

# BAILEY JUNXION INFORMATION SCHEDULE

**A. PURCHASER(S) INFORMATION**

Complete section if the Purchaser is an Individual

INDIVIDUAL(S)	PURCHASER 1	PURCHASER 2 (if applicable)
Surname		
Full Name(s)		
Identity Number		
Income Tax Number		
Telephone Number (W)		
Telephone Number (H)		
Cell Phone Number		
E-mail Address		
Residential Address		
Postal address		
Marital Status		
Full names of spouse		
Identity number spouse		

The parties choose as valid *domicilium* address in terms of the Agreement of Sale to which this Information Schedule is Attached, the street-, postal- and Email addresses stated in this information schedule.

**A. PURCHASER(S) INFORMATION**

Complete section if the Purchaser is a Juristic Person (Company/Close Corporation/ Trust)

JURISTIC PERSON	PURCHASER 1
Registered Name	
Registration Number	
Entity Income Tax No.	

Entity VAT No. (If Applicable)	
Entity Registered Physical Address	
Entity Registered Postal Address	
Representative's Name	
Representative's ID	
Contact Number	
E-Mail Address	
Residential Address	
Postal Address	

The parties choose as valid *domicilium* address in terms of the Agreement of Sale to which this Information Schedule is Attached, the street-, postal- and Email addresses stated in this information schedule.

## B. TRANSACTION INFORMATION

<b>1. PROPERTY</b>		
Scheme Name	BAILEY'S JUNXION	
Section Number		
Estimate Floor Area (Unit & Patio/Balcony)		
Estimate Final Participation Quota (Total area)		
<b>Sole Utilization Areas (In terms of management rules)</b>		
Parking Bays No(s).		
Garden No (if applicable)		

The Participation Quota given above is an estimate and based on the final number and sizes of units in the completed scheme. Take notice that the scheme is a phased development and therefore the official Partition quota reflected in the interim Sectional Plans will fluctuate when the scheme is extended.

## 2. PURCHASE PRICE

Unit Selling Price	R	
Optional Extras (ITO Annexure C)	R	
Total Purchase Price (VAT Inclusive)	R	
Purchase Price in Words		
Reservation deposit payable	R10 000	
Balance Purchase Price payable	R	
SUBJECT TO BOND FINANCE	YES	NO
MORTGAGE BOND AMOUNT	R	
ESTIMATE LEVIES	R	

## D. ESTIMATE OCCUPATION DATE

Phase 1	JUNE / JULY 2022
Phase 2	SEPTEMBER / OCTOBER 2022
<b>OCCUPATIONAL RENTAL (including levy)</b>	R

## E. TRANSFERRING ATTORNEY

Full Name	Leandri Kruger Attorneys Incorporated t/a LK Attorneys
Registration Number	2020/540212/21
Physical Address	Barinor's Vineyard North, The Vineyards Office Estate, 99 Jip de Jager Drive, Welgemoed, Bellville
Postal Address	PO Box 1514, Durbanville, 7550
Contact Person	Leandri Kruger / Caryn Leslie

Telephone	021 979 2501	E-Mail	leandri@lklegal.co.za
Trust Bank Account Name	LK Attorneys		
Bank	FIRST NATIONAL BANK		
Account Number	62861040104		
Branch Code	250655		
<b>BOND REGISTRATION ATTORNEY</b>			
Full Name	STRAUSS DALY		
Physical Address	Unit 13, Entrance A, First Floor, Canal Edge One, Tyger Waterfront, Bellville, Western Cape		
Postal Address	Same as above		
Contact Person	Steyn Botha		
Telephone	021 914 8233	E-Mail	sbotha@straussdaly.co.za

# BAILEY JUNXION

## AGREEMENT OF SALE

For the Sale of a Sectional Title Unit prior to the completion of the Scheme

ENTERED INTO BY AND BETWEEN

SELLER

**CCS DEVELOPMENTS (PTY) LTD**

Registration number: 2017/426301/07

Of 541 JORISSEN STREET, SUNNYSIDE,  
TSHWANE, GAUTENG, 0002

(hereinafter referred to as "the Seller")

and

PURCHASER

\_\_\_\_\_

And

\_\_\_\_\_

(hereinafter referred to as "the Purchaser")

PROPERTY

**SECTION:** \_\_\_\_\_ **BAILEY JUNXION**

Please ensure that before signing this agreement that you have had an adequate opportunity to read and understand the terms of this agreement. If you do not understand these terms you have the obligation to ask for an explanation or to seek independent legal advice before signature of the agreement.

## Table of Contents

1	PREAMBLE .....	3
2	INTERPRETATION .....	3
3	SALE OF UNIT .....	8
4	PAYMENT OF PURCHASE PRICE .....	8
5	GUARANTEES .....	9
6	MORTGAGE BOND AND BOND ORIGINATOR .....	10
7	TRANSFER.....	11
8	ANTICIPATED OCCUPATION .....	12
9	POSSESSION, OCCUPATION, RISK AND BENEFIT .....	13
10	CONDITIONS APPLICABLE PENDING TRANSFER .....	15
11	TRANSFER AND BOND COSTS.....	16
12	APPOINTMENT OF CONTRACTOR AND CESSION OF SELLER'S RIGHTS .....	17
13	VARIFICATIONS OF SPECIFICATIONS .....	18
14	RESOLUTIVE CONDITIONS .....	19
15	INSPECTION OF THE UNIT .....	19
16	WARANTEES BY SELLER AND RECTIFICATION OF DEFECTS .....	19
17	MANAGING AGENT .....	22
18	MANAGEMENT AND CONDUCT RULES .....	22
19	LEVIES .....	22
20	DIRECT MARKETING AND COOLING OFF .....	22
21	AGENT'S COMMISSION .....	23
22	RENTAL MANAGEMENT .....	25
23	REFUND TO THE PURCHASER.....	25
24	NOTICES AND DOMICILIUM .....	26
25	DISPUTES RELATING TO DEFECTS .....	27
26	DEFAULT .....	27
27	JURISDICTION .....	29
28	DISPUTE RESOLUTION AND ARBITRATION.....	29
29	GENERAL.....	31
30	ACKNOWLEDGEMENT BY THE PURCHASER .....	31
31	OFFER.....	32
32	SIGNATURES.....	33

## Schedule of Annexures

Annexure A: Draft Schetch Plan

Annexure B: Building Specifications

Annexure C: Optional Extras

## 1 PREAMBLE

- 1.1 **WHEREAS** the Seller has acquired Erf 482, Muckleneuk, Province of Gauteng;
- 1.2 **AND WHEREAS** the Seller is proposing a residential development on Erf 482 Muckleneuk in accordance with certain sketch plans which have been exhibited to the Purchaser to be known as "BAILEY'S JUNXION" ("The Development Scheme");
- 1.3 **AND WHEREAS** the Seller intends to apply for the approval of the Development Scheme in terms of the Sectional Titles Act, Act 95 of 1986, Sectional Titles Management Act, Act 80 of 2011 and the opening of the Sectional Title Register in respect thereof.

## 2 INTERPRETATION

- 2.1 In this Agreement, unless inconsistent with the context the following words shall have the corresponding meanings:
- 2.1.1 **"Agent"** means Igrow Wealth Investments Proprietary Limited, Registration Number: 2015/093828/07, with registered address at Barinor's Vineyard North, Vineyards Office Estate, 99 Jip de Jager Drive, Durbanville, 7550, Telephone Number: 021 979 250;
- 2.1.2 **"Agreement"** means this Agreement of Sale, signed by all parties, together with all annexures and schedules attached hereto forming an integral part of the agreement being:
- 2.1.2.1 Draft sketch plans: Annexure "A";
- 2.1.2.2 Building Specifications: Annexure "B";
- 2.1.2.3 Management and conduct rules as published on the website:  
<https://www.csos.org.za/regulations/> - Annexure C;
- 2.1.3 **"Arbitration Act"** means the Arbitration Act No 42 of 1965 (as amended);
- 2.1.4 **"Body Corporate"** means the body corporate as contemplated in section 36 of the Sectional Title Act and section 2(1) of the Sectional Titles Schemes Management Act;

- 2.1.5 “**Bond Originator**” means Igrow Home Loans, a division of Igrow Wealth Investments Proprietary Limited;
- 2.1.6 “**Bond Registration Attorney**” means the bond registration attorney described in the Information Schedule;
- 2.1.7 “**Buildings**” means the buildings to be constructed upon the land;
- 2.1.8 “**Common Property**” means the land included in the Scheme, such parts of the Building which are not included in the Section and land referred to in section 26 of the STA and section 5(1)(d) of the STSMA;
- 2.1.9 “**Completion Certificate**” means the certificate issued by the Principal Agent confirming that in the opinion of the Principal Agent, the Section has been completed free of patent defects other than Snags (as defined) and may be used for the intended purpose of residential accommodation;
- 2.1.10 “**Completion Date**” means the later of the date on which:
- 2.1.10.1 the section is complete for beneficial occupation as certified by the Principal Agent, whose decision as to the date will be final and binding upon the parties; or
  - 2.1.10.2 a certificate of occupancy is issued in respect of the Property by the local authority and service connections like electricity and water must be connected and operational;
- 2.1.11 “**Contractor**” means CCB Building and Construction Registration Number: 2007/000666/07 149 Oak Avenue, Ferndale Randburg 2194, with whom the Seller entered into a building agreement to conduct the buildings for this Scheme, which home builder is registered in terms of Section 10(6)(a) of the Housing Consumers Protection Measures Act, 1998 (No 95 of 1998);
- 2.1.12 “**CPA**” means the Consumer Protection Act 68 of 2008, (as amended);
- 2.1.13 “**Developer**” means the Seller;
- 2.1.14 “**Independent Property Inspector**” means SA Investor Rentals Proprietary Limited, Registration Number: 2014/186623/07, trading as IGrow Rentals whose representatives shall *inter alia* carry out inspections of all the sections in the Scheme



and act as the liaison between the Purchaser and the Seller for the purposes as contemplated in this Agreement;

2.1.15 “**Land**” means: ERF 482, MUCKLENEUK Province of Gauteng;

2.1.16 “**Latent Defect**” means a fault or defect that would not readily be revealed by a reasonable inspection;

2.1.17 “**Legal Practice Act**” means the Legal Practice Act, Act 28 of 2014;

2.1.18 “**Managing Agent**” means the executive managing agent as contemplated in rule 2(g) of the management rules prescribed in terms of section 10(2)(a) of the STSMA and/or the managing agent as contemplated in rule 2(j) of the said management rules to be appointed by the Seller from time to time;

2.1.19 “**Municipal Charges**” means rates and taxes, and other charges as may be levied by the local authority in respect of the Property with effect from the Transfer Date;

2.1.20 “**NHBRC**” means the National Home Builders Registration Council established in terms of the Housing Consumers Protection Measures Act 95 of 1998;

2.1.21 “**Occupation Date**” means the date

2.1.21.1 upon which the Unit is tendered to the Purchaser; or

2.1.21.2 on issue of a certificate by the Architect stating that the Unit is fit for beneficial use (The date cannot be prior to the issuing of the Occupancy Certificate for the Section by the relevant Authority and provided that such date shall not be prior the date the electricity is to be connected) ;

Whichever of these dates shall be the earliest, as from such date the Seller shall be discharged and released completely from all its obligations, express or implied, under this agreement and any variation thereof or addition thereto, save and except to the extent of the undertakings contained in clause 12 and/or as imposed by any applicable national legislation.

2.1.22 “**Participation Quota**” means, in relation to a section in the Scheme, the percentage determined in accordance with the provisions of section 32(1) or (2) of the STA in respect of that section for the purposes referred to in section 32(3) of the STA, and shown on the Sectional Plan in accordance with provisions 5(3)(g) of the STA;

- 2.1.23 “**Patent Defect**” means a fault or defect that are not hidden and should easily be discovered by a reasonable inspection;
- 2.1.24 “**Phase Development**” means the development of the Scheme in phases as contemplated in Section 25 of the STA and in respect of which the Seller will take out a Certificate of Real Rights as contemplated in section 12(1)(e) of the STA;
- 2.1.25 “**Principal Agent**” means a qualified architect or senior architectural technologist or a member of The South African Council for the Architectural Profession to be appointed by the Seller’;
- 2.1.26 “**Property**” means collectively, the Section in the Scheme as indicated in the Schedule together with an undivided share in the Common Property apportioned in accordance with the Participation Quota and Sole Utilization Areas as indicated on the Sectional Plan;
- 2.1.27 “**Purchaser**” means the person or entity, described more fully in Paragraph A of the Information Schedule;
- 2.1.28 “**Purchase Price**” means the VAT inclusive amount constituting the reservation deposit, balance purchase price and optional extras as described in Paragraph B of the Information Schedule;
- 2.1.29 “**Reservation Deposit**” means the reservation deposit contemplated in clause 4.1.1 below;
- 2.1.30 “**Rules**” mean the management and conduct rules from time to time applicable to the owners and residents in the Scheme, which initial rules are available online at <https://igrow.co.za/properties/baileyjunxion/> and as contemplated in section 10 of the STSMA as published in Government Gazette 40335 of 7 October 2016;
- 2.1.31 “**Scheme**” means the Sectional Title Scheme to be known as **BAILEY JUNXION** to be developed on ERF 482, MUCKLENEUK;
- 2.1.32 “**Section**” means the Section in the Scheme stated in the Schedule above as depicted on the architect’s sketch plans attached hereto as Annexure “A” and to be indicated as such on the Sectional Plan;
- 2.1.33 “**Sectional Plan**” means the Sectional Plan drawn or to be drawn in respect of the

Erf and Buildings in terms of the STA, approved or to be approved by the Surveyor-General and to be registered in the relevant deeds' registry;

- 2.1.34 “**Sectional Title Register**” means the register in respect of the Erf and the buildings registered and opened in terms of the STA and STSMA;
- 2.1.35 “**Seller**” means the entity more fully described at Paragraph 1 of the Information Schedule;
- 2.1.36 “**Sole Utilization Areas**” means that part of the Common Property as indicated to the Purchaser and to be allocated to the Purchaser for his exclusive use and enjoyment as contemplated in section 10(7) of the STSMA once the amended rules are approved by the Body Corporate and registered with the Ombud in terms of the provisions of the STSMA;
- 2.1.37 “**Specifications**” means the building specifications attached hereto as Annexure B;
- 2.1.38 “**Signature Date**” means the date on which this Agreement is signed by the latter of the Seller or the Purchaser;
- 2.1.39 “**STA**” means the Sectional Titles Act, 95 of 1986, as amended, including the Regulations issued under the Act;
- 2.1.40 “**STSMA**” means the Sectional Titles Schemes Management Act 80 of 2011, as amended and include the Regulations issued under the said act;
- 2.1.41 “**Transfer Date**” means the date of registration by the Registrar of Deeds, in the relevant deeds' office, of the transfer of the Property into the name of the Purchaser;
- 2.1.42 “**Transferring Attorney**” means the Transferring attorney described in the Information Schedule;
- 2.1.43 “**Trust Account**” means the trust bank account of the Transferring Attorney which details are set out in the Information Schedule;
- 2.1.44 “**VAT**” means value-added tax payable in terms of the VAT Act;
- 2.2 Clause headings are included for reference and convenience purposes only and shall not in any way affect or govern the interpretation or construction of this Agreement, unless the contents of this Agreement clearly indicate a contrary intention or expression which denotes:

- 2.2.1 Any one gender includes the other gender;
- 2.2.2 A natural person includes a juristic person and *vice versa*;
- 2.2.3 The singular includes the plural and *vice versa*;
- 2.2.4 Where numerical figures are referred to in numerals and words, if there is any conflict between the two, the words will prevail;
- 2.2.5 Words and expressions defined in the STA and the STSMA will have the meanings as ascribed to them therein. Subject thereto that where any reference is made in a clause hereof to a provision of the STA, and that provision has been repealed and the subject matter thereof dealt with in terms of the STSMA, then that clause will be read as referring to the relevant provision of the STSMA;
- 2.2.6 Reference to “**days**” shall be construed as calendar days unless qualified by the word “business day”, which shall mean any day other than a Saturday, Sunday or public holiday gazetted by the Government of the Republic of South Africa from time to time. Any reference to “**business hours**” shall be construed as being the hours between 8.30am and 16.30pm on any business day. Any reference to “time” shall be based upon South African Standard Time.

### 3 SALE OF UNIT

- 3.1 The Seller sells and the Purchaser hereby purchases:
  - 3.1.1 The Section and an undivided share in the common property apportioned to the section in terms of the participation quota of the Section. Such section is more fully described in the schedule read with the sketch plans also annexed and as will be more fully described in the Sectional Title Plan read with the Register.
  - 3.1.2 The Section will be constructed in accordance with the annexed sketch plans and will be finished in accordance with the schedule of finishes attached hereto.
  - 3.1.3 The right to 1 (one) parking bay which will be allocated to the purchaser in terms of the rules.

### 4 PAYMENT OF PURCHASE PRICE

- 4.1 The Purchase Price is the total amount set out in the Information Schedule and is payable as follow:
- 4.1.1 A reservation deposit specified in the schedule, will be payable in cash by the Purchaser to the Transferring Attorney against signature hereof.
- 4.1.2 The balance of the purchase price shall be paid in cash against registration of transfer of the unit in the name of the Purchaser.
- 4.2 All amounts paid on account of the purchase price, except the part of the deposit as reservation deposit, shall pending the registration of transfer of the unit, be held in trust by the Transferring Attorneys to be invested in an interest-bearing account to invest any funds paid by the Purchaser *in lieu* of the Purchase Price into the Trust Account in terms of section 86(4) of the Legal Practice Act (“LPA”).
- 4.3 It is hereby recorded that the Transferring Attorneys shall only invest these amounts once the Purchaser has complied with the requirements to ensure the Purchaser complies with the requirements of the Financial Intelligence Centre Act 38 of 2001 (“FICA”) or other documentation as the Transferring Attorney may require. Interest earned on funds so invested will, subject to the provisions of section 86(5)(b) of the LPA, accrue to the Purchaser and be paid to him on the Transfer Date after deduction of the investment fee due to the Transferring Attorney.

## 5 GUARANTEES

- 5.1 Within **14 (fourteen) days** after the Signature Date or such extended period as the Seller may in its sole discretion allow the Purchaser shall furnish the Seller or the Transferring Attorneys with a bank or other irrevocable guarantee acceptable to the Seller for the due payment of all amounts payable in terms of this agreement.
- 5.2 All payments made shall be made without deduction or set-off and free of all exchange and bank charges and commissions and shall be held in trust by the Transferring Attorneys.
- 5.3 The bank guarantee must be irrevocable and unconditional, save for providing for payment of the balance of the Purchase Price against registration of the property into the name of the Purchaser or the registration of a new mortgage bond by the purchaser, if applicable.

- 5.4 Withdrawal by a guarantor of the bank guarantee for any reasons whatsoever after being issued shall constitute a material breach by the Purchaser of his obligations to deliver a bank guarantee in terms of this Agreement.

## 6 MORTGAGE BOND AND BOND ORIGINATOR

- 6.1 Should this agreement be subject to the purchaser obtaining a mortgage bond in principle from a bank on its usual terms in the amount as specified in the schedule then this sale is subject to the suspensive condition that the Purchaser is granted a mortgage bond from a recognised financial institution:

6.1.1 within **21 (twenty-one) days** from the signature date, provided, that the said 21-day period will automatically be extended with a further 21 (twenty-one) days if the loan is not approved within the first mentioned period and

6.1.2 in the amount specified in the information schedule or such lesser amount as the Purchaser in his sole discretion may accept; and on such financial institution's usual terms and conditions relating to such mortgage bonds.

- 6.2 To obtaining the mortgage bond, the Purchaser hereby authorises and appoints the Bond Originator named in the information schedule to act as his sole agent in submitting a mortgage bond application to any registered financial institution on his behalf and to sign all such documentation as may be required by the bank or other financial institution. **Should the Purchaser not source his/her bond finance from the mortgage originator appointed by the Seller, then unless payment of the purchase price by the purchaser is made in cash without registration of a mortgage bond, the Purchaser shall be liable for all costs incidental to the registration of the Transfer that would have been payable by the Seller. In such event, the Purchaser shall pay all Transfer costs within 2 (two) days of request.**

6.2.1 The Purchaser warrants that he has the requisite financial means to apply for the mortgage bond in the amount indicated and that he will be able to serve his other financial obligations after the mortgage bond has been granted.

6.2.2 The Purchaser binds his utmost good faith in pursuing mortgage bond finance as aforesaid and ensuring that registration of the mortgage bond is affected by the Conveyancing Attorney. He undertakes to provide, on request of the Bond Originator all financial and other information and documentation required by the

bank or other financial institution within a period of 7 (seven) business days from the date on which the Bond Originator requests him to do so failing which clause 4.1.1 will be applicable.

- 6.3 The suspensive condition shall be deemed to have been fulfilled upon the issue to the Purchaser by the relevant financial institution of a written quotation as contemplated in section 92 of the National Credit Act, No. 34 of 2005 in respect of the mortgage bond in the said amount within the period referred to in clause 6.1.1, irrespective of the conditions contained therein.
- 6.4 If the bond is not granted within the extended prescribed time in clause 6.1.1 this agreement will lapse automatically and be of no force and effect and the Seller shall instruct the Transferring Attorney to refund to the Purchaser the reservation deposit paid in terms of clause 4.1.1, and all other amounts paid (if any) together with interest earned thereon.
- 6.5 The Purchaser is aware that if the mortgage bond has been granted this agreement has become unconditional. If the mortgage bond is withdrawn on his instructions or otherwise before the transfer date, he will remain liable for the provision of guarantees for the balance purchase price. He will be in breach of this agreement should he fail to provide such guarantees or make payment of the balance purchase price into the trust account within **14 (fourteen) days** of the bond so withdrawn.
- 6.6 The Purchaser is aware that the Scheme consists of multiple units and that the Seller preferably requires the simultaneous transfer of the units with the opening of the Register and the registration of the Sectional Plan or, be, the registration of the extension of the Scheme. The parties therefor agree that it is imperative that the bank or other financial institution at which the Purchaser applies for finance do not impose onerous conditions which may result in this delaying transfer, if such onerous conditions are imposed, the Purchaser warrants that he shall accept and comply with such conditions expeditiously, failing which the Seller may at his option, immediately cancel this Agreement.

## 7 TRANSFER

- 7.1 It is recorded that that it will only be possible for the Seller to give transfer of the Unit to the Purchaser upon the opening of the Sectional Title Register in respect of the Development Scheme.

- 7.2 The Seller accordingly undertakes to use all reasonable endeavours to procure the opening of the Sectional Title Register as soon as legally possible.
- 7.3 The Purchaser acknowledge that when the construction of the units is close to completion, approximately two months prior to the anticipated occupation date, the land surveyor will survey the apartments and prepare the draft sectional title plans which will be submitted to the Surveyor-General for approval. The Transferring Attorneys will on receipt of the draft sectional title plans, draft the conveyancing documentation to transfer the property.
- 7.4 Transfer shall be passed by the Transferring Attorneys and the Purchaser undertakes to:
- 7.4.1 keep all appointments and to sign all transfer and/or bond documents and provide any such documents as may be required in respect of the transfer of the property and to comply with FICA within **7 (seven) days** of being requested to do so by the transfer and/or bond attorney.
  - 7.4.2 pay to the Transferring Attorneys all incidental charges related to the registration of transfer of the property when called upon to do so subject to clause 11.
- 7.5 The Purchaser shall accept transfer of the unit subject to all conditions and servitudes benefiting or burdening the unit and the land whether existing or hereafter imposed by any competent authority.
- 7.6 In the event of there being any minor difference between the dimensions of and/or the levies payable in respect of any unit as depicted on the Sectional Plan from that reflected in this agreement, the Purchaser shall nevertheless accept transfer.
- 7.7 The Purchaser shall accept registration of transfer when same is tendered to it and the Purchaser shall not delay the registration of transfer notwithstanding that certain work has not yet been affected. The Purchaser acknowledges that a breach of any of the afore going shall constitute a material breach of this Agreement.

## 8 ANTICIPATED OCCUPATION

- 8.1 It is anticipated that the Property will be ready for occupation on the specified occupation date stipulated in the Information Schedule.



8.2 If, for whatever reason the Property will not be sufficiently completed for beneficial occupation on the specified occupation date the Seller shall be entitled:

8.2.1 to extend the anticipated occupation date, not exceeding **6 (six) calendar months** and

8.2.2 Give the Purchaser written notice of the extended anticipated occupation date at least **30 (Thirty) days** prior to the initial anticipated occupation date;

8.3 The Purchaser hereby accepts the changed anticipated occupation date and subject to the provisions of clause 8.2 the Purchaser shall have no claim against the Seller for compensation for damages suffered due to the extension of the anticipated occupation date.

8.4 Notwithstanding anything to the contrary contained in this Agreement, the Purchaser will have the option to cancel this Agreement of Sale:

8.4.1 If the unit is not sufficiently complete for beneficial occupation within **6 (six) calendar months** of the Occupation Date specified in the Information Schedule or

8.4.2 If the Seller fails to pass transfer of the Property into the name of the Purchaser within a period of **36 (thirty-six) months** from the Signature Date,

8.5 By providing **60 (Sixty) days** written notice in terms of clause 8.4.1 from the date of receipt of the notice of extension of the occupation date provided to him and in terms of clause 8.4.2 prior to the lapsing of the 36 (thirty-six) month period.

8.5.1 In such event all amounts which may have been paid by the Purchaser to the Transferring Attorneys under the provisions of this agreement together with interest earned thereon shall be refunded to the Purchaser and the Purchaser shall have no further claims against the Seller.

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

9.1 It is recorded that the buildings are currently in the course of planning, under construction or completed.

9.2 Possession of the property shall be given by the Seller and taken by the Purchaser on the Occupation Date.

- 9.3 From the Occupation date all risks in and benefit of the Unit shall pass to the Purchaser. Notwithstanding the fact that any condition contained herein remains to be fulfilled subsequent to the Occupation Date, it is specifically agreed that the Purchaser is liable to fulfil all obligations which arise with effect from the Occupation Date.
- 9.4 Should registration of transfer take place after the Occupation Date, then, notwithstanding anything herein contained, the Purchaser shall pay Occupational Interest to the Seller in the amount referred to in the Information Schedule per month as follow:
- 9.4.1 Occupational Interest will be payable monthly in advance as soon as occupation is tendered and payments for subsequent months, if any, shall be paid in advance on the first day of such subsequent months;
- 9.4.1.1 If the Property is occupied by a tenant prior to registration the occupational interest must be paid by the Tenant directly to the Seller;
- 9.4.1.2 In any other event the Occupational Interest must be paid by the Purchaser to the Seller;
- 9.4.1.3 The occupational interest includes monthly levies and municipal rates, excludes electricity and water consumption charges for all of which the Purchaser shall be liable for payment from the occupation date.
- 9.5 If the Unit is sold and/or a mortgage bond is approved after the property has been declared ready for beneficial occupation of the property shall only be taken by the Purchaser on the Transfer Date.
- 9.6 Notwithstanding the provisions of clause 9.5 above, the Seller may, in his sole and absolute discretion, allow the Purchaser or a third party occupying the property through the Purchaser to take occupation of the Property prior to the Transfer Date subject to the provisions of clause 9.4.1 and 9.10.
- 9.7 Should it be disputed that the unit is ready for occupation, a certificate to this effect by the Principal Agent will be the final ruling.
- 9.8 The Purchaser acknowledges that he shall have no further claim of whatsoever nature or howsoever arising against the Seller for failing for any reason to give possession and occupation of the Property to the Purchaser timeously.

- 9.9 On the Transfer Date and/or the Occupation date construction of parts of the Common Property and/or the Building may still be incomplete and that he or the person occupying the property through him, may as a result thereof, suffer inconvenience from building operations such as noise and dust. The Purchaser indemnifies the Seller against any claim by reason of such inconvenience, provided that such inconvenience is not caused by the intentional or grossly negligent act/s of the Seller or its agent/s or its employee/s.
- 9.10 **The parties hereby agree that despite the content of the above that the Seller shall only be obliged to give possession of the Unit to the Purchaser after the Purchaser has signed all required transfer and bond documents, made all payments for which the Purchaser is liable in terms of this Agreement and any retention applicable on the mortgage bond has been uplifted and the Bank that approved the mortgage bond has given consent for the mortgage bond to be registered and the first month's occupational interest has been paid.**

## **10 CONDITIONS APPLICABLE PENDING TRANSFER**

- 10.1 Upon the Purchaser taking occupation of the Property prior to the Transfer Date, the following conditions will apply to the Purchaser from the Occupation Date until the Transfer Date:-
- 10.1.1 save insofar as they may be inconsistent with the provisions of this agreement, the provisions of Section 19 of the STMA shall apply.
- 10.1.2 the provisions of the RULES insofar as they cast any duty upon the owner or occupier of a Unit shall bind the Purchaser and be enforceable by the Seller.
- 10.1.3 The Purchaser will permit any person authorized in writing by the Seller or its agent/s or its employee/s at all reasonable hours on notice, except in the case of emergency (when no notice shall be required), to enter the Section and the Common Property for the purposes of inspecting, maintaining and repairing it.
- 10.1.4 The Purchaser will use the property for residential purposes only and will maintain the Unit in a fit and proper condition.
- 10.1.5 The Purchaser and may not make any alterations or additions including but not limited to alterations to the colour scheme and to the redecoration of the Unit without the consent in writing of the Seller first having been obtained.

- 10.1.6 The Purchaser will not use the Property or Common Property in a manner to cause any damage thereto and shall be responsible for any damage caused to the unit by the purchaser or any person claiming access of occupation through him.
- 10.1.7 The Purchaser will be responsible for and pay to the Seller promptly and on demand all costs of water and electricity consumed in the Unit as separately metered or alternatively, if no separate meter is applicable in respect of the water, then on a pro rata basis as determined by the Seller.
- 10.1.8 The Purchaser will not sell, let or in any manner dispose of or part with (whether temporarily or otherwise) the Property or his rights of occupation thereof before the Transfer Date, except with the written consent of the Seller, which consent will not unreasonably be withheld.
- 10.2 The Seller shall, pending the opening of the sectional title register and the establishment of the Body Corporate:
- 10.2.1 ensure the building and all improvements in or upon the Property for the full replacement value thereof against such risks as the Seller may decide; and
- 10.2.2 maintain the Common Property and keep it in a state of good and serviceable repair and in a neat, tidy and sanitary condition; and
- 10.2.3 administer the Property and the Common Property and make all payments in respect of rates, taxes and other imposts, electricity and water consumed upon the Common Property and all other charges in connection with the Property and the Building.
- 10.3 If, before transfer of the Unit to the Purchaser, the Unit is destroyed or damaged to such extent that in the opinion of the Seller it is uneconomical to reinstate the Unit then this sale shall be cancelled, provided that such damage or destruction was not caused as a direct result of an act or omission by the Seller. In such event all amounts which may have been paid by the Purchaser to the Transferring Attorneys and the Agent under the provisions of Clause 4 hereof together with interest earned thereon shall be refunded to the Purchaser and the Purchaser shall have no further claims against the Seller. If the Unit is destroyed or damaged due to the actions of the Purchaser, then the provisions of this clause shall not apply.

## 11 TRANSFER AND BOND COSTS

11.1 The Seller shall be liable to pay the fees and disbursements of the Transferring Attorney and the Bond Registration Attorney. However, should the financial institution which approves the Purchaser's loan application on its own accord or at the request of the Purchaser appoint an attorney other than the Bond Registration Attorney to attend to the registration of the bond, the Purchaser shall be liable for the payment of the bond registration costs to such attorney. Initial: \_\_\_\_\_

11.2 Notwithstanding the provisions of clause 11.1, the Purchaser will be liable for the payment of all fees and disbursements incurred or to be incurred by the Transferring Attorney and the Bond Registration Attorney in the signing of the transfer and/or bond documentation with any correspondent attorney. No such fees will be payable by the Purchaser if the transfer and mortgage bond documentation are signed at the offices of the Transferring Attorney and the Bond Registration Attorney or at any of their branches in the country. Initial: \_\_\_\_\_

11.3 Notwithstanding the provisions of clause 11.1, the Purchaser will be liable for the payment of the costs relating to the issue of the insurance certificate in respect of the Property, as well as the initiation fees and/or valuation fees levied by the financial institution who approves his loan application in the event that the same is not debited against the home loan account with the said institution on the Transfer Date.

11.4 If the Agreement is cancelled by the Seller due to the Purchaser's breach of contract then the Purchaser shall immediately be and become liable for:

11.4.1 All wasted costs of the Transferring and/or Bond Registration Attorneys, arising out of or in connection with the preparation of transfer and bond documentation including other incidental charges relation to the registration of the transfer of the unit; and/or the Agent's commission.

## **12 APPOINTMENT OF CONTRACTOR AND CESSION OF SELLER'S RIGHTS**

12.1 The Seller appointed the Contractor to construct the buildings for this Scheme and for this purpose entered into a building agreement with each other. The Seller and the Purchaser agree after completion and handover of the Property by the Seller to the Purchaser that:

12.1.1 The Seller cedes all its rights and interest in the building agreement, including all guarantees or warranties of whatsoever nature given to the Seller by the Contractor to the Purchaser who hereby accepts cession thereof.

12.1.2 The Purchaser shall be entitled to enforce its rights and exercise its obligations in respect of the completion of the buildings in accordance with the plans and specifications forming part of the building agreement entered into between the Seller and the Contractor, as well as in respect of any faults, snags or workmanship as fully and effectually, for all intents and purposes as the Seller would be entitled to do against the Contractor.

### 13 VARIFICATIONS OF SPECIFICATIONS

13.1 The Buildings and the unit will be built substantially in accordance with the draft sketch plans annexed hereto as Annexure "A" and the building specifications attached hereto as Annexure "B", provided that the Seller shall be entitled to:

13.1.1 substitute items of a similar standard and quality for any specified item referred to in the Schedule of Finishes (Annexure "C").

13.1.2 Vary the plans for the Building and/or the Property, should the Seller consider the same reasonably necessary for technical or aesthetic reasons; and

13.1.3 change the area or lay-out of the Unit, save only that the area of the Unit shall not vary by more than **5% (five percent)** of the estimated area.

13.2 The Purchaser acknowledges that no request for any variations to the unit and or the building specifications will be entertained by the Seller.

13.3 The Purchaser will not in any way interfere with, or give instructions to any of the Seller's agents, employees, contractors or subcontractors. The Purchaser will not be allowed to enter the Section unless the prior written consent of the Seller is first had and obtained, in which event the Purchaser must be accompanied by the Independent Property Inspector or his representation.

13.4 In the event of the area of the Section being smaller than 95% (ninety five percent) of the estimated area set forth in Annexure "B" and "C", the Purchaser shall have the right, to be exercised in writing prior to signature of the documents for transfer, to resile from the Agreement, in which event all monies paid by him to date on account of the purchase price and costs shall be refunded (together with any interest earned thereon).

13.5 If the Seller, after receipt of the approved building plans pertaining to the buildings from the Architect, informing the Purchaser that the said plans are available for inspection at the Seller's office, the Purchaser shall be deemed to have accepted the plans as complying with the provisions of Clause 13.1 unless the Purchaser, within 10 (ten) days of date of the notice as aforesaid, informs the Seller in writing to the contrary. Should the Purchaser, after having inspected the building plans within the aforementioned period, be of the view that the plans do not comply with the provisions of the said clause, the Purchaser shall, within the 10 days period furnish the Seller with the reason for it not accepting the building plans and the matter shall then be referred to the Architect for a ruling as to whether the plans comply with Clause 13.1.

#### **14 RESOLUTIVE CONDITIONS**

14.1 The Purchaser acknowledges that the economic viability of the development of the Scheme depends largely on the response by the purchasing public to the advertising campaign launched by the Seller and/or the Agent in respect of the development. If the Seller is of the opinion that the development will not be financially viable or if the Seller has not managed to successfully sell a sufficient number of units in the Scheme; and/or,

14.2 The Seller may require finance for the acquisition and/or development of the Buildings and the Property in its discretion, for which the Seller shall apply for in due course when required. Should the Seller be unsuccessful in applying for such finance or insufficient finance is approved.

14.3 The Seller may give notice of the termination of this Agreement to the Purchaser, in which event this Agreement shall immediately terminate and be null and void and the Purchaser shall be entitled to a refund of the Reservation Deposit and other amounts (if applicable). The said notice to the Purchaser will be given by the Transferring Attorney by way of email.

#### **15 INSPECTION OF THE UNIT**

15.1 Prior to the occupation date, the Purchaser and/or his duly authorised representative shall, together with the duly authorised representative of the Seller, inspect the property on a date specified by the Seller.

#### **16 WARRANTIES BY SELLER AND RECTIFICATION OF DEFECTS**

- 16.1 The Unit is sold in accordance with the Sectional Title Plan with participation quota endorsed thereon and any modifications or alterations which may be made thereto from time to time in accordance with provisions of the STA, and without any warranties, express or implied other than those imposed by any applicable national legislation.
- 16.2 The Seller shall carry out such works and repairs as may be necessary to the best of his ability.
- 16.3 The Purchaser and/or his duly authorised representative, shall within **3 (three) days** after inspection mentioned in clause 15, furnish the Sellers representative with a written list of alleged defects in the unit. Any defect contained in this list for which the Seller is liable to repair in terms of this agreement, will be rectified by the Seller prior to occupation.
- 16.3.1 Once the patent defects have been remedied to a reasonable satisfaction of the Purchaser, the Purchaser or his representative will sign a letter of satisfaction (“happy letter”) which, if the Purchaser obtained mortgage finance, has to be acceptable to the mortgagee.
- 16.4 The Purchaser and/or his duly authorised representative, shall furthermore submit a list of Latent Defects to the Sellers or the Sellers representative within a period 180 (One Hundred and Eighty) days from the date of occupation and the Seller undertakes to remedy such defects.
- 16.5 The Seller shall only be responsible for such defects provided in the Latent Defects List caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim and indemnifies the Seller in this respect.
- 16.6 The Purchaser accepts the appointment of the Independent Property Inspector to act as the exclusive liaison between the Purchaser and the Seller and undertakes not to contact the Seller directly.
- 16.7 It is recorded that the Purchaser shall not be precluded from exercising his rights in terms of Section 56 as read with Section 55 of the Consumer Protection Act in so far as they may be applicable.



- 16.8 The Purchaser undertakes to give access to the Seller and its contractors after the Occupation Date to enable the Seller and its contractors to attend to the remedying of the Defects indicated in any of the above defect's lists. If the Seller or its contractors are on at least 2 (two) occasions unsuccessful to get access to the Section within a period of **30 (thirty) days** from date on which the Seller first notifies the Purchaser that access is required for the purposes contemplated in this clause.
- 16.9 the parties agree that it will be deemed that the Purchaser does not require any such items to be remedied any longer, that the Purchaser is satisfied with the condition of the Section and that the Purchaser has released the Seller and its contractors from any obligations with regard to the repair of any patent defects.
- 16.10A certificate issued by the Principal Agent to the effect that the defects referred to in the Defect Lists have been rectified shall be final and binding on both parties and shall relieve the Seller from any further obligation in respect of such defect.
- 16.11The Purchaser acknowledges and agrees that he shall have no claim against the Seller in respect of defects, whether latent, patent or otherwise in the Common Property or the Unit/s save for defects of which the Purchaser shall have notified the Seller.
- 16.12Should the Purchaser fail to deliver a written list timeously as aforesaid or fail to inspect the Unit then the Purchaser shall be deemed to have accepted the Unit free of any defects and the Seller shall have no further responsibility in respect of such defects.
- 16.13The following warranties are given in terms of the NHBRC Act:
- 16.13.1.1 The Seller will ensure that its contractors comply with all applicable building regulations and conditions and that a Standard Home Builders Warranty be issued in accordance with legislation and the rules and practice of the National Home Builders Registration Council relating to the improvements on the Property. If any portion of the Section must be repainted due to a defect being reported, only that portion affected by the defect will be repainted.
  - 16.13.1.2 The Seller will ensure that its contractors warrant to remedy, at its own expense, the entire Section in respect of:
    - 16.13.1.3 major structural defects in the Building caused by non-compliance with the NHBRC technical requirements occurring withing **5 (FIVE) years** of the Occupation Date.

any roof leaking in the Building manifesting itself within **12 (TWELVE) months** of the Occupation Date due to faulty materials, design or workmanship.

16.13.1.4 any deficiency manifesting itself within **90 (NINETY) days** of the Occupation date due to faulty materials, design or workmanship.

16.13.1.5 Subject thereto that the Contractor receives notice from the purchaser within each time-period.

## **17 MANAGING AGENT**

17.1 The Seller will be entitled to appoint the first Managing Agent, which appointment shall be valid and binding on the Body Corporate for a period of **1 (one) year** after the date of the first annual general meeting of the Body Corporate, provided that such appointment complies with section 6(2) of the Rules. Insofar as it may be necessary, the Purchaser hereby grants the Seller the irrevocable power to make such appointment.

## **18 MANAGEMENT AND CONDUCT RULES**

18.1 The purchaser acknowledges that he is familiar with the rules as referred and contained in section 10 of the STSMA as published in Government Gazette 40335 of 7 October 2016. A copy of the rules can be viewed on the website at <https://igrow.co.za/properties/baileyjunixion/> or a copy will be made available to the Purchaser on request.

## **19 LEVIES**

19.1 The *bona fide* estimate of the monthly levy, pending the final determination thereof, is as set out in the Transaction details of the Information Schedule. Should the Body Corporate determine an actual levy after it having being established, then the actual levy will replace the estimate levy.

19.2 The Purchaser will be liable for the date of transfer of the unit for the payment of levies payable calculated in accordance with the participation quota attributable to each unit payable to the body corporate.

## **20 DIRECT MARKETING AND COOLING OFF**

- 20.1 In terms of section 16 of the CPA, if this Agreement has been entered into as a result of direct marketing, meaning that the Purchaser was directly or indirectly approached either in person or by mail or electronic communication by the Seller or the Agent for the purpose of promoting or offering to supply, in the ordinary course of business, the sale of the Property hereby sold, the Purchaser would have been entitled to cancel this Agreement without reason or penalty by written notice within **5 (five) days** after the Signature Date, or within **5 (five) business days** after delivery of the Property.
- 20.2 The Seller is therefore not prepared to enter into any agreement with the Purchaser if such agreement would have resulted from such direct marketing. The Purchaser therefore warrants that this transaction is not entered into if such direct marketing conducted by the Seller and the Seller enters into this Agreement relying entirely upon such warranty.
- 20.3 **The Purchaser understands that if, after delivery of the Property, the Purchaser is successful in cancelling this Agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the CPA, the Purchaser shall be liable for damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of this warranty.** Initial: \_\_\_\_\_

## 21 AGENT'S COMMISSION

- 21.1 The Seller shall be liable for the Agent's commission as agreed to between the Seller and the Agent.
- 21.2 The Purchaser and the Agent hereby warrants to the Seller that the Purchaser was not introduced to the Unit or the Seller by any person other than the Agent and the Agent was therefore the effective cause of the sale of the property to the Purchaser.
- 21.3 If the Purchaser fails to carry out his obligations in terms of this agreement and as a result of such breach this agreement is cancelled, then and in such event, the Agent shall, without prejudice to the Seller's remedies, have the right to recover Agents commission directly from the Purchaser who shall become liable therefore calculated at the rate of 7.98% (seven comma ninety eight percent) of the purchase price.
- 21.4 Notwithstanding anything else to the contrary, it is recorded that the Agent shall be entitled to part payment of commission prior to registration of the property in an amount equal to the Reservation Deposit. The Purchaser specifically hereby agrees, in

accordance with paragraph 8.1 of the Code of Conduct of the Estate Agencies Affairs Board and authorises the Transferring Attorneys to release the amount of the reservation deposit to the Agent subject to clause 21.4.1.

21.4.1 The Purchaser is made aware that the amount shall not be invested and shall not earn interest. Such payment shall be released to the Agent after all suspensive conditions of this Agreement has been fulfilled.

21.4.2 It is furthermore an express condition of the agreement that if the Purchaser lawfully cancels this agreement as per the cancellation clauses in this Agreement that the Agent shall upon demand be obliged to repay the reservation deposit without set-off or any deductions and interest into the Purchasers nominated bank account.

21.4.3 the full Purchase Price is secured by the Purchaser to the satisfaction of the Seller should the Purchaser not require mortgage finance as contemplated in clause 6.1 above; or and the Transferring Attorney is authorised to pay such commission to the Agent, once:

21.4.4 once the bond registration attorney receives an instruction from the bank or other financial institution who approved the Purchaser's loan application to attend to the registration of a mortgage bond over the Property or another property registered in the name of the Purchaser as security for the loan, should the Purchaser require mortgage finance as contemplated in clause 6 above and the balance of the Purchase Price (if any) is secured to the satisfaction of the Seller; and

21.4.5 after the Purchaser has been furnished with an irrevocable and unconditional guarantee by a banking institution registered under the Banks Act 1965 or a registered insurer as defined in the Insurance Act 1943, in terms of which the said banking institution or insurer undertakes to repay the said amount to the Purchaser if the Property is not registrable within a period specified in the said guarantee.

21.5 The balance of the commission shall be paid by the Transferring Attorney to the Agent on the Transfer Date.

21.6 The Purchaser confirms that he is aware that once a portion of the commission is paid by the Transferring Attorney to the Agent, interest will only be earned on the remaining balance of funds invested by the Transferring Attorney in terms of the Legal Practice Act.

21.7 The Purchaser acknowledges that he understands the content of clause 21.4 and the consequences thereof. The Purchaser acknowledges that he has been advised to obtain independent legal advice in respect of clause 21.4 and the consequences of agreeing to the clause. The Purchaser indemnifies the Seller and the Seller's Attorney from any claim of whatsoever in respect of clause 21.4 and the consequences thereof.

## 22 RENTAL MANAGEMENT

22.1 The Seller hereby consents that the Property may be let to a suitable tenant with effect from the Completion Date if the Purchaser does not intend occupying the Property himself. The Purchaser hereby appoints the Independent Property Inspector as its sole and exclusive agent to procure and place tenants in the Property and act as his rental agent for a period of **3 (three) years** from the Completion Date on the terms and conditions of the Independent Property Inspector's standard rental management agreement from time to time.

## 23 REFUND TO THE PURCHASER

23.1 The Purchaser shall be entitled to a refund of all amounts paid *in lieu* of the Reservation Deposit and the balance of the purchase price as contemplated in clause 4 should this Agreement:

23.1.1 Lapse as contemplated in this agreement due to a deviation in the initial extent of the property of more than 8% or if the suspensive conditions as stipulated in this agreement (specifically the obtaining of a mortgage bond, if applicable) are not met; or

23.1.2 Terminate as contemplated in this agreement if the property is not sufficiently completed by the extended Anticipated Occupation date; or

23.1.3 Be cancelled due to the breach of this Agreement by the Seller; or

23.1.4 Be cancelled due to an unresolved dispute arising between the parties regarding the variations of specifications of the property; or

23.1.5 Be cancelled due to a deviation of more than 8% on the initial extent of the property; or

23.1.6 Be cancelled due to the failure of the Seller to transfer the property to the Purchaser within **36 (thirty-six) months** from date of signature of this agreement.

- 23.2 The Agent shall refund to the Purchaser's nominated bank account that portion of the commission paid by the Transferring Attorney to the Agent as commission as contemplated in the Agent Commission clause.
- 23.3 The Transferring Attorney shall refund to the Purchaser's nominated bank account such amounts as remain in trust with the Transferring Attorney after deduction of a portion of the interest accrued liable to the Legal Practitioners' Fidelity Fund in terms of Section 86(5)(b) of the Legal Practice Act and the attorney's investment fee.
- 23.4 The Purchaser shall have no recourse against the Seller and/or the Transferring Attorney for the reimbursement of any monies paid over by the Transferring Attorney to the Agent in terms of his commission.

## 24 NOTICES AND DOMICILIUM

- 24.1 Each of the parties chooses as his *domicilium citandi et executandi* ("domicilium") for the purposes of giving of any notice or the serving of any process and for any other purpose arising from this Agreement their respective addresses as stated above.
- 24.2 Each of the parties will be entitled from time to time, by written notice to the other party to change his *domicilium* to any other address within the Republic of South Africa which is not a post office box or poste restante. The changed address will be affective after 14 (fourteen) days of such change.
- 24.3 Any notice in terms hereof may be delivered to the other party ("the recipient") by hand, prepaid registered post or E-mail.
- 24.4 Any notice given by a party to the other which:
- 24.4.1 is delivered by hand, to a responsible person, during ordinary business hours, at the physical address provided will be presumed to have been received (unless the contrary is proved by the addressee) on the day and time of delivery.
  - 24.4.2 is sent by prepaid registered post, in a correctly addressed envelope, to the postal address specified above will be presumed to have been received by the recipient on the seventh day after the date of posting; or
  - 24.4.3 is sent by email to the E-mail address specified will be deemed (unless the contrary is proved by the addressee), to have been received on the first business day after transmission.

24.5 Where in terms of this Agreement any communications are required to be in writing the term writing will include communications by E-mail.

## 25 DISPUTES RELATING TO DEFECTS

25.1 If any dispute should arise between the parties regarding the changes effected by the Seller as contemplated in clause 13.3, the decision of the Seller's Principal Agent will be final and binding as to whether or not there has been substantial compliance by the Seller of its obligations after the Principal Agent has requested written submissions from both the Purchaser and the Seller. Should the dispute be determined in favour of the Purchaser, then the Purchaser shall be entitled to cancel this Agreement and claim a refund of the Reservation Deposit and other amounts that was paid.

## 26 DEFAULT

26.1 If either Party ("the Defaulting Party") fail to pay any amount, or fail to provide the guarantee(s) required in terms of this Agreement on due date, or commit a breach of any other of the terms and conditions of this agreement then the other party ("the Aggrieved Party") will be entitled to give the Defaulting Party **5 (five) business days'** (unless the transaction has already been lodged at the deeds office for registration, in which event the notice period will be reduced **to 24 (twenty four) hours**) written notice to remedy such default. Should the Defaulting Party fail to comply with such notice, the Aggrieved Party shall have the right to:

26.1.1 Hold the defaulting party to the contract and demand fulfilment of his/her obligations in terms thereof; or

26.1.2 Cancel this Agreement without any further notice and without prejudice to the aggrieved party's rights to claim damages suffered as a result of such breach. If the cancellation was due to the Purchaser's breach, the Seller shall be entitled to:

26.1.2.1 Retain the amounts paid by or on behalf of the Purchaser on account of the purchase price as liquidated damages; and/or

26.1.2.2 Claim all damages suffered by the Seller by reason of such breach, in which event the parties hereby agree that the Seller shall be entitled to retain any amounts paid under this agreement in reduction of such damages sustained by the Seller without prejudice to the Seller's rights to claim the balance of such damages from the Purchaser.

- 26.2 Should either party dispute the other party's right to cancel this Agreement, then pending the determination of the dispute, the Purchaser will be obliged to continue with the payment of all amounts payable by him in terms of this Agreement on the due dates thereof and the Seller will be entitled to recover and accept those payments without prejudice to any of the Seller's rights in terms of this Agreement. Failure to pay any of the aforesaid amounts will constitute a material breach of the Agreement.
- 26.3 If the Purchaser breaching any of its obligations in terms of this Agreement and the Seller incurring legal costs as a result of such breach, then the Purchaser shall be liable for all such legal costs on the Attorney and own client scale.
- 26.4 Upon cancellation of this Agreement for any reason whatsoever, the Purchaser/all persons occupying the Property through him hereby undertakes to vacate the Property within **24 (twenty-four) hours** of such cancellation and the Seller shall immediately be entitled to resell the Property.
- 26.5 If the Purchaser causes an unjustified delay in the registration of the Property and/or the registration of the bond, which delay results in the relevant documentation not being lodged for registration in the relevant deeds registry at the time of the lodging of the application for the opening of the Register and the registration of the Sectional Plan or the registration of the extension of the Scheme, the Seller will have the right, without prejudice to any other right or remedy he may have in law (including but not limited to the right to claim damages) to either: immediately cancel this Agreement or claim specific performance of the terms and provisions of this Agreement.
- 26.6 In the event that the Seller claims specific performance, the Purchaser shall in addition to the monthly levies and the monthly occupational interest, also be liable for the payment of an amount of R10 000,00 (Ten Thousand Rand) per month from the date on which the documentation pertaining to the opening of the Register and the registration of the Sectional Plan or the registration of the extension of the Scheme could have been lodged in the relevant deeds registry until the actual date of lodgement thereof. Initial: \_\_\_\_\_
- 26.7 Should the contract be cancelled by agreement the Purchaser shall remain liable for costs incurred which costs cannot be recovered from a subsequent purchaser as liquidated damages. Such costs shall include but not be limited to the wasted costs for preparing and drafting documentation not exceeding R5,000.00 (Five Thousand Rand).



- 26.8 Should the sale be cancelled after complying with clause 6.3 due to the failure of the Purchaser in carrying out any of his obligations in terms of this agreement the Seller reserves the right to claim from the Purchaser who will be liable to the Seller for payment on demand of a cancellation fee of up to 5% of the Purchase Price as wasted costs as well as Agents commission as liquidated damages.
- 26.9 The reservation deposit or part thereof shall be used by the Seller/Agent to recover the costs mentioned in clause 26.7 and 26.8. The Seller and Purchaser authorise the Transferring Attorney to pay the amount due to the Agent/Seller from the Transferring Attorneys trust account within **5 (five) days** of the cancellation of the agreement subject to clause 5.2.

## 27 JURISDICTION

- 27.1 The Parties hereby consents in terms of section 45 of the Magistrate's Court Act, No. 32 of 1944, as amended, to the jurisdiction over any person under section 28 of that Act, notwithstanding that the value of the claim or the matter in dispute might otherwise exceed the jurisdiction of such Court. The Parties shall, however, have the right to institute action in any other Court of competent jurisdiction. The Purchaser agrees that, in the event of the Seller instructing its attorneys and/or proceeding in terms of clause 28 below and/or instituting legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfil any of his obligations in terms hereof, then the Purchaser shall pay all legal costs together with VAT thereon incurred by the Seller in connection therewith as between attorney and own client, including collection commission (where applicable).

## 28 DISPUTE RESOLUTION AND ARBITRATION

- 28.1 Any Party may, after written notice to this effect, refer any dispute arising from the terms of this Agreement to arbitration to be determined in terms of this clause in accordance with the Expedited Rules of the Arbitration Foundation of Southern Africa ("**AFSA**").
- 28.2 This clause shall not prevent any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of an arbitrator. The Parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to herein.

- 28.3 The Parties hereby consent to the arbitration being dealt with on an urgent basis in terms of the Rules of AFSA should either Party, by written notice, require the arbitration to be held on an urgent basis. In such event either Party may apply to the AFSA Secretariat as required in terms of the said Rules to facilitate such urgent arbitration.
- 28.4 The arbitration shall be held at Johannesburg or Pretoria with only the legal and other representatives of the Parties to the dispute present there at and otherwise in terms of the Arbitration Act, unless otherwise provided for herein. The arbitrator shall be a practising advocate of the Johannesburg or Pretoria Bar of at least ten years' standing, appointed by agreement between the parties to the dispute. Should the Parties fail to agree on an arbitrator within **14 (fourteen) days** after the giving of notice the arbitrator shall be appointed by the Chairperson of the Bar Council at the request of either Party to the dispute.
- 28.5 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the High Court, at the instance of any of the parties to the dispute.
- 28.6 If a party to a dispute wishes to appeal the decision of the arbitrator, such party shall apply to the arbitrator for leave to appeal within **14 (fourteen) days** from the date of the decision of the arbitrator.
- 28.7 In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator, such appeal shall be held before 3 (three) arbitrators appointed in accordance with clauses 28.5 and 28.4, it being agreed that for the purposes of appeal the appointed arbitrators may include a retired judge otherwise appointed in accordance with clauses 28.4.
- 28.8 If a party to the dispute is granted leave to appeal the decision of the arbitrator such party shall furnish security for the costs of the appeal in an amount of R100 000 (one hundred thousand Rand) within **30(thirty) days** from the date on which leave to appeal is granted. Should the relevant party fail to furnish security to this effect the leave to appeal shall lapse and the prospective appellant will no longer be entitled to proceed with an appeal and the arbitrator's decision will be final and binding upon the Parties.
- 28.9 The Parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.

## 29 GENERAL

- 29.1 No concession or any other indulgence which may be granted by the Seller to the Purchaser, whether in respect of time for payment or otherwise, regarding the terms and conditions of this Agreement shall be deemed to be a waiver or estoppel of and shall not affect, prejudice or derogate from the rights of the Seller under this Agreement.
- 29.2 If there is more than one Purchaser in terms of this Agreement, the liability of each of the Purchasers will be joint and several.
- 29.3 Each of the provisions of this Agreement is separate and severable and enforceable accordingly. If any such term is or becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition contained in this Agreement, provided however that the remaining provisions shall contain at least the minimum requirements for a valid and binding agreement for the sale of immovable property.
- 29.4 This Agreement is the sole agreement between the parties hereto and no amendment, variation or consensual cancellation hereof will be valid unless such amendment, variation or consensual cancellation has been reduced to writing and signed by the parties or their duly authorised representatives hereto.
- 29.5 Save as otherwise agreed to in this Agreement, the Purchaser will not be relieved of any of his obligations under this Agreement or be entitled to any reduction of the purchase price or any other amount due in terms hereof in the event that the Seller fails to obtain, or delay in obtaining, any approval of whatsoever nature which may be required for the development to be completed from any governmental authority or if the opening of the Register is delayed for whatever reason.
- 29.6 If the purchaser is a Company, Close Corporation or the trustees for the time being of a trust, or any person acting in a representative capacity, the signatory for the Purchaser this Agreement on behalf of the Purchaser shall be deemed to have bound himself as surety and co-principal debtor(s) for all the obligations of the Purchaser (and, if applicable, jointly and severally with any other persons signing this Agreement on behalf of the Purchaser), such surety hereby renouncing the benefits of excussion and division the effect of which he acknowledge himself to be aware.

## 30 ACKNOWLEDGEMENT BY THE PURCHASER

The Purchaser acknowledges and declares:

- 30.1 That he is aware that the Sectional Plan has not been prepared or approved, as it can only be prepared once the construction of the building has reached such an advanced stage which allows the surveyor to prepare the Sectional Plan. The exact and final boundaries and area of the Section will be as indicated on the approved Sectional Plan.
- 30.2 **that he is fully aware that the Scheme will be developed in phases and that the Seller will reserve the right to extend the Scheme as contemplated in section 25 of the STA in respect of which the Seller will take out a Certificate of Real Rights as contemplated in the STA;**
- 30.3 that he has read this Agreement of Sale that the meanings and consequences of the provisions of this Agreement of Sale have been satisfactorily explained to him and he understands the contents thereof.
- 30.4 The he has been informed that he may ask questions with regards to the Agreement of Sale and that he may refer the Agreement of Sale to an independent third party in order to secure independent advice prior to signing the agreement.
- 30.5 That he must not sign the Agreement of Sale unless he has adequate understanding of the terms of the Agreement of Sale.
- 30.6 That he did not purchase the Unit as a result of direct marketing as contemplated in Section 16(3) of the Consumer Protection Act 68 of 2008.

### **31 OFFER**

- 31.1 This agreement, once signed by the Purchaser, shall be regarded as an offer by the Purchaser and shall be irrevocable and open for acceptance by the Seller for a period **30 (thirty) days** calculated from date of signature by the Purchaser and may not be withdrawn by the Purchaser during the aforesaid **30 (thirty) day** period.

**32 SIGNATURES**

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

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

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

\_\_\_\_\_

**PURCHASER1:**

\_\_\_\_\_

**PURCHASER2:**

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

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

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

\_\_\_\_\_

**SELLER**

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

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

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

\_\_\_\_\_

**AGENT**

The Agent by signature hereto accepts the benefits and obligations (if any) imposed in terms of this Agreement.

DATED AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

WITNESSES:

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

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

\_\_\_\_\_

**CONTRACTOR / BUILDER**

The Contractor by signature hereto accepts the benefits and obligations (if any) imposed in terms of this Agreement.

# INSTRUCTION TO INVEST TRUST MONEYS

(In respect of a conveyancing transaction)

Section 86(4) of the Legal Practice Act 28 of 2014

**TO: LK ATTORNEYS INCORPORATED**

Attorneys, Notaries & Conveyancers

(hereinafter referred to as "the Attorneys")

**TRANSFER FROM:**

**CCS Developments (Pty) Ltd**

**Registration number 2017/426301/07**

*(Seller details)*

**TO:**

**Name:** \_\_\_\_\_

**ID / Reg no:** \_\_\_\_\_

*(Purchaser details)*

**OF:**

**UNIT** \_\_\_\_\_ **BAILEY'S JUNXION**

*(Property details)*

**IN EXTENT:** \_\_\_\_\_ ( \_\_\_\_\_ ) **SQUARE METRES**

I, the undersigned,

**(Authorised signatory/s)**

being the Transferee/s in the abovementioned transaction, hereby confirm my/our instructions to **LK Attorneys** to invest with **ABSA BANK / FNB BANK / STANDARD BANK / NEDBANK** all funds paid to the attorneys by me on account of the purchase price, subject to the following conditions:

1. That the amount is invested in a trust savings account or other interest-bearing account that contains a reference to Section 86(4) of the Legal Practice Act 28 of 2014;
2. The interest which accrues on such investment is to be for the company/close corporation/my benefit and is to be paid to me/us/it, after deducting your professional fee and costs for administering the investment, as soon as possible after the date of registration of the above-mentioned transaction;
3. The capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.
4. I am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.
5. Administration Fee deductions from monthly Gross Interest accrued:
- 5.1. acknowledge that, in addition to the administration fee due to **the Attorneys** stipulated below, the bank is obliged, in terms of Section 86(5)(b) of the Legal Practice Act 28 of 2014 to deduct from the interest earned on the investment an amount equivalent to 5% of such interest and pay this amount to the Fidelity Fund.

5.2. I hereby authorise **the Attorneys** to deduct from the interest *percentage* earned an administration fee based on the following sliding scale on the amount/s invested:

R0	-	R10 000.00	3,20% per annum
R10 000.01	-	R20 000.00	1,95% per annum
R20 000.01	-	R50 000.00	1,45% per annum
R50 000.01	-	R200 000.00	1,00% per annum
R200 000.01	-	R500 000.00	0,90% per annum
R500 000.01	-	R1 000 000.00	0,80% per annum
Amounts in excess of R1 000 000,00			0,50% per annum

6. I/we consent to an EFT (electronic funds transfer) of interest or to the refund of any monies due to me/us, into the below- mentioned bank account: (Proof thereof to be provided to the Attorneys)

Bank Name: \_\_\_\_\_

Account No: \_\_\_\_\_

Branch No: \_\_\_\_\_

Branch Name & Number: \_\_\_\_\_

Type of Account: \_\_\_\_\_

**PLEASE NOTE:**

- This Investment mandate together with a FICAA Questionnaire must be returned to us with ALL the requested verification documentation. To comply with FICA legislation the monies will only be invested once **all the documents have been received.**
- I therefore indemnify the Attorneys against any claim for the loss of interest as a result of outstanding documents.
- I further confirm that the Attorneys will NEVER change their bank details via email notice. Should I be uncertain about the bank account details provided by the attorneys I have the responsibility to telephonically contact the Attorneys to verify their banking details.

**SIGNED AT** \_\_\_\_\_ **ON THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_ **20** \_\_\_\_\_.

\_\_\_\_\_  
**PURCHASER/S**

\_\_\_\_\_  
**PURCHASER/S**