make the provisions of this AGREEMENT binding upon itself, and/or failing within the said 14 day period to deliver to the CONVEYANCERS the originals or notarially certified copies of its certificate of incorporation, memorandum and articles of association, certificate to commence business and all necessary resolutions of shareholders and/or directors in respect of this sale, in the case of a company, or of its founding statement, any applicable association agreement (or



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confirmation that there is none) and the written consent signed by all the members in respect of the ratification and adoption of this sale, in the case of a close corporation, then and in any such event, the said signatory shall be personally liable in terms hereof as if he had purchased in his own personal capacity.

31. INTEREST ON ARREAR AMOUNTS

- 31.1 Any amounts in arrear in terms of this AGREEMENT, shall bear interest at the rate equal to 2% points above the prime rate of interest from time to time published by Nedbank Limited, which interest shall be calculated from the date such amount becomes due to the date of payment, both days inclusive.
- 31.2 A certificate by any branch manager of the said bank as to such prime rate from time to time shall be prima facie proof of such date.

32. INTEREST ON DELAYS OCCASIONED BY THE PURCHASER

- 32.1 In the event of there being any delay in connection with the registration of transfer for which the PURCHASER is responsible, the PURCHASER undertakes, in addition to any OCCUPATIONAL INTEREST that may be due in terms of clause 10 for the relevant period, to pay interest on the PURCHASE PRICE at the rate of 5%, calculated from the date when the PURCHASER is notified in writing by the SELLER or the CONVEYANCERS, as delaying the matter, to the date on which the PURCHASER has ceased to delay the matter.
- 32.2 The PURCHASER shall be deemed to be responsible for any delay in registration of transfer that is occasioned inter alia by –
- 32.2.1 the PURCHASER'S failure to provide any documentation or sign bond or transfer documents and pay related costs;
- 32.2.2 delays in the provisions of guarantees by conveyancers appointed by a financial institution to attend to the registration of the PURCHASER'S bond;
- 32.2.3 delays in the VAT registration, of the purchaser, if required;
- 32.2.4 delays in SARS issuing the transfer duty exemption receipt due to the purchaser's, or its representatives tax affairs not being in order as contemplated in clause 23.4;
- 32.2.5 delays caused in the registration of the PURCHASER'S mortgage bond;
- 32.2.6 delays in any other related transactions that the PURCHASER requires to be registered prior to or simultaneously with the transfer of the UNIT.

33. ELECTRICAL COMPLIANCE CERTIFICATE

Notwithstanding the provisions of clause 12 of the AGREEMENT, whereby the UNIT is sold voetstoots, the SELLER shall at the SELLER'S own expense furnish a certificate of compliance from an accredited person in respect of electrical installations in the UNIT in accordance with the requirements of the electrical installations regulations made under the Machinery and Occupational Safety Act No. 6 of 1993. Such certificate shall be delivered to the PURCHASER prior to the TRANSFER DATE.



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34. FICA AND POCA

- 34.1 The PURCHASER acknowledges that:
- 34.1.1 the CONVEYANCERS are designated as an "accountable institution" in terms of the Financial Intelligence Centre Act 38 of 2001 ("FICA");
- 34.1.2 certain obligations are placed on the CONVEYANCERS in terms of FICA and the Prevention of Organised Crime Act 121 of 1998 ("POCA") and regulations promulgated in terms thereof.;
- 34.1.3 the conveyancers will not invest and administer any deposits or any other monies paid by the PURCHASER in terms of this AGREEMENT unless the PURCHASER has provided the CONVEYANCERS with the documents that they require in terms of FICA and without signature of the attached Authority to Invest, attached marked "H" and accordingly the PURCHASER undertakes to comply with all requirements of and supply all information and documentation required by the CONVEYANCERS to enable the CONVEYANCERS to fulfil their obligations in terms of the abovementioned legislation and regulations.

35. INDEMNITY

The SELLER does not warrant any information given in respect of the PROPERTY or the PREMISES, whether this information is given prior to or subsequent to the signing of this AGREEMENT, save for the information in respect of the PREMISES specifically warranted in this AGREEMENT. The SELLER shall not be liable for any claim of any nature whatsoever that may arise due to any inaccuracies in information given by the SELLER to the PURCHASER, his agent or his nominee in respect of the PROPERTY or PREMISES and the PURCHASER hereby indemnifies the SELLER and holds harmless against and in respect of any injury, loss or damage however caused which the PURCHASER may suffer as a result of any inaccuracies in any information given by the SELLER (save for the information specifically warranted in this AGREEMENT).

36. RETAIL OWNERS' ASSOCIATION

- 36.1 The success of the component of the BUILDING designated for retail purposes ("the RETAIL COMPONENT") will depend inter alia on the proper control and tenant mix in the RETAIL COMPONENT which mix shall be regulated through a Retail Owners' Association ("Retail Association")
- 36.2 The purchasers of retail units will be required to become members of the Retail Association which will be a body established to represent the common interests of owners of units in the RETAIL COMPONENT in the SCHEME.
- 36.3 The Retail Association shall have a set of rules ("the Retail Rules") which will govern various aspects relating to the RETAIL COMPONENT, including but not limited to decisions regarding the tenant mix in such component, the aesthetics and layout of the units.
- 36.4 The Retail Association shall always employ the services of a recognised retail property management specialist ("the Retail Manager") as an advisor on the tenant mix in the RETAIL COMPONENT who will also be responsible for handling the leasing of units in the RETAIL COMPONENT and will attend to the management of such component, The purchasers of retail units shall always be obliged to use the services of the Retail Manager for the purposes of letting his UNIT and be responsible for payment to the Retail Manager of its usual fees for securing tenants for the UNIT. The RESALE AGENT shall also be a member of the Retail Association and shall, together with the Retail Manager, be entitled to make rules applicable to the RETAIL COMPONENT.



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- 36.5 The PURCHASER acknowledges that the SELLER, in conjunction with its professionals involved in the SCHEME, the RESALE AGENT, and the Retail Manager, shall, once the design review process of the BUILDING has progressed, include in the Retail Rules matters relating to the theme of the RETAIL COMPONENT, which rules will inter alia deal with the overall theme, aesthetics, finishes and floor layouts of the units, and rules relating to signage, including the style, design, size and position of such signage. The owners of retail units shall be obliged to ensure that he and/or his tenant complies in all respects with the Retail Rules, including aspects referred to in this clause 36.5.
- 36.6 The purchasers of retail units will purchase their units on the understanding that the specified retail space usage of the unit shall only be used for a specific usage as identified in the sales agreements or such other usage as may be agreed by the SELLER, in conjunction with the RESALE AGENT and Retail Manager.
- 36.7 The purchasers of retail units shall at all times be obliged to comply with all the obligations imposed them under the Retail Rules.
- 36.8 The purchasers of retail units shall not be entitled to dispose of or otherwise transfer ownership of the PREMISES unless it is a suspensive condition of such sale or other transfer that the transferee, in a manner acceptable to the Retail Association, agrees to become a member and is admitted as a member of the Retail Association.

37. APPROVAL OF SUBDIVISION OF ADDITIONAL LAND

- 37.1 This AGREEMENT is subject to the suspensive condition that the additional land referred to in clause 14.1.8 ("the ADDITIONAL LAND") which is at present an un-registered sub-division and in the process of being approved, is approved within 365 days after the EFFECTIVE DATE .
- 37.2 The SELLER shall be responsible for procuring as quickly as is reasonably practical the framing of the requisite sub-divisional diagram for the ADDITIONAL LAND and the granting of all such consents as may be requisite in order to render the ADDITIONAL LAND registrable as a separate sub-division. All costs in respect of and incidental to the application in this regard, fulfilment of any conditions of establishment pertaining to the creation of the ADDITIONAL LAND as a separate sub-division and the payment of any endowment and the like shall be for the sole account of the SELLER.
- 37.3 Should the subdivision of the ADDITIONAL LAND not be approved within 365 days after the EFFECTIVE DATE then this AGREEMENT shall lapse and be of no further force and effect whereupon neither party shall have any claim against the other, save that the SELLER shall procure that the CONVEYANCERS refund to the PURCHASER all monies paid by the PURCHASER on account of the PURCHASE PRICE, including interest earned thereon.

38. BREACH

- 38.1 Save for the provisions of clause 6.2 where no notice need be given, in the event of any other payment or payments in respect of the PURCHASE PRICE, OCCUPATIONAL INTEREST, MORA INTEREST, or other charges or payments for which the PURCHASER is liable hereunder, or any obligation imposed on the PURCHASER hereunder, remaining unpaid or unfulfilled for a period of 7 days after notice in writing has been given by or on behalf of the SELLER to the PURCHASER, calling upon the PURCHASER to make payment or fulfil such obligation, the SELLER shall, at its election and without prejudice to any other rights which it may have in terms hereof or at law, have the right either to enforce this AGREEMENT or alternatively to declare the sale cancelled.
- 38.2 In the event of the SELLER cancelling the sale as aforesaid, any amount or amounts paid to the SELLER or the CONVEYANCERS (including any amount paid in trust and any



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interest accrued thereon) shall be forfeited to and retained by the SELLING AGENT to cover the commission referred to in clause 26 with the balance being retained by the SELLER; alternatively, if the SELLER so elects, it may recover any damages howsoever incurred as a result of such cancellation (including any losses and expenses on a resale, whether by public auction or private treaty), in which case the amount or amounts paid to the SELLER or the CONVEYANCERS as aforesaid (including any amount paid in trust and any interest accrued thereon) will not be forfeited but may be retained by the SELLER by way of set off or partial set off against the agents commission referred to in clause 26 and against other the damages claimed by the SELLER.

- 38.3 If this AGREEMENT is cancelled by the SELLER, the PURCHASER and all persons claiming a right of occupation through the PURCHASER shall forthwith be obliged to vacate the PREMISES and to deliver them to the SELLER. It is specifically recorded in this regard that no lease or other similar right of occupation in favour of the PURCHASER shall be created or come into existence by virtue of this AGREEMENT. Notwithstanding the foregoing, should the SELLER exercise any of its rights in terms hereof and should the PURCHASER dispute the SELLER'S right to do so, then pending the determination of that dispute, the PURCHASER shall continue to pay all amounts payable in terms of this AGREEMENT on the due date thereof, and to comply with all the terms hereof, and the SELLER shall be entitled to recover and accept such payments and/or other performance without prejudice to the SELLER'S claim to have exercised rights in terms hereof, and in the event of the SELLER succeeding in such dispute, the SELLER shall be entitled to retain such amounts received in the interim as payment for the occupational rights exercised and/or enjoyed by the PURCHASER in the interim.
- 38.4 In the event of the SELLER cancelling the sale as contemplated in clause 38.1, any and all improvements made to the PREMISES shall belong to and vest in the SELLER, without any obligation on the part of the SELLER to compensate the PURCHASER therefore.
- 38.5 For all purposes of this AGREEMENT, any act or omission on the part of any tenant, nominee or other person who occupies the PREMISES, or invitee of the PURCHASER, or of such tenant, nominee or other person who occupies the PREMISES, shall be deemed to be an act or omission of the PURCHASER.
- 38.6 In the event that this AGREEMENT is cancelled for any reason, including a default by the PURCHASER, or by agreement with the SELLER, the PURCHASER acknowledges that he shall be liable to pay the reasonable attorney client fees and disbursements of the CONVEYANCERS, alternatively the wasted costs of the CONVEYANCERS, which costs shall be in accordance with the recommended conveyancing guideline, and the PURCHASER furthermore authorises the CONVEYANCERS to deduct such costs from any monies, including interest, held by the CONVEYANCERS on behalf of the PURCHASER.

39. **NOTICES AND ADDRESSES FOR SERVICE**

- 39.1 Unless otherwise specified any notice or communication in terms of this agreement:
- 39.1.1 must be in writing to be effective;
- 39.1.2 must be sent by hand, telefax or prepaid registered post to the addresses/telefax numbers contained on page 1 of the AGREEMENT, which physical addresses the parties select as their respective domicilium citandi et executandi.
- 39.2 Either party may change its address/telefax number to any other address/telefax number within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other party.
- 39.3 Any notice or communication shall:



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- 39.3.1 if delivered by hand during business hours to the person apparently in charge of the premises selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;
- 39.3.2 if sent by prepaid registered post to the selected address, be deemed to have been received 6 days after posting; and
- 39.3.3 if telefaxed to the selected telefax number, be deemed to have been received on the first business day following the date of transmission.
- 39.3.4 Any written notice or communication which has actually been received by a party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address/telefax number provided for above.

40. MISCELLANEOUS LEGAL PROVISIONS

- 40.1 This is the whole agreement between the parties containing all of the express provisions agreed on by the parties with regard to the subject matter hereof.
- 40.2 No party may rely on any representation which allegedly induced that party to enter into this AGREEMENT, unless the representation is recorded herein.
- 40.3 No agreement varying, adding to, deleting from or cancelling this agreement and no waiver of any right under this AGREEMENT shall be effective unless in writing and signed by or on behalf of the parties.
- 40.4 No relaxation by a party of any of its rights in terms of this AGREEMENT at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.
- 40.5 This AGREEMENT shall be governed by and construed according to the law of South Africa.
- 40.6 This AGREEMENT may be signed by the parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same AGREEMENT.
- 40.7 If any provision of this AGREEMENT is, or becomes, invalid or unenforceable, it shall be severable from the rest of the AGREEMENT, which shall continue to be binding on the parties.
- 40.8 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this agreement.
- 40.9 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.
- 40.10 For the purposes of this AGREEMENT:
- 40.10.1 "day" means a calendar day;
- 40.10.2 "business day" means any day other than a Saturday, Sunday or South African Public Holiday;
- 40.10.3 "month" means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;



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SIGNED by the PURCHASER at _____ on this _____ day of _____ 2006

For: **THE PURCHASER**

who hereby warrants that (s)he is duly
authorised to sign this agreement on its behalf

Full names.....

Designation.....

**ASSISTED BY SPOUSE IF FOREIGN
MARRIAGE**

Full names.....

GUARANTOR

This portion to be signed by spouse / legal guardian / member / director/ trustee in the event of the PURCHASER being a person married in community of property / minor / close corporation / company / trust.

[Full names]
of

[Full address and telephone number]

hereby consents to the conclusion of this AGREEMENT and guarantees and binds himself as surety for and co-principal debtor in solidum with the PURCHASER to the SELLER for the due and punctual fulfillment and discharge of all the conditions and obligations undertaken by the PURCHASER to the SELLER pursuant to this AGREEMENT, under renunciation of the benefits of excussion and division with the meaning and effect of which benefits and the renunciation thereof he acknowledges himself to be acquainted. No variation or amendment or novation of this AGREEMENT shall prejudice the suretyship obligations hereby undertaken by the aforesaid guarantor, the object being that he shall remain liable at all times as surety and co-principal debtor, even if this AGREEMENT is varied or amended or novated and even if the aforesaid PURCHASER is granted an indulgence by the SELLER.

SIGNED by the GUARANTOR at _____ on this _____ day of _____ 2006

GUARANTOR



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SIGNED by the SELLER at _____ on this _____ day of _____ 2006

For: **EAGLE CREEK INVESTMENTS 289
(PROPRIETARY) LIMITED**

who hereby warrants that (s)he is duly
authorised to sign this agreement on its behalf

Full Names.....

Designation.....

The benefits of this AGREEMENT are accepted by the RESALE AGENT.

SIGNED by the RESALE AGENT at _____ on this _____ day of _____ 2006

For: **POINT WATERFRONT REALTY
(PROPRIETARY) LIMITED**

who hereby warrants that (s)he is duly
authorised to sign this agreement on its behalf

Full Names.....

Designation.....



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**SALES DOCUMENTATION FOR THE PURCHASE OF A
RESIDENTIAL SECTIONAL TITLE UNIT IN SHAKAS GATE, POINT
WATERFRONT
BETWEEN
EAGLE CREEK INVESTMENTS 289 (PROPRIETARY) LIMITED
AND _____
IN RESPECT OF UNIT NUMBER _____**

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Shepstone & Wylie
Attorneys