



RETIREMENT LIFESTYLE ESTATE

DEED OF SALE

For the Purchase and Sale of a Sectional Title Unit after opening of the Sectional Title Register but prior to completion of the Scheme

AGREEMENT OF SALE ENTERED INTO BETWEEN

ARUN LIFESTYLE PROPRIETARY LIMITED

Registration No 2015/048173/07

of 3K Arun Place, Old Sir Lowry's Pass Road, Somerset West

and

&

UNIT: _____ DE PLATTEKLOOF

(BUILDING NAME: _____)

You are encouraged to seek independent legal advice in relation to this Agreement prior to concluding same, as in signing this Agreement you acknowledge that you understand the terms of this Agreement and its Annexures and agree to bound thereby.

INFORMATION SCHEDULE

(Terms defined in the main body of the Agreement have been used in this Information Schedule)

1. PURCHASER NO.1 DETAILS

Surname or Company/Trust/Close Corporation Name: _____

First Name(s)(if applicable): _____

Identity Number/Registration Number: _____

Marital Status: _____

Marital Regime (if married): _____

Date and Place of Marriage: _____

Relationship to Nominated Occupant(s): _____

Street Address: _____

City: _____ Province: _____ Postal Code: _____

Telefax Number: _____ Telephone Number: _____

E-mail Address: _____

2. PURCHASER NO.2 DETAILS (IF APPLICABLE)

Surname: _____

First Name(s): _____

Identity Number: _____

Marital Status: _____

Marital Regime (if married): _____

Date and Place of Marriage: _____

Relationship to Nominated Occupant(s): _____

Street Address: _____

City: _____ Province: _____ Postal Code: _____

Telefax Number: _____ Telephone Number: _____

E-mail Address: _____

Note: for the purposes of contractual notices given in terms of clause 26, the street address, telefax number and e-mail address of Purchaser 1 will be the valid *domicilium* address for both Purchasers.

INITIAL HERE:

3. SECTIONAL TITLE UNIT AND EXCLUSIVE USE AREA(S)

Section

Section Number: _____ (provisional)

Estimated Floor Area of Section: ± _____ m²

Estimated Final Participation Quota of Sectional Title Unit: ± _____.

Note: The Participation Quota given above is an estimate and based on the final number and sizes of units in the completed Scheme. The Scheme is a phased development (as more fully described in clause 16), and the official participation quota reflected in the interim Sectional Plans from time to time will fluctuate as and when the Scheme is extended.

Exclusive Use Area(s) (delete if not applicable)

- Parking Bay No: _____, approximately _____ m² in extent; and
- Garden/Patio No: _____, approximately _____ m² in extent; and
- Garden/Patio No: _____, approximately _____ m² in extent;

as will be allocated to the Section in the Management Rules of the Scheme in terms of section 27A of the Sectional Titles Act (now sections 10(7) and (8) of the Sectional Titles Schemes Management Act).

Note:

- (a) The Section and Exclusive Use Area(s) are more fully described on Annexures "A", "B1", "B2" and "C" to the Agreement. The areas mentioned above are estimations, and the Purchaser's attention is brought to the language of clauses 13, 14 and 15 in this regard.
- (b) The Scheme is a phased development and the Section forms part of a particular phase. The Purchaser agrees that, prior to completion of the entire Scheme, the phase in which the Section is located (along with all other completed phases) will be a stand-alone Housing Development Scheme for all purposes of the Retired Person's Act on the condition that temporary health care facilities or other adequate temporary arrangements are made by the Seller to ensure that sufficient medical care and assistance is available to the Nominated Occupant(s). See clause 16 for further terms regarding phasing.

4. ERF ON WHICH THE SCHEME IS SITUATED

Erf Number: **Erf 24698 Parow**

Extent: **± 4.99 ha**

Magisterial District: **Bellville/Parow**

Registered Owner: **Arun Lifestyle (Pty) Ltd**

Title Deed Number: **T46627/2015 (previously T3230/2015)**

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5. NOMINATED OCCUPANT NO.1

Surname: _____
 First Name(s): _____
 Identity Number: _____
 Marital Status: _____
 Marital Regime (if married): _____
 Date of Place of Marriage: _____
 Street Address: _____
 City: _____ Province: _____ Postal Code: _____
 Telefax Number: _____ Telephone Number: _____
 E-mail address: _____ Pet Dog details: _____
 Name of next-of-kin: _____ contact number: _____

6. NOMINATED OCCUPANT NO.2 (IF APPLICABLE)

Surname: _____
 First Name(s): _____
 Identity Number: _____
 Name of next-of-kin: _____ contact number: _____

Note:

- (a) **Subject to the Management Rules, a maximum of 2 (TWO) Nominated Occupants will be allowed in the Section, except when the Section does not have a separate bedroom, in which case only 1 (ONE) Nominated Occupant will be allowed.**
- (b) **In the case of the Section being occupied by 2 (TWO) Nominated Occupants, then such Nominated Occupants will be spouses, life partners or companions (in the trustees' discretion).**
- (c) **Certain documentation pertaining to the health of Nominated Occupant(s) will be required prior to occupation, and a face-to-face medical interview of the Nominated Occupant(s) may be required. See clause 9 for further information.**

7. SELLER'S DETAILS

Name: **Arun Lifestyle (Pty) Ltd**
 Registration Number: **2015/048173/07**
 Street Address: **Unit 3K, Arun Place, Sir Lowry's Pass Road, Somerset West,
 7130, Western Cape Province**
 Postal Address: **c/o Van Der Spuy Attorneys, 4th Floor, 14 Long Street, Cape
 Town, 8000, Western Cape Province**

INITIAL HERE:

8. AGENT:

Surname: _____

First Name(s): _____

Agency: _____

Street Address: _____

City: _____ Province: _____ Postal Code: _____

Telefax Number: _____ Telephone Number: _____

E-mail Address: _____

9. PURCHASE PRICE

Deposit (within 14 days of Signature Date)

R
R
R

Balance (on Transfer Date)

Total (VAT inclusive)

10. LEVIES

2018	R	/per month	2019	R	/per month
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Note: the above amounts indicates the monthly levy (exclusive of VAT if applicable) which will be payable as from the Transfer Date. This amount is subject to escalation. Optional extra services will available at an extra cost. An exit levy is payable in addition, so as to build up a stabilisation fund in order to minimise the risk of unforeseen special levies. The Purchaser's attention is brought to the language of clause 20 and contents of Annexures "D" and "E".

11. ESTIMATED COMPLETION DATE

12. ESTIMATED TRANSFER DATE

13. LOAN SUSPENSIVE CONDITION (DELETE IF NOT APPLICABLE)

This Agreement is subject to the condition precedent that the Purchaser is offered loan finance in principle from a financial institution on terms and conditions acceptable to the Seller, to be secured by a mortgage bond registered over the Property, for the amount of R _____ before the date falling **30 (THIRTY)** days from the Signature Date.

Note: See clause 22 for further terms and conditions relating to the use of mortgage bond finance, including a "72-hour" clause.

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14. CONSUMER PROTECTION ACT

The Seller declares that it is selling the Property in the ordinary course of its business and certain of the provisions of the Consumer Protection Act may apply. In the event that this transaction resulted from direct marketing as contemplated in the Consumer Protection Act, the Purchaser has a right to rescind this Agreement without reason or penalty, by written notice to the Seller within **5 (FIVE)** business days after the Signature Date.

The Purchaser confirms that (delete the answer that is not applicable):

1. He has read this Agreement and understands the contents thereof.
YES / NO
2. That the Property was not introduced to him by means of direct marketing.
YES / NO
3. That he is aware and understands his right to the cooling-off period after direct marketing.
YES / NO
4. The Purchaser is a juristic person (Company, Close Corporation, Trust, Partnership etc.)
YES / NO
5. If the answer to 4 above is "yes", the Purchaser's annual turnover or asset value is more than **R2 000 000.00 (TWO MILLION RAND)** as on the Signature Date (not applicable if Purchaser is a natural person);
YES / NO
6. The Purchaser has purchased and will use the Property only for residential purposes.
YES / NO

INITIAL HERE:

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1. **DEFINITIONS**

The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:

- 1.1. **“Agent”** means the estate agent or broker mentioned in Item 8 of the Information Schedule;
- 1.2. **“Architect”** means TV3 Architects and Town Planners or any other architect that may be appointed by the Seller from time to time;
- 1.3. **“Arun Property Management”** means Arun Property Management (Pty) Ltd, Registration Number 2017/204278/07 of Unit 3K, Arun Place, Sir Lowry’s Pass Road, Somerset West, 7130, Tel No (021) 850-9680;
- 1.4. **“Body Corporate”** means the Body Corporate of the Scheme as defined in the Sectional Titles Act as amended by the Sectional Titles Schemes Management Act;
- 1.5. **“Buildings”** means the buildings that have been, or are currently being, or will be constructed on the Erf as depicted on the Site Development Plan and **“Building”** means the specific building of which the Section forms part;
- 1.6. **“Building Plans”** means the detailed building plans and drawings for the Section and the relevant Building, which Building Plans are annexed to this Agreement as Annexures “B1” and “B2”;
- 1.7. **“Business Day”** means any day except a Saturday, Sunday or an official public holiday;
- 1.8. **“Common Property”** means such parts of the land comprising the Erf that will not form part of a section of the Scheme and that will be designated as such on the Sectional Plan;
- 1.9. **“Completion Certificate”** means the certificate issued by the Architect and furnished to the Conveyancers, confirming that in the opinion of the Architect:
 - 1.9.1. The Property has been sufficiently completed to be fit for the purposes of utilization as a residential dwelling by a retired person in terms of Section 6 of the Retired Person Act; and
 - 1.9.2. The Property has been erected substantially in accordance with the officially approved building plans, town planning scheme and any applicable by-laws of the Local Authority in terms of Section 6 of the Retired Person Act;
- 1.10. **“Completion Date”** means the date upon which the Architect issues the Completion Certificate in respect of the Property, and which estimated date is as set out in Item 11 of the Information Schedule;
- 1.11. **“Conduct Rules”** means the Conduct Rules from time to time applicable to owners and residents in the Scheme, which initial Conduct Rules are available for inspection at the offices of the Agent and online at www.deplattekloof.co.za;
- 1.12. **“Consumer Protection Act”** means Consumer Protection Act, No. 68 of 2008;

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- 1.13. “**Contract**” means this written Deed of Sale with all the annexures and schedules thereto and “**Agreement**” will have a corresponding meaning;
- 1.14. “**Contractor**” means the principal main building contractor appointed by the Seller for construction of the Building and the Property, being NMC Construction or any other principal main building contractor(s) that may be appointed by the Seller from time to time;
- 1.15. “**Conveyancers**” means the Conveyancers to be appointed by the Seller;
- 1.16. “**Deposit**” means the deposit described in Item 9 of the Information Schedule;
- 1.17. “**Developer**” means the Seller;
- 1.18. “**Development Period**” means **5 (FIVE)** years after establishment of the Body Corporate, alternatively such earlier date as may be notified in writing by the Seller to the trustees of the Body Corporate;
- 1.19. “**Erf**” means Erf 24698 Parow, in extent approximately 4.99 hectares;
- 1.20. “**Exclusive Use Area(s)**” means that/those portion(s) of the Common Property allocated to and for the exclusive use of the Purchaser as owner of the Section hereby sold in terms of Section 27 of the Sectional Titles or sections 10(7) and (8) of the Sectional Titles Schemes Management Act (if applicable);
- 1.21. “**Floor Area**” means the floor area of the Section measured to the median line of the boundary walls of each section, as will be shown on the sectional title participation quota schedule that will form part of the Sectional Plan;
- 1.22. “**Health Care Centre**” means the on-site health care facility providing 24-hour nursing, clinic and health care services, to be located in the Tijgerzicht Building, and which facility and services may be utilised by the Purchaser and its Nominated Occupant(s);
- 1.23. “**Health Care Provider**” means the manager of the operations of the Health Care Centre and the provider of the Health Care Services, being initially Medwell (or any other provider that may be appointed by the Seller);
- 1.24. “**Health Care Services**” means the optional and/or compulsory health care services that are available within the Scheme, some of which are set out in Annexure “F”;
- 1.25. “**Information Schedule**” means the Information Schedule contained in pages 2 to 6 of this Contract;
- 1.26. “**Levies**” or “**Levy**” means the monthly levy contributions that will be payable by the Purchaser to the Body Corporate in terms of section 37 the Sectional Titles Act and section 3 of the Sectional Titles Schemes Management Act, being initially the amounts specified in Item 10 of the Information Schedule;
- 1.27. “**Local Authority**” means the local authority having jurisdiction over the Erf, being at present the City of Cape Town, and shall include its successor in such capacity;

INITIAL HERE:

- 1.28. **“Management Agreement”** means the agreement concluded between the Body Corporate (represented by the Seller) and the Managing Agent appointing the Managing Agent and regulating the terms and conditions on which the Managing Agent will manage the Scheme;
- 1.29. **“Management Rules”** means the Management Rules of the Body Corporate, which initial Management Rules are available for inspection at the offices of the Agent and online at www.deplatteloof.co.za;
- 1.30. **“Managing Agent”** means such person or entity appointed, from time to time, by the Seller or the Body Corporate to manage the Scheme, it being recorded that the first Managing Agent of the Scheme shall be Arun Property Management;
- 1.31. **“Nominated Occupant(s)”** means the natural person(s) nominated by the Purchaser to occupy the Section from time to time (which person(s) may or may not be the Purchaser) and which initial person(s) may be identified in Items 5 and 6 of the Information Schedule;
- 1.32. **“Occupation Date”** means the date upon which the Purchaser or his Nominated Occupant(s) takes possession and occupation of the Section in terms of Clause 8.1 or 8.2, and which date may be on or after, but not prior to, the Completion Date;
- 1.33. **“Occupational Health and Safety Act”** means the Occupational Health and Safety Act, No. 85 of 1993;
- 1.34. **“Occupational Interest”** means the amount payable by the Purchaser to the Seller from Occupation Date to the Transfer Date as provided in clause 8.4;
- 1.35. **“Parties”** means the Seller and the Purchaser and **“Party”** means either one of them;
- 1.36. **“Prime Overdraft Rate”** means the rate of interest per annum which is equal to ABSA Bank Limited’s publicly quoted prime overdraft rate of interest per annum charged by the said bank on overdrawn current accounts of its most favoured clients from time to time. In the event of a dispute as to the prime overdraft rate, the rate shall be certified by any manager of any branch of the said bank, whose certificate will act as *prima facie* proof of the overdraft rate;
- 1.37. **“Property”** means collectively, the Sectional Title Unit and the Exclusive Use Area(s) (if applicable) as set out in Item 3 of the Information Schedule;
- 1.38. **“Purchase Price”** means the Purchase Price reflected in Item 9 of the Information Schedule;
- 1.39. **“Purchaser”** means collectively, the person or persons reflected in Items 1 and 2 of the Information Schedule;
- 1.40. **“Retired Persons’ Act”** means the Housing Development Schemes for Retired Persons Act, No. 65 of 1988 (as amended);
- 1.41. **“Rules”** means the Management Rules and the Conduct Rules of the Scheme prescribed by the Developer, which documents are available for inspection at the offices of the Agent and online at www.deplatteloof.co.za;
- 1.42. **“Scheme”** means the sectional title scheme known as “De Platteloof” comprising the Buildings which will be developed and built on the Erf;

INITIAL HERE:

- 1.43. “**Section**” means the section in the Scheme hereby sold as more fully described on the Building Plans, and which section is or will be depicted as one section on the Sectional Plan with floor area approximately as set out in Item 3 of the Information Schedule;
- 1.44. “**Sectional Plan**” means the plan(s) drawn or to be drawn in respect of the Erf and Buildings in terms of the Sectional Titles Act, some of which have been approved by the Surveyor General and others still to be approved by the Surveyor General;
- 1.45. “**Sectional Titles Act**” means the Sectional Titles Act, No. 95 of 1986 and any amendment thereto and includes the regulations promulgated thereunder from time to time;
- 1.46. “**Sectional Titles Schemes Management Act**” means the Sectional Titles Schemes Management Act, No. 8 of 2011 and any amendment thereto and includes the regulations promulgated thereunder from time to time;
- 1.47. “**Sectional Title Unit**” means the Section along with an undivided share in the Common Property to be apportioned to the said Section in accordance with the participation quota which will be endorsed on the Sectional Plan;
- 1.48. “**Sectional Title Register**” means the sectional title register in respect of the Erf and the Buildings registered and opened in terms of the Sectional Titles Act;
- 1.49. “**Seller**” means Arun Lifestyle (Pty) Ltd, Registration Number 2015/048173/07, with further details as set out in Item 7 of the Information Schedule;
- 1.50. “**Signature Date**” means the date on which the last Party thereto signs this Contract;
- 1.51. “**Site Development Plan**” means the plan depicting the location and layout of the Buildings and the Scheme as a whole, which plan is attached as Annexure “A”;
- 1.52. “**Specifications**” means the schedule of specifications and finishes for the Section attached hereto as Annexure “C”;
- 1.53. “**Tijgerzicht Building**” means the building in the Scheme labelled as such on the Site Development Plan;
- 1.54. “**Transfer Date**” means the date of registration of transfer in the Deeds Office of the Property in favour of the Purchaser, which estimated Transfer Date is set out in Item 12 of Information Schedule;
- 1.55. “**VAT**” means Value Added Tax payable in terms of the VAT Act;
- 1.56. “**VAT Act**” means the Value Added Tax Act, No. 89 of 1991.

2. INTERPRETATION

In this Agreement:

- 2.1. the heading to the clauses of this Agreement are for reference and convenience purposes only and shall not aid in the interpretation of the clauses to which they relate;

INITIAL HERE:

- 2.2. unless a contrary intention clearly appears, words importing one gender shall include the other genders, the singular shall include the plural and *vice versa* and natural persons shall include juristic persons and *vice versa*;
- 2.3. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;
- 2.4. the words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on any Party shall have the same meaning;
- 2.5. "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "**business day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time and unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day;
- 2.6. if any obligation or act is required to be performed on a particular day it shall be performed (unless otherwise stipulated) by 16h00 (local time at the place where the obligation or act is required to be performed) on that day;
- 2.7. where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 2.8. expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own definitions;
- 2.9. a Party includes a reference to that Party's successors in title and assigns allowed at law, including the Parties' estates, heirs, executors, administrators, trustees, assigns, debt counsellors, business rescue practitioners or liquidators;
- 2.10. where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that the term has not been defined in this interpretation clause;
- 2.11. the so-called *contra proferentem* rule of construction shall not apply and accordingly, none of the provisions hereof shall be construed against or interpreted to the disadvantage of the Party responsible for the drafting or preparation of such provision;
- 2.12. the *iusdem generis* rule of construction shall not apply and accordingly, the use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning or ambit of the general wording preceding it, and the words "**include**" and "**including**" shall mean "include without limitation" and "including without limitation" respectively;
- 2.13. reference to "**writing**" means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act, No 25 of 2002;

INITIAL HERE:

- 2.14. reference to any statutory enactment (including statutes, ordinances, regulations and by-laws) shall be construed as a reference to that enactment as at the Signature Date hereof and as amended or re-enacted or substituted from time to time thereafter;
- 2.15. ***where any reference is made in a clause hereof to a provision of the Sectional Titles Act, and that provision has been repealed and the subject matter thereof dealt with in terms of the Sectional Titles Schemes Management Act, then that clause will be read as referring to the relevant provision of the Sectional Titles Schemes Management Act;***
- 2.16. the expiry or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 2.17. the words "**clause**" or "**clauses**" and "**annexure**" or "**annexures**" and "**schedule**" or "**schedules**" refer to clauses of, annexures and schedules to this Agreement.

3. RECORDAL

- 3.1. The Seller is in the process of developing the Erf by the construction of the Buildings as a Sectional Title Scheme.
- 3.2. The Seller has procured the completion of the Building Plans and Specifications.
- 3.3. The Seller wishes to sell the Property prior to the completion of the construction of all the Buildings, and in some cases prior to completion of the specific building of which the Section forms part;
- 3.4. Certain Buildings have not been completed and/or the Sectional Plan not yet drawn or registered over such, and accordingly the exact and final boundaries of the Section and, where applicable, the Exclusive Use Area(s) will only be reflected on the completed and approved Sectional Plan;
- 3.5. The Parties have entered into this Agreement to record the terms and conditions relating the sale of the Property and certain matters incidental thereto.

4. SALE

The Seller hereby sells to the Purchaser who hereby purchases:

- 4.1. the Sectional Title Unit; and
- 4.2. the Exclusive Use Area(s) (if applicable) (collectively referred to hereinafter as "the Property");

on the terms and conditions set out in this Contract.

INITIAL HERE:

5. PURCHASE PRICE

- 5.1. The Purchase Price payable by the Purchaser to the Seller for the Property shall be the total amount set out in Item 9 of the Information Schedule, payable as follows:
- 5.1.1. a Deposit in the amount of **10% (TEN PERCENT)** of the Purchase Price (unless this sale is subject to a suspensive condition in terms of clause 22 and Item 13 of the Information Schedule, in which case the Deposit shall be **20% (TWENTY PERCENT)** of the Purchase Price) payable in cash to the Conveyancers within **14 (FOURTEEN)** days of the Signature Date, which Deposit will be invested by the Conveyancers in an interest-bearing trust account for the Purchaser's benefit in terms of section 78(2A) of the Attorneys Act and section 6(3)(a) of the Retired Persons' Act for release to the Seller on the Transfer Date; or
- 5.1.2. the balance in cash to the Conveyancers on the Transfer Date.
- 5.2. The Purchaser shall, within **30 (THIRTY)** days of the Signature Date (unless this sale is subject to a suspensive condition in terms of clause 22 and Item 13 of the Information Schedule, in which case the Purchaser shall, within **14 (FOURTEEN)** days of date of satisfaction of the suspensive condition) furnish the Conveyancers with an irrevocable guarantee issued in favour of the Conveyancers for the balance Purchase Price (inclusive of VAT). The guarantee is to be issued by a bank or financial institution in a form acceptable to the Conveyancers and is to be payable against registration of transfer of the Property into the name of the Purchaser.
- 5.3. All monies due by the Purchaser in terms of this Contract, and unpaid on the due date, shall bear interest at Prime Overdraft Rate plus **2% (TWO PERCENT)** calculated from the due date to the actual date of receipt thereof by the Seller or the Conveyancers as the case may be.
- 5.4. All or any payments to be effected hereunder shall be effected by the Purchaser to the Conveyancers free of exchange at Cape Town and without deduction or set off.
- 5.5. In the event that the VAT rate in effect on the Signature Date is at any time thereafter increased or reduced in such a manner that the VAT payable on the supply of the Property is increased or reduced, the Purchase Price will be either increased or reduced as the case may be, to reflect the actual VAT payable on the supply of the Property in terms of this Contract.
- 5.6. The Purchaser shall not be entitled to withhold, delay or abate any payments, nor to deduct from or set off against payment of any amounts due to the Seller in terms of this Contract any amounts owed or allegedly owed by the Seller to the Purchaser from whatsoever cause arising.

6. UNIT LAYOUT AND SPECIFICATIONS

- 6.1 Subject to the provisions of Clauses 6.2 to 6.5 hereunder, the Buildings and the Property shall be built substantially in accordance with the Building Plans and finished in accordance with the Specifications.

INITIAL HERE:

- 6.2 The Specifications reflect the finishes to be installed into the Section. In certain cases, the Purchaser may choose from a range of options pertaining to a particular class of finishes at no extra cost, and in other cases, the Purchaser may be permitted to change the finishes and/or include certain optional extras over and above those contained in the Specifications at an extra cost. All the various choices and permissible options will be available from the Agent. All permitted choices, alterations, changes and optional extras (along with the relevant extra costs) must be recorded in writing and signed by the Purchaser and the Seller within a period of **30 (THIRTY)** days from the Signature Date (unless this sale is subject to a suspensive condition in terms of clause 22 and Item 13 of the Information Schedule, in which case the time period shall be within **7 (SEVEN)** days from date of satisfaction of the suspensive condition). After this time, the latest signed choices, alterations, optional extras and/or changes shall be final and binding on the Parties. Where the Purchaser fails to make any necessary choices from the range of applicable options, the Architect shall make such choice on behalf of the Purchaser and the Purchaser shall be obliged to accept the Section with such finishes.
- 6.3 Certain choices, alterations, optional extras and/or changes will involve an extra cost, which will be payable to the Seller within **7 (SEVEN)** days of invoice, and in any event, prior to the Occupation Date. Where the Purchaser fails to make any related extra payment within **7 (SEVEN)** days of invoice by the Seller, the Seller or the Architect shall, in their sole and absolute discretion, be entitled to revert back to the original specifications (as amended only by the Purchaser's latest valid choices, alterations, and/or changes which involve no additional cost), in which event the Purchaser shall be obliged to accept the Section with such finishes.
- 6.4 Notwithstanding the provisions of clauses 6.2 and 6.3 above, and with prior consultation with the Purchaser, the Seller shall be entitled to:
- 6.4.1 substitute items of a similar standard and quality for any specified item referred to in the Specifications; and
- 6.4.2 vary the Specifications of the Section should the Architect consider the variation reasonably necessary for technical or aesthetic reasons.
- Provided there has been consultation with the Purchaser, the latter shall be obliged to accept the changes made in terms of clauses 6.4.1 and 6.4.2 and shall have no claim of whatsoever nature against the Seller or the Architect as a result thereof.
- 6.5 In the event of there being any dispute between the Parties as to the selection of finishes or any other aspect referred to in this clause 6, the dispute shall be referred to the Architect for determination and his expert decision shall be final and binding on the Parties.

7. COMPLETION AND HAND OVER

- 7.1 It is anticipated that construction of the Section will be complete by the Completion Date, as reflected in Item 11 of the Information Schedule.
- 7.2 In the event that the Seller anticipates that the Completion Date will not be as per Item 11 of the Information Schedule, then it shall give notice to the Purchaser of a new expected Completion Date, but such new Completion Date shall not later than **2 (TWO)** years from the Signature Date.

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- 7.3 The Purchaser (or his representative) shall attend a hand over inspection of the Section together with the Seller (or its representative) at any pre-arranged time before the Occupation Date in order to inspect and examine the Section and to agree on a list of snags in the Property (and all fixtures and fittings therein) and which snags are to be remedied by the Seller and/or the Contractor. “**Snags**” shall mean any imperfections or minor defects in the Section, which should be remedied and/or repaired by the Seller or the Contractor at its cost, but which are not so serious, substantial and/or material so as to render the Section (i) not practically complete or (ii) unfit for the purposes of utilization as a residential dwelling by a retired person.
- 7.4 Should the Purchaser (or its representative) fail or is unable to attend the hand over inspection mentioned in clause 7.3 above, then within **7 (SEVEN)** days of the Occupation Date, the Purchaser may notify the Seller of any alleged Snags in the Section. Should the Architect or his agent be in agreement with such, in his *sole and absolute* discretion, these defects will be remedied by the Seller and/or the Contractor at the Seller’s or the Contractor’s cost. The architect’s decision will be *final and binding* on the parties.
- 7.5 The Seller shall remedy or repair, or cause to be remedied or repaired, any Snags that have been included on the list of Snags as agreed in terms of clause 7.3 (or as determined by the Architect in terms of clause 7.4) as soon as reasonably possible.
- 7.6 In the event of a dispute between the Purchaser and the Seller as to the existence of any particular alleged Snag or the proper remedy or repair thereof, such dispute will be referred to the Architect who shall make a decision in his sole and absolute discretion, as an expert and not as an arbitrator, and his decision will be final and binding on the parties.
- 7.7 The items included in the list of defects, if any, identified and agreed during the hand over inspection in terms of clause 7.3 (or as determined by the Architect in terms of clause 7.4) shall be *final and binding* between the Parties. The Purchaser shall be precluded from raising at any time after the date falling **7 (SEVEN)** days of the Occupation Date any Snag which does not appear on the list of Snags agreed to (or determined by the Architect as the case may be), and shall not have any claim against the Seller arising therefrom.
- 7.8 The Purchaser acknowledges that for purposes of registration of transfer, only the Completion Certificate (as defined) is necessary. The existence or not of Snags (as defined in clause 7.3) will have no effect on the registration of transfer of the Property, the Transfer Date or payment to the Seller of the full Purchase Price.
- 7.9 The Seller shall remedy any material *latent* defect in the Section due to faulty workmanship or materials, manifesting itself within **180 (ONE HUNDRED AND EIGHTY)** days of the Completion Date, provided that the Purchaser notifies the Seller thereof in writing within the said period. Any dispute between the Seller and the Purchaser as to whether a defect constitutes a material defect shall be referred to the Architect for determination, who shall make such determination as an expert, and whose decision shall be final and binding on the Parties.
- 7.10 Notwithstanding the provisions of this clause 7, the Seller shall strictly enforce for the benefit of the Purchaser any guarantee or warranty which it may enjoy, whether under the building contract with the Contractor or on any other basis. To the extent that such guarantee or warranty relates to the Property, the Seller hereby cedes all its rights in terms thereof to the Purchaser.

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8. POSSESSION AND OCCUPATION

- 8.1 Possession and occupation of the Property shall be given by the Seller and taken by the Purchaser on the Transfer Date, and this shall be the date upon which all risk and benefit attaching to the Property shall pass to the Purchaser.
- 8.2 Notwithstanding the provisions of clause 8.1 above, the Seller may, in its sole and absolute discretion, allow the Purchaser or the Nominated Occupant(s) to take possession and occupation of the Property on or after the Completion Date if, in the Seller's discretion:
- 8.2.1 The Purchaser delivers to the Seller a letter, signed by the Purchaser and to the Seller's satisfaction, in terms of which the Purchaser accepts possession of the Property and acknowledges that it has examined the Property (and all fixtures and fittings therein) and noting that same is complete and free of defects;
- 8.2.2 all amounts owing for any optional extras or finishes (if any) as mentioned in clause 6.3 have been paid in full;
- 8.2.3 the Purchase Price has been fully paid and/or the Deposit has been paid and balance Purchase Price secured in terms of clauses 5.1 and 5.2;
- 8.2.4 the Occupational Interest due in advance in terms of clause 8.4 (pro-rated for a portion of a month) has been paid; and
- 8.2.5 all other costs, interest and charges due in terms of this Contract have been paid in full.
- 8.3 Should the Seller allow earlier occupation and possession, then the Occupation Date shall then be the date upon which all risk and benefit attaching to the to the Property shall pass to the Purchaser. For purposes of clarity, the external structure of the Section will be insured by the Seller until establishment of the Body Corporate, at which time the external structure will be insured by the Body Corporate.
- 8.4 As from the Occupation Date, the Purchaser shall pay to the Seller monthly in advance Occupational Interest in the amount of **0.7% (ZERO POINT SEVEN PERCENT)** of the Purchase Price plus VAT calculated as from the Occupation Date up to the Transfer Date in the following manner:
- 8.4.1 Occupational Interest payments for subsequent months, if any, shall be made by the Purchaser in advance on the first day of such subsequent months;
- 8.4.2 The Purchaser shall on transfer be refunded a pro-rata share of any Occupational Interest that has been paid in advance in respect of the period after the Transfer Date.

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- 8.5 The Purchaser acknowledges that on the Completion Date construction of parts of the Scheme, the Building and/or the Common Property may not yet have been completed. The Purchaser accordingly hereby agrees that he will not by reason of the fact that the Building or any part of the Scheme or Common Property has not been fully completed as aforesaid have any claim against the Seller, its contractors and/or employees or as a result or in respect of any nuisance, noise and other inconvenience from whatsoever cause arising and howsoever arising, nor in respect of public liability; nor shall the Purchaser for any of the aforementioned reasons, be entitled to withhold performance of any obligation, or payment of any amount owing by him in terms of this Contract.
- 8.6 If at any time after the Occupation Date any damage is done to the Property, the Purchaser shall, without detracting from his rights to claim such damages as can be proven, not be entitled to refuse to accept transfer of the Property, nor to deduct from or purport to set off against any balance of the Purchase Price payable against the registration of transfer of the Property, any amount of alleged damages that he may have suffered.
- 8.7 It is recorded that the site on which the Building is constructed will throughout the construction period be under the control of the Contractor and that, prior to the Completion Date, the Purchaser shall not be entitled to have any access to the Building or the Property prior to the Occupation Date otherwise than for the purposes of the hand over inspection mentioned in clause 7.3.

9. NOMINATED OCCUPANTS

- 9.1 From time to time, the Purchaser shall be entitled to nominate a person or persons as the Nominated Occupant(s) of the Section. The initial Nominated Occupant(s) may be reflected in Items 5 and 6 of the Information Schedule, or at a later stage on a separate standardised form issued by the Managing Agent (or the Health Care Provider).
- 9.2 Subject to the Rules, a maximum of **2 (TWO)** Nominated Occupants will be allowed in the Section except when the Section does not have a separate bedroom, in which case only **1 (ONE)** Nominated Occupant will be allowed.
- 9.3 In the case of the Section being occupied by **2 (TWO)** Nominated Occupants, then such Nominated Occupants will be spouses, life partners or companions (in the trustees' discretion).
- 9.4 The Purchaser acknowledges and accepts that, before the Nominated Occupant(s) will be permitted to reside in the Section, the Managing Agent (or the Health Care Provider) acting on behalf of the trustees of the Body Corporate must grant its written approval.
- 9.5 Within **14 (FOURTEEN)** days of the Purchaser informing the Managing Agent (or the Health Care Provider) of the identity(ies) of the Nominated Occupant(s), the Purchaser undertakes, at his own expense, to furnish the Managing Agent (or the Health Care Provider) with the following documentation:
- 9.5.1 reasonable proof that at least one of the Nominated Occupant(s) has attained the age of **50 (FIFTY)** years;

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- 9.5.2 a medical certificate from a qualified medical doctor confirming that the physical and mental condition of the Nominated Occupant(s) is such that he/she is able to live independently or with minimal support services for everyday activities.
- 9.6 Should the Managing Agent (or the Health Care Provider) require any further documentation relating to any mental or physical aspect of the health of the Nominated Occupant(s) in order to establish the health care needs of the Nominated Occupant(s) and/or assess the suitability of the proposed Nominated Occupant(s) to reside in the Scheme, the Purchaser undertakes to deliver such, at his own expense, within **14 (FOURTEEN)** days of request.
- 9.7 The Purchaser acknowledges and agrees that, depending on the contents of the documentation, and prior to the Occupation Date, the Managing Agent (or the Health Care Provider) may require a face-to-face medical interview with the Nominated Occupant(s) in its sole and absolute discretion, in order to establish the health care needs of the Nominated Occupant(s) and assess the suitability of the proposed Nominated Occupant(s) to reside in the Scheme.
- 9.8 Pursuant to review of the documentation mentioned in clauses 9.5 and 9.6 (and the face-to-face interview if applicable), should the Managing Agent (or Health Care Provider) recommend that the Nominated Occupant(s) requires a certain level of Health Care Services, then the written approval to be granted by the Managing Agent (or Health Care Provider) on behalf of the trustees in terms of clause 9.4 will be conditional upon the Purchaser and/or the Nominated Occupant(s) signing up for such recommended Health Care Services.
- 9.9 Should the recommended Health Care Services not be critical (in the sole and absolute discretion of the Trustees and the Health Care Provider), written approval in terms of clause 9.4 may be given against the signing of an appropriate waiver form indemnifying the Managing Agent, the Health Care Provider and the Seller from all liability for personal injury or loss of life to the Purchaser and/or the Nominated Occupant(s) insofar that it is contended that such injury or death was due to the insufficient or inadequate provision of Health Care Services to the Purchaser and/or the Nominated Occupant(s).

10. CONDITIONS APPLICABLE PENDING TRANSFER

Should the Occupation Date occur prior to the Transfer Date, the following conditions will apply to the Purchaser from the Occupation Date up to the Transfer Date:

- 10.1 The Purchaser will comply with all the duties placed on an owner as described in section 44(1) of the Sectional Titles Act and section 13 of the Sectional Titles Schemes Management Act.
- 10.2 The provisions of the Rules insofar as they cast any duty upon the owner, resident or occupier of a section, shall bind the Purchaser (and its Nominated Occupant(s)) who will fully comply therewith.
- 10.3 The Purchaser shall not be entitled to make any additions, alterations or modifications of any nature to the Property, without the prior written consent of the Seller and the Body Corporate.
- 10.4 The Purchaser shall be obliged to maintain the Property in a fit and proper condition.

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- 10.5 The Purchaser shall not be entitled to subdivide the Section for the purpose of selling, donating or in any other manner alienating or disposing of any portion thereof to any other person.
- 10.6 The Purchaser shall be liable for all water and electricity consumed in respect of the Property as from the Occupation Date.
- 10.7 The Purchaser shall not use the Property or the Common Property in such a manner so as to cause any damage thereto or to the other sections in the Building or the Scheme, nor shall it store or permit the storage therein of any inflammable materials which may violate any insurance policy in respect of the Scheme or Buildings or which is likely to have the effect of increasing the premiums payable in terms of any such insurance policy.
- 10.8 The Purchaser shall be entitled to use the Property only for residential purposes.
- 10.9 No person other than a bona fide guest of the Purchaser or Nominated Occupant(s) may occupy the Property without the prior written consent of the Seller.
- 10.10 The Seller, either personally or through its agents, shall be entitled at all reasonable times, and on reasonable notice to the Purchaser, to have access to the Property for the purpose of inspecting it 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 Property 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.
- 10.11 The Purchaser may use and enjoy only those parts of the Common Property which are completed, in such manner so as not to interfere with the use and enjoyment thereof by other purchasers, occupiers or persons lawfully present in the Scheme. The Purchaser may not use and enjoy those parts of the Scheme which are not completed, or are in the process of being completed. The Purchaser shall ensure that its visitors and invitees comply with the provisions of this sub-clause.
- 10.12 The Purchaser shall not use the Property or permit it to be used in such manner or for such purposes as shall cause a nuisance or annoyance to any other purchaser, occupant or resident in the Scheme or interfere with the amenities of the Scheme so as to breach any law, ordinance, by-law or town planning and/or zoning scheme in force and pertaining to the Erf or Scheme.
- 10.13 ***Neither the Seller nor the Managing Agent, Body Corporate or the trustees of the Body Corporate shall be responsible for any damages which the Purchaser and/or Nominated Occupant(s) and/or their guests and invitees may suffer as a result of personal injury or loss or damage of property, regardless of whether such personal injury or loss or damage of property was caused by the condition of the Property or any part of the Scheme and/or any improvement thereon or equipment therein or by the conduct of any person in the service of the Seller, the Managing Agent, Body Corporate or trustees of the Body Corporate.***

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10.14 *The Purchaser hereby indemnifies the Seller, Managing Agent, Body Corporate and the trustees of the Body Corporate against any claim which its Nominated Occupant(s) or any visitor, guest, invitee or employee or tenant of the Purchaser and/or Nominated Occupant(s) may institute against them on the basis of personal injuries or loss or damage to property, regardless of whether such injuries, loss or damage were caused by the condition of the Scheme or the Property and any improvement thereon or equipment therein or by the conduct of any person in the service of the Seller, Managing Agent, the Body Corporate or the trustees of the Body Corporate.*

11. CERTIFICATE OF COMPLIANCE

- 11.1 On or prior to the Transfer Date, The Seller undertakes to provide the Purchaser, where necessary and at the Seller's cost, with the following certificates:
- 11.1.1 a certificate of compliance in respect of the Section in terms of the Electrical Installation Regulations of 2009 under the Occupational Health and Safety Act;
 - 11.1.2 a certificate in respect of the plumbing of the Section, signed by an accredited plumber, certifying that the water installation in respect of the Section conforms to the National Building Regulations and the City of Cape Town Water By-law of 2010 as published in Government Gazette No 6847 dated 18 February 2011; and
 - 11.1.3 a certificate of conformity for gas installations in the Section in terms of the Pressure Equipment Regulations of 2009 under the Occupational Health and Safety Act (where relevant).
- 11.2 Once provided with such certificates, the Purchaser shall have no claim whatsoever against the Seller in respect of the electrical, plumbing and gas installations in the Section.

12. TRANSFER AND TRANSFER COSTS

- 12.1 Provided the Purchaser has complied with all its obligations as set out in this Contract, registration of transfer of the Property shall be given by the Seller and taken by the Purchaser on the Transfer Date, or as soon as reasonably possible after the Completion Date.
- 12.2 In the event that registration of transfer of the Property is delayed or frustrated by any act or omission of the Purchaser, the Purchaser shall pay to the Seller interest which shall be equivalent to interest on the Purchase Price at the Prime Overdraft Rate plus **2% (TWO PERCENT)** calculated from the date on which the transfer would, but for such delay, otherwise have been registered up to the date of actual registration of transfer. For this purpose, the determination of the Conveyancers of the date on which transfer of the Property would, but for the delay, have been registered will be final and binding on the Parties. The Conveyancers will make such determination as an expert not an arbitrator. Any attempt by the Purchaser to delay or frustrate the registration of transfer or, where applicable, a mortgage bond, shall be deemed a breach of this Contract.

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- 12.3 The Purchaser shall, once the Architect has issued the Completion Certificate in respect of the Property, not be entitled to delay or refuse to take transfer or to pay the balance of the Purchase Price in respect of the Property by reason of any alleged defect therein or by reason of the fact that any part of the Building or Scheme has not yet been fully completed.
- 12.4 The Purchase Price includes VAT, and there will be no transfer duty payable by the Purchaser. The professional costs of transfer will be paid by the Seller. All costs, professional fees and expenses inherent in applying for or registering a mortgage bond will be for the account of the Purchaser in full.
- 12.5 The Purchaser will sign all documents necessary to effect transfer of the Property and return same and all other documents, resolutions, consents, applications and/or certificates as determined by the Conveyancers to the Conveyancers within **10 (TEN)** days after having been requested to do so. The Parties agree that should the Purchaser fail to deliver any of the aforesaid documents within the aforesaid period, the Purchaser will be in breach of this Contract.

13. EXTENT, ONEROUS CONDITIONS AND WARRANTIES

- 13.1 The Property is sold on the basis that the total extent of the Section shall be approximately that as set out in Item 3 of the Information Schedule.
- 13.2 The abovementioned extent is provisional. It is recorded that the estimated extent might change when the Section is finally measured and depicted on the Sectional Plan.
- 13.3 The Purchaser will have no claim against the Seller if the final extent determined as aforesaid is less than the extent described in clause 13.1, provided that if the extent of the Section as depicted on the Sectional Plan is more than **5% (FIVE PERCENT)** less, the Purchaser will be entitled, within **5 (FIVE)** days of having been advised thereof by the Seller or having become aware of that fact, to cancel this Contract by written notice to the Seller, whereafter:
- 13.3.1 The Conveyancers will be obligated to repay the Deposit plus interest earned thereon to the Purchaser and advise the Purchaser that he is entitled to cancel the guarantee furnished to the Seller in terms of Clause 5.2 above; and
- 13.3.2 neither the Purchaser nor the Seller will have any claim for damages or any other claim against each other arising from such a cancellation;

provided that it is recorded for the avoidance of doubt that the Purchaser shall not have the right to cancel this Contract or have any claim for damages in the event that the final extent determined in respect of the Exclusive Use Area(s) (if applicable) is less than the extent thereof as described in this Contract.

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- 13.4 The Property is sold subject to all conditions and servitudes attaching thereto and all the provisions of, or conditions that may be imposed by the Sectional Titles Act and any conditions imposed by the Developer in terms of Section 11(3)(b) of the Sectional Titles Act. The Purchaser acknowledges that he carries the obligation to satisfy himself by personal inspection, or by means of independent sources of information, concerning any burdens or servitudes to which the Erf and Property may be subject, and also concerning all advantages and disadvantages attaching to the Erf and Property and hereby agrees that the Seller shall not be liable to him in respect of any failure by the Seller or the Agent to inform him of any such qualities.
- 13.5 Except for the standard building warranties given by the Contractor (that will be enforced on behalf of the Purchaser by the Seller in terms of clause 7.10 if needs be), and except as specifically set out in this Contract, the Seller has made no representations and given no warranties in respect of the Property.
- 13.6 Subject to the Retired Persons' Act and the Consumer Protection Act, the Purchaser shall not have any claim of whatsoever nature against the Seller in respect of any defect or alleged defects in the Property, whether patent or latent, otherwise than to the extent provided for in this Contract.
- 13.7 ***The Purchaser acknowledges that he has not been influenced into entering into this Agreement by any express or implied information, statement or representation given or made by or on behalf of the Seller, unless same is expressly and specifically recorded in this Contract. The Purchaser hereby waives in favour of the Seller any rights whatsoever which he otherwise may have obtained against the Seller as result of any such information, statement or representation given or made by on behalf of the Seller which is not so expressly and specifically recorded. It is recorded that all artistic, architectural, photographic and other visual presentation material including but not limited to models, brochures, websites, pamphlets and show units used by the Seller or its agents in the marketing and selling the Property hereby purchased and sold, have been prepared and distributed as advertising material only, and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby, and that no representation is thereby made by the Seller, and that the Parties shall be bound by the terms contained in this Agreement only.***
- 13.8 The Property may be used only as a residential dwelling, and Exclusive Use Area(s) will be used only for parking, storage or as a garden as the case may be, which permitted usages will be spelt out in the Rules.

14. PARTICIPATION QUOTAS

- 14.1 The estimated participation quota of the Sectional Title Unit comprising the Property hereby sold in the completed Scheme is set out in Item 3 of the Information Schedule.
- 14.2 It is recorded that the participation quotas are calculated from the floor areas of the Building Plans, and the Parties acknowledge and accept that they may change after actual measurement of the completed Buildings.

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- 14.3 The Purchaser acknowledges that the Scheme is a phased development as more fully described in clause 16, and, as such, the official participation quota reflected in the most current Sectional Plan from time to time will fluctuate as the Scheme is extended.

15. NUMBER CHANGES AND SIZE OF OTHER PROPERTIES

- 15.1 The Seller shall be entitled to change the numbering of any or all of the sections and/or exclusive use areas comprising the Scheme should the number of any of these components on the Building Plans differ from the approved Sectional Plan. Should the Seller change the number of the Section or the Exclusive Use Area(s) in terms of this clause, the Purchaser shall sign all such documents as may be required by the Seller in order record the amendments.
- 15.2 Subject to municipally approved zoning densities, and notwithstanding anything to the contrary that may be depicted, reflected or shown in any plans, drawings, visual media or marketing material, the Seller shall be entitled to adjust the sizes and layout of other sections in the Scheme prior to sale thereof to third party purchasers, depending on changing market tastes, preferences and demand.
- 15.3 The Purchaser acknowledges that the sections to be contained in the Tijgerzicht Building have been designed in a modular fashion, and will be surveyed as the maximum number of smallest sections possible. In the event that the market demands larger sections, two or more sections will be consolidated to provide such larger sections. To the extent that it may be contended to be necessary, the Purchaser hereby consents to such consolidation.
- 15.4 The Purchaser acknowledges that circumstances may arise which will enable the Seller to give transfer of the Section whilst, for reasons beyond the Seller's control, the Seller will be unable to give the Purchaser transfer of (or the use of) one or more of the Exclusive Use Areas mentioned in Item 3 of the Information Schedule. In such circumstances, the Purchaser hereby consents to the Seller transferring the Section to the Purchaser in advance of transferring the Exclusive Use Area(s) to the Purchaser (or placing such Exclusive Use Area(s) at the disposal of the Purchaser). In such circumstances, the Seller shall provide the Purchaser with the use of comparable alternative exclusive use areas temporarily. In the unlikely event that the Seller is unable to give the Purchaser use of comparable temporary alternative exclusive use areas, the Conveyancers will retain an amount of **R100 000.00 (ONE HUNDRED THOUSAND RAND)** of the Purchase Price in trust which shall only be released to the Seller against the Seller providing the Purchaser with the use of Exclusive Use Area(s) or comparable alternative exclusive use areas.

16. PHASED DEVELOPMENT

- 16.1 The Purchaser is made aware that the Scheme is a phased development and the Property forms part of a *particular* phase. The Purchaser agrees that initially, prior to completion of the entire Scheme, the phase in which the Property is located (along with all other completed phases, if any) will be a stand-alone Housing Development Scheme (as referred to in the Retired Person's Act), on the condition that temporary health care facilities are provided or other reasonably adequate temporary arrangements are made by the Seller to ensure that sufficient medical care and assistance is available to the Nominated Occupant(s).

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- 16.2 In accordance with the phased nature of the Scheme, the Purchaser acknowledges that the Seller will be reserving a real right of extension of the Scheme as envisaged in section 25(1) of the Sectional Titles Act by the erection and completion from time to time but within a period of **5 (FIVE)** years from date of opening of the Sectional Title Register, for its own account further buildings on a part of the Common Property and to divide such buildings into sections and common property and to confer the right to exclusive use over parts of such common property upon the owner or owners of one or more of such sections.
- 16.3 The Purchaser acknowledges this clause to constitute proper notice as is required in terms of section 25(14) of the Sectional Titles Act and hereby consents to such extensions aforesaid being carried out.
- 16.4 In event of such right of extension being exercised by the Seller or its successors-in-title and due to changed circumstances making strict compliance with the Sectional Plan, Building Plans and other documentation and specifications as is referred to in section 25(2) of the Sectional Titles Act impracticable, then the Purchaser consents to such changes/amendments as may be necessitated due to such circumstances within the sole discretion of the Seller or its successors-in-title.
- 16.5 The Seller's contractors shall be entitled to all such access to completed phases, and sections and Common Property therein, as it may require in respect of the development of later phases, which rights of access shall include the rights to construct and lay pipelines, sewers, drains and the like and the Purchaser shall have no claim against the Seller in respect thereof, provided that the Seller shall exercise such rights so as not to cause any undue inconvenience to the Purchaser.
- 16.6 The Purchaser acknowledges that, although it is the intention of the Seller to complete the Scheme as soon as reasonably possible, the Scheme may be incomplete on the Transfer Date, and that the Purchaser may suffer inconvenience from noise, dust and other nuisance factors due to or arising from the completion of the Scheme. The Purchaser shall not be entitled by reason of any of the foregoing to cancel, rescind or otherwise withdraw from this Agreement, to claim a reduction in the Purchase Price, nor request a delay in the Transfer Date.

17. BODY CORPORATE

- 17.1 The Body Corporate of the Scheme has been established in terms of section 36 of the Sectional Titles Act and section 2 of the Sectional Titles Schemes Management Act.
- 17.2 The Body Corporate exercises the powers and perform the functions entrusted to it as set out in the Sectional Titles Act, the Retired Persons Act, the Sectional Titles Schemes Management Act and the Rules, and such ancillary functions, which may not be in conflict with the provisions of the said authorities, as may be necessary in pursuit of its objectives.
- 17.3 The Purchaser acknowledges that on transfer of the Property into its name, it will become a member of the Body Corporate and be obliged to comply with all the obligations imposed upon it by the Rules, the Sectional Titles Act, the Sectional Titles Schemes Management Act and the Retired Persons Act, and that its successors-in-title will be similarly bound.

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- 17.4 It is recorded that the ownership in the Common Property located within a particular phase will pass to the Body Corporate on extension of the Scheme to incorporate the phase. The Architect shall prepare a list of patent defects relating to this Common Property, which defects the Seller shall remedy within a reasonable period after registration of ownership of such Common Property in the Body Corporate's name. Such defects list for the first phase will be tabled at the inaugural general meeting of the Body Corporate.
- 17.5 The Purchaser acknowledges that the Rules provide that the Developer will have the right to elect the majority of the trustees of the Body Corporate throughout the Development Period.

18. RULES

- 18.1 The Purchaser acknowledges that at the time of opening the Sectional Title Register for the Scheme, the Developer substituted the Rules for the default management rules and conduct rules as prescribed by section 35 of the Sectional Title Act (now section 10 of the Sectional Titles Schemes Management Act). These Rules have been approved and endorsed by the Community Schemes Ombud.
- 18.2 The Purchaser acknowledges that rights of exclusive use of parts of the Common Property are allocated to the owners of certain sections to be used as gardens, yards or parking bays in terms of the Rules and section 27A of the Sectional Titles Act (now sections 10(7) and (8) of the Sectional Titles Schemes Management Act).
- 18.3 The Purchaser, as prospective owner and member of the Body Corporate:
- 18.3.1 hereby acknowledges and affirms that the Rules are the rules by which the Scheme will be managed and administered and which shall be binding upon all owners and members; and
- 18.3.2 hereby grants an exclusive and irrevocable power of attorney to the Seller to vote on its behalf at the inaugural general meeting of the Body Corporate for acceptance of the Rules (insofar as the inaugural meeting has not yet been held).
- 18.4 The provision of all Health Care Services will be subject to the standard terms and conditions of the Health Care Provider. The Health Care Provider and/or the Managing Agent shall be empowered make further rules as may be required for the orderly provisioning of the Health Care Services, and to change such from time to time when necessary. Such rules and terms and conditions will be binding on the Purchaser and/or the Nominated/Occupants in terms of the Rules. The Purchaser and/or the Nominated Occupants will not be allowed to make use of the services of third party employees, independent contractors or other service providers for any services if such are provided by the Health Care Provider or can be provided by the Health Care Provider at market-related, competitive rates.
- 18.5 The Purchaser acknowledges, agrees and accepts that during the Development Period, none of the Rules may be altered, deleted or added to without the Developer's written consent.

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19. MANAGING AGENT

- 19.1 The Management Rules provide that the trustees must appoint a managing agent for the Scheme to assist the trustees with the control, management and administration of the Scheme and to exercise such other powers and duties as may be entrusted to the managing agent, including the power to collect Levies.
- 19.2 The Seller is entitled to appoint the first managing agent with effect from the establishment of the Body Corporate, which appointment is valid and binding on the Body Corporate.
- 19.3 It is placed on record that the Seller has appointed Arun Property Management to function as managing agent for the Scheme. The Purchaser hereby gives the Seller the irrevocable power and authority to make this appointment, and authorizes the Seller to exercise all of the Purchaser's voting rights in this regard in order to give effect the appointment of Arun Property Management.

20. LEVIES

- 20.1 It is estimated that the initial Levies payable by the Purchaser to the Body Corporate will be equal to the amount set out in Item 10 of the Information Schedule.
- 20.2 As from the Transfer Date the Purchaser shall be liable to pay the Levy to the Body Corporate.
- 20.3 An estimate, for a period of **3 (THREE)** years in advance, of the total expenditure for the control, management and administration of the Scheme (including all common amenities and facilities contained therein) and for the provisioning and availability of the compulsory minimum Health Care Services is given in Annexure "D".
- 20.4 An estimate, for a period of **2 (TWO)** years in advance, of the Levy payable by the Purchaser (and every owner of a Unit in completed phases of the Scheme) is given in Item 10 of the Information Schedule.
- 20.5 ***In accordance with a determination made by the Developer in terms of section 32(4) of the erstwhile Sectional Titles Act (now section 11(2) of the Sectional Titles Schemes Management Act), certain components of the Levy will be based on the Floor Area (or participation quota) of the Section, and other components will be charged per Section, irrespective of the size of the Section. A breakdown of the levy components and the basis of their allocation is reflected in Annexure "E".***
- 20.6 The Purchaser (along with other members of the Body Corporate) shall be liable for the payment of the expenditure mentioned in clause 20.3 via the Levies raised and charged on it as owner of the Property, but the Purchaser shall, during the abovementioned **2 (TWO)** year period, not be liable for the payment of any such expenditure over and above such levy estimate given in clause 20.4 above. Until the completion of all the phases in the entire Scheme, the Seller will, in addition to the levies which it will be liable for as owner of sections in phases which have been completed, cover the income shortfalls to ensure that the expenses of the Body Corporate are covered.

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- 20.7 Optional extra Health Care Services will be offered to the Nominated Occupant(s), but the fees due for these optional extra services will not form part of the Levy and the Purchaser will be charged discretely by the Health Care Provider for the provisioning and rendering of such optional services to the Nominated Occupant(s) (although the fees may be included on the physical levy statement and collected by the Management Agent on behalf of the relevant Health Care Provider). The Purchaser is therefore advised to make contractual arrangements with his Nominated Occupant(s) to recoup such costs if necessary.
- 20.8 The compulsory minimum Health Care Services which are included in the Levy and some of the optional extra Health Care Services which are available for an additional fee are set out in Annexure "F". During the Development Period, and depending on demand and uptake, the Seller and/or the Managing Agent reserves the right to add to or substitute (provided such substitution offers a similar facility or service) any of the services listed in Annexure "F".
- 20.9 In the event that the Occupation Date is earlier than the Transfer Date, the Purchaser shall reimburse the Seller on demand for all Levies that the Seller may have paid on the Property between the Occupation Date and the Transfer Date.
- 20.10 In addition to the Levies, and to provide for levy stabilisation, an exit levy of **5% (FIVE PERCENT)** of the value of the Property (based on market value or sales price, whichever is higher) is payable to the Body Corporate by the Purchaser on alienation of the Property.

21. COMMISSION

The Purchaser warrants to the Seller that it was introduced to the Property by the Agent and that it has not been introduced to the Property by any other third-party estate agent or broker which may be said to have been the effective cause of this sale, and indemnifies the Seller against any and all claims in this regard. The Seller shall be liable for payment of commission in terms of a separate mandate agreement entered into between it and the Agent.

22. LOAN FINANCE

The following terms are applicable:

- 22.1 It is recorded that the finance suspensive condition mentioned in Item 13 of the Information Schedule (if applicable) has been inserted for the benefit of the Purchaser and may be waived at any time prior to the date for fulfilment thereof, by written notice of waiver, delivered to the Seller.
- 22.2 The Purchaser shall use its best efforts and endeavours to procure the fulfilment of the condition, and shall apply for such loan finance immediately after the Signature Date. If, despite such endeavours, the condition is not fulfilled (or waived) by or prior to the due date or by such extended date as the Parties hereto may agree in writing, then this Agreement shall fail to come into existence and be of no further force and/or effect. In such event, the *status quo ante* will be restored as far as possible and no Party will have any claim against the other in terms of this Agreement or arising from the failure of the condition, except where a Party deliberately frustrates the fulfilment of the condition.

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- 22.3 Prior to the fulfilment of the suspensive condition, should the Seller receive a clean and unconditional offer for the Property which is not subject to a mortgage bond suspensive condition, and which offer the Seller is inclined to accept, then the Purchaser will be:
- 22.3.1 given a copy of the offer and notified in writing of such fact, and
 - 22.3.2 the Purchaser shall have **72 (SEVENTY-TWO)** hours (excluding weekends and public holidays) from time of receipt of such written notice to waive the benefit of the suspensive condition, thereby binding the Purchaser unconditionally to this Agreement, failing which, this Agreement will lapse and be of no further force and/or effect.

23. ON-SALE OF PROPERTY

- 23.1 The Purchaser may not, without the prior written consent of the Seller, sell or alienate the Property prior to the Transfer Date or for a period of **3 (THREE)** years thereafter.
- 23.2 The Purchaser may at no stage, without the prior written consent of the Seller, sell or alienate a right of occupation over the Property.
- 23.3 Should the Purchaser wish to sell the Property:
- 23.3.1 the Seller shall enjoy a perpetual right of pre-emption (or right of first refusal) to repurchase the Property from the Purchaser (which right may be freely ceded or transferred to a third party without the consent of the Purchaser);
 - 23.3.2 it will be obliged to use Arun Property Management (or its nominee) as broker for the Property, subject to further terms and conditions as set out in the Management Rules; and
 - 23.3.3 it will be obliged to use a standard deed of sale as approved and endorsed by the Body Corporate from time to time.
- 23.4 The provisions of clauses 23.1, and sub-clauses 23.3.1 and 23.3.3 are not applicable in the instances of:
- 23.4.1 distressed sales and/or sales in execution where a mortgage bond holder legally attaches and sells the Property due to failure of the relevant owner to fulfil its obligations against the relevant mortgage bond holder; and/or
 - 23.4.2 assisted distressed sales where a mortgage bond holder assists an owner with the sale of a property in accordance with the requirements of the relevant mortgage bond holder's formal programmes to assist distressed customers to sell their properties in instances of failure of the relevant owner to fulfil its obligations against the relevant mortgage bond holder; and/or
 - 23.4.3 where a mortgage bond holder legally attaches a property due to failure of the relevant owner to fulfil its obligations against the relevant mortgage

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bond holder and took transfer of the said property and thereafter sold the said property.

- 23.5 In the situations mentioned in clauses 23.4.1, 23.4.2 and/or 23.4.3, the provisions of clause 23.3.2 will survive, save that Arun Property Management (or its nominee) will have a period of **30 (THRITY)** days to sell the Property, as from the date that Arun Property Management (or its nominee) is notified by the mortgage bond holder of its intention to foreclose, attach or assist the relevant owner (as the case may be), and subject to further terms and conditions as set out in the Management Rules.
- 23.6 Except for clause 23.1, the provisions mentioned in this clause 23 will endure in perpetuity, and are/will be described in greater detail in the Rules and/or form part of the conditions imposed by the Developer in terms of Section 11(3)(b) of the Sectional Titles Act and/or the individual Sectional Deeds of Title where appropriate.

24. DISCLOSURES AND PRIOR INFORMATION

- 24.1 The Purchaser's attention is drawn to the rights and remedies available to it in terms of sections 4(3), 8 and 9 of the Retired Persons' Act.
- 24.2 It is recorded that there has been compliance with the disclosures required in terms of section 4 of the Retired Persons' Act, which information is set out in Annexure "G".
- 24.3 The Parties acknowledge that the information referred to in regulation 5 to the Retired Persons' Act, including copies of the Site Development Plan, a complete set of the draft building plans for the Scheme, a blank copy of this standard Deed of Sale, the Management Agreement and a detailed projection of the estimated income and expenses in respect of the operation of the Scheme (including reasonable provision for future maintenance and repairs certified as adequate by the Developer and Managing Agent) were made readily available to the Purchaser for inspection at the office of the Agent.

25. BREACH

- 25.1 Subject to the Retired Persons' Act, should the Purchaser fail on the due date to pay the Occupational Interest or any other amount due by it in terms of this Contract, or fail to comply with any of its other obligations in terms of this Contract before or on the date stipulated therefore or breach this Contract in any other way and fail to remedy such breach or to comply with his obligations within **7 (SEVEN)** days after having received a written notice from the Seller to remedy such breach or to comply with such obligation(s), the Seller shall have the right at any time, without prejudice to any other powers or rights which it may have by law or by virtue of this Contract:
- 25.1.1 to sue for or obtain payment of the full amount of the Purchase Price and any other amounts outstanding as at the date of such breach, notwithstanding anything to the contrary herein contained and where the Purchaser has failed to pay Occupational Interest that has fallen due, to eject the Purchaser from the Section and the Exclusive Use Area(s) and to regain vacant occupation thereof; or
- 25.1.2 to cancel this Contract by giving the Purchaser written notice of such cancellation, and in that event:

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- 25.1.2.1 the Purchaser shall be obliged, if the Purchaser has already obtained possession of the Section and, where applicable, the Exclusive Use Area(s), to vacate the Section or the Exclusive Use Area(s) immediately and place the Seller in possession thereof; and
- 25.1.2.2 the Purchaser shall forfeit to the Seller the Deposit and any other amount or amounts which have already been paid by him to the Conveyancers or to the Seller as pre-determined liquidated damages; or
- 25.1.3 to claim damages from the Purchaser in which event the Seller shall be entitled to retain the Deposit and any amount or amounts already paid to it or to the Conveyancers, and to set them off against the Seller's damages in due course.
- 25.2 Where the Purchaser has forfeited the Deposit and other amounts in favour of the Seller or the Seller has become entitled to retain the Deposit and other amounts paid to the Conveyancers, the Conveyancers will be obliged to pay such amounts to the Seller on demand.
- 25.3 Upon cancellation of this Contract for any reason whatsoever, the Purchaser undertakes to vacate the Section and, where applicable, the Exclusive Use Area(s) forthwith, and to procure that the Section shall be vacated by any persons who occupy it through the Purchaser's title or by its permission. Possession and occupation shall be redelivered to the Seller in the same good order and condition as at the Occupation Date.
- 25.4 Should the Purchaser dispute the Seller's right to cancel this Contract, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by him in terms of this Contract on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Contract or any other rights of the Seller whatsoever. Failure to pay any of the aforesaid amounts will constitute a material breach of this Contract.
- 25.5 The Purchaser shall pay all legal and other costs, including costs on the attorney and own client scale, incurred by the Seller in successfully enforcing the provisions of this Contract or in acting against the Purchaser in terms of this clause 25. Similarly, the Seller will pay all legal and other costs incurred by the Purchaser in successfully enforcing the provisions of this Contract.
- 25.6 It is specifically recorded that should any breach by the Purchaser occur at a time critical to the registration procedure, the Seller shall be entitled to require the Purchaser to remedy such breach within a period of **24 (TWENTY-FOUR)** hours, and not within the seven days period provided for in Sub-Clause 25.1 above.

26. NOTICES

- 26.1 The Parties choose as their *domicilia citandi et executandi* their respective street addresses as set out in Items 1, 2 and 7 of the Information Schedule, and at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the Parties.

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- 26.2 Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing and addressed to the Party in alleged breach at the respective chosen *domicilium* addresses. No notice shall be effective if sent via telefax or e-mail.
- 26.3 At any time during the duration of this Agreement, any Party may by notice to any other Party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that Party to another physical street address where postal delivery occurs in the Republic of South Africa (provided same is not a *post restante* address), provided that the change shall become effective *vis-à-vis* that addressee on the 7th business day from the deemed receipt of the notice by the addressee.
- 26.4 Any notice to a Party-
- 26.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 7th (seventh) business day after posting (unless the contrary is proved);
- 26.4.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery.

27. GENERAL

- 27.1 This Contract constitutes the whole agreement between the Parties as to the subject matter hereof and neither of them shall be bound by any agreements, warranties, representations or undertakings whatsoever unless incorporated herein.
- 27.2 No addition to or variation, consensual cancellation or novation of this Agreement, including this clause 27.2, and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by the Parties or their duly authorised representatives.
- 27.3 No latitude, leniency, relaxation, extension of time or other indulgence which may be given or allowed by any Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this Agreement, and no single or partial exercise of any right by any Party under this Agreement, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver, novation of, abandonment of or otherwise affect any of the Party's rights in terms of or arising from this Agreement or estop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 27.4 Should any provision of this Agreement be held to be unenforceable, illegal or invalid for any reason whatsoever, such provision shall in the first instance be construed and interpreted to the minimum extent necessary so as to comply with the relevant legislation or law. Should such interpretation not be possible, then such provision shall be treated as *pro non scripto* and will be separate and severable from the remaining provisions of this Agreement which shall continue to be of full force and effect. In such event, this Agreement shall be carried out as nearly as possible according to its original terms and intent, and the Parties further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.

INITIAL HERE:

- 27.5 The Parties to this Agreement acknowledge that they are entitled, at their own cost, to obtain independent legal advice in relation to the contents of this Agreement and that it is in their sole discretion to either take such advice or dispense with the necessity of taking such advice.
- 27.6 The Parties acknowledge that the provisions contained in this Agreement are fair and reasonable and reflect their overall intention.

28. OFFER

- 28.1 This Agreement, once signed by the Purchaser shall constitute an irrevocable offer to purchase by the Purchaser, which shall remain open for acceptance by the Seller for a period of **20 (TWENTY)** days from date of signature by the Purchaser.
- 28.2 The Purchaser agrees that the offer will not automatically lapse in the event that the Seller has failed to accept same during the aforesaid **20 (TWENTY)** day period but shall only lapse when the Purchaser gives the Seller **3 (THREE)** days' written notice of its intention to withdraw the offer (which notice cannot be given prior to the expiry of the said 20-day period). Pending such written notice, the offer will remain open for acceptance by the Seller.
- 28.3 The Seller or the Conveyancers shall notify the Purchaser as soon as is reasonably possible of the Seller's acceptance of the offer.

29. SIGNATURE

- 29.1 This Agreement is signed by the Parties on the dates and at the places indicated opposite their respective names.
- 29.2 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.
- 29.3 The persons signing this Agreement in a representative capacity warrant their authority to do so.
- 29.4 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.
- 29.5 This Agreement shall be binding on and enforceable against the Parties' estates, heirs, executors, administrators, trustees, assigns or liquidators as fully and effectually as if they had signed this Agreement in the first instance.
- 29.6 Should this Agreement be signed by more than one Purchaser, then the Purchasers shall be jointly and severally liable to comply with all the obligations of the Purchaser as set out in this Agreement.

INITIAL HERE:

SIGNED AT _____ THIS ___ DAY OF _____ 20__

AS WITNESSES

PURCHASER 1

PURCHASER 2

SIGNED AT _____ THIS ___ DAY OF _____ 20__

AS WITNESSES

SELLER/DEVELOPER

SIGNED AT _____ THIS ___ DAY OF _____ 20__

AS WITNESSES

AGENT

INITIAL HERE: