

ANNEXURE "A"

CONDITIONS OF SALE

1 DEFINITIONS AND INTERPRETATION

For the purposes of the CONTRACT OF SALE and the CONDITIONS OF SALE, unless the context indicates to the contrary -

- 1.1 "ACT" means the Sectional Titles Act No. 95 of 1986 (as amended) and any regulations in force thereunder;
- 1.2 "ASSOCIATION" means the Parkside Umhlanga Ridge Management Association NPC (a non-profit company to be incorporated by Tongaat Hulett Developments (Pty) Ltd in terms of the Companies Act No. 71 of 2008);
- 1.3 "CPA" means the Consumer Protection Act No. 68 of 2008;
- 1.4 "ARCHITECT" means the architect nominated by the SELLER in terms of paragraph 1.14 of the CONTRACT;
- 1.5 "MEMORANDUM" means the Memorandum of Incorporation of the ASSOCIATION;
- 1.6 "BODY CORPORATE" means the future Body Corporate of the SCHEME as contemplated in the ACT;
- 1.7 "this CONTRACT" means the CONTRACT OF SALE and all **Annexures** thereto;
- 1.8 "CONTRACT OF SALE" means the contract of sale to which these conditions of sale are **Annexure "A"**;
- 1.9 "CONDITIONS OF SALE" means these conditions of sale;
- 1.10 "CONVEYANCERS" means Garlicke & Bousfield Incorporated, 7 Torsvale Crescent, La Lucia, 4051;
- 1.11 "DATE OF POSSESSION" means the date specified in 1.13 of the CONTRACT OF SALE subject to the provisions of paragraph 4 of the CONDITIONS OF SALE;
- 1.12 "DATE OF SIGNATURE" means the date of signature hereof by the last signing of the SELLER or the PURCHASER;
- 1.13 "DATE OF TRANSFER" means the date of registration of transfer of the PROPERTY into the name of the PURCHASER in the Deeds Registry in Pietermaritzburg;
- 1.14 "JURISTIC PERSON" means a partnership, association, trust, body corporate, company, close corporation or other legal or juristic person;

- 1.15 "PARENT PROPERTY" means the proposed consolidation of proposed Portion 276 of Erf 2426 Umhlanga Rocks in extent approximately 5400 square metres and Portion 277 of Erf 2426 Umhlanga Rocks, in extent 3628 square metres, as will more fully appear from the SITE PLAN;
- 1.16 "PLAN" means the plan of the SECTION, being **Annexure "D"** hereto and the Schedule of Finishes in respect of SECTION, being **Annexure "E"** hereto;
- 1.17 "PURCHASER" means the purchaser in terms of this CONTRACT designated as such in the introductory section of the CONTRACT OF SALE;
- 1.18 "PROPERTY" means the unit to be established in terms of the ACT, consisting of:
- 1.18.1 the SECTION and
- 1.18.2 an undivided share in the common property in the SCHEME apportioned to the SECTION in accordance with the participation quota specified on the PLAN;
- 1.19 "RULES" means the rules of the BODY CORPORATE and the ASSOCIATION;
- 1.20 "SECTION" means the proposed section in the SCHEME, referred to in paragraph 1.1 of the CONTRACT OF SALE, which section is shown on the PLAN;
- 1.21 "SCHEME" means the sectional title scheme to be known as "**SEASON'S COURT**" comprising the PARENT PROPERTY and all buildings constructed and to be constructed thereon;
- 1.22 "SEASON'S LANE" means Portion 259 (of 243) of Erf 2426 Umhlanga Rocks in extent approximately 2499 square metres, the boundaries of which are shown on the SITE PLAN;
- 1.23 "SEASON'S PARK" means the sectional title scheme, the SELLER proposes laying out on Portion 275 of 2426 Umhlanga Rocks, in extent approximately 6727 square metres, the proposed boundaries of which portion are shown on the SITE PLAN;
- 1.24 "SELLER" means Trapezoid Investments (Pty) Ltd, Registration No. 2003/023826/07, its successors in title or assigns;
- 1.25 "SITE PLAN" means the plan which is **Annexure "C"** hereto;
- 1.26 words importing a gender shall include all genders and the singular shall include the plural and vice versa;
- 1.27 words or expressions defined in the ACT shall have the same meanings in this CONTRACT;
- 1.28 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate;

- 1.29 if the PURCHASER consists of more than one person, such persons shall be jointly and severally liable in solidum for all their obligations in terms of this CONTRACT;
- 1.30 no indulgence or relaxation which the SELLER may allow to the PURCHASER in regard to the carrying out of the PURCHASER'S obligations in terms of or pursuant to this CONTRACT shall prejudice the SELLER'S rights under this CONTRACT in any manner whatsoever, or be regarded as a waiver of the SELLER'S rights in terms of this CONTRACT, or be construed to act as an estoppel against the SELLER to otherwise strictly enforce compliance of the PURCHASER'S obligations in terms of this CONTRACT;
- 1.31 if there is any conflict between the provisions or the information in the CONTRACT and the plans and schedules which constitute an **annexure** to the CONTRACT OF SALE, the provisions of the CONTRACT OF SALE shall prevail and be regarded as correct and binding;
- 1.32 any reference to a natural person shall include the legal person and/or an association of persons and vice versa;
- 1.33 where an expression has been defined, and such definition contains a provision conferring rights or imposing obligations on any party, effect shall be given to the provision as if it was a substantive provision contained in the body of this CONTRACT;
- 1.34 if a number is reflected in numerals and words, the words shall prevail in the event of any conflict between the two; and
- 1.35 where a number of days are prescribed, they shall consist of all days (i.e. including Saturday, Sunday and Public Holidays) and shall exclude the first day and include the last day.
- 1.36 in interpreting this CONTRACT, no provision shall be construed in a limiting fashion or in accordance with the Eiusdem Generis Rule (i.e. whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" in specific examples, such examples must not be construed as to limit the general ambit of the provision concerned.).
- *1.37 the provisions of this CONTRACT, shall be read in conjunction with the provisions of the CPA, and insofar as the provisions of this CONTRACT are inconsistent with the provisions of the CPA, the provisions of the CPA shall prevail;
- 1.38 reference to a natural person shall include a JURISTIC PERSON and vice versa;
- 1.39 any reference to any statute, legislation or regulations shall be deemed to include any lawful amendments thereto or re-enactments thereof;
- 1.40 this CONTRACT shall be governed by and construed according to the Laws of the Republic of South Africa;

- 1.41 the expiration or termination of this CONTRACT shall not affect those provisions of this CONTRACT which expressly provide that they will operate after any such expiration or termination or, which out of necessity must continue to have effect after such expiration, notwithstanding the fact that the paragraphs do not expressly provide this;
- 1.42 to the extent that the CONTRACT is signed on a date which results in the use of any tense being inappropriate, the CONTRACT shall be read in the appropriate tense;
- 1.43 a fully executed facsimile copy of this CONTRACT shall be accepted as an original and this CONTRACT may be signed in counterparts and will be effective as such, each of which will be deemed an original and all of which together shall constitute one and the same CONTRACT as at the date of signature of the party last signing one of the counterparts;
- 1.44 this CONTRACT shall be binding on and enforceable by the administrators, trustees, successors in title, successors in office, assigns or liquidators of the parties as fully and effectually as if they had signed this CONTRACT in the first instance and reference to any party shall be deemed to include such party's administrators, trustees, successors in title, successors in office, assigns or liquidators, as the case may be;
- 1.45 this CONTRACT incorporates the annexures (if any), which annexures shall have the same force and effect as the provisions set out in the body of this CONTRACT. The various documents forming part of this CONTRACT are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the CONTRACT will prevail.

**Delete if paragraph 6 of the CONTRACT OF SALE is applicable*

***2 LOAN FROM FINANCIAL INSTITUTION**

- 2.1 This CONTRACT is subject to and conditional upon the PURCHASER obtaining a loan in principle from a South African commercial bank for the amount stated in 1.10 of the CONTRACT OF SALE and the SELLER receiving a copy of the written approval of such loan by the aforesaid commercial bank, both by no later than the date stated in 1.10 of the CONTRACT OF SALE. Should the aforesaid loan not be granted by the date stated in 1.10 of the CONTRACT OF SALE or should the SELLER not receive a copy of the written approval by the aforesaid commercial bank of such loan by the date stated in 1.10 of the CONTRACT, then in that event, this CONTRACT shall lapse and be of no further force and effect between the parties. In the event of the CONTRACT lapsing as contemplated above, the SELLER shall forthwith repay or procure the repayment of all amounts paid by the PURCHASER in respect of the purchase consideration of the PROPERTY. It is recorded that this clause has been inserted for the benefit of both the SELLER and the PURCHASER.
- 2.2 The PURCHASER shall be obliged to make an application for the aforesaid loan through the bond originator, Ooba. It is recorded, however, that the PURCHASER shall not be limited to Ooba, in making such application for the loan, and may make other applications if it so requires.
- 2.3 In order to expedite the transfer of the PROPERTY to the PURCHASER, it is the intention of the SELLER and the PURCHASER that the CONVEYANCERS be appointed by the bank, granting the loan referred to in paragraph 2.1, to attend to the registration of the mortgage bond over the PROPERTY in favour of the aforesaid bank, on the

DATE OF TRANSFER. The PURCHASER undertakes to utilize its best endeavours to prevail upon the aforesaid bank to appoint the CONVEYANCERS in this regard.

- 2.4 It is specifically recorded that it is not a condition of this CONTRACT that the PURCHASER shall be required to sign a letter of satisfaction in respect of the SECTION, once same is completed, before transfer of the PROPERTY into the PURCHASER'S name. Should the transfer of the PROPERTY be delayed due to the PURCHASER'S refusal to sign a letter of satisfaction (or such similar document) which the bank referred to in paragraph 2.1, may require to be signed prior to the DATE OF TRANSFER, then in that event, the PURCHASER shall be deemed to be delaying the DATE OF TRANSFER which will entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 19 of the CONDITIONS OF SALE and, in addition, the PURCHASER shall be deemed to be in breach of the conditions of this CONTRACT entitling the SELLER to, inter alia, cancel the CONTRACT should the PURCHASER not rectify such breach within 7 (SEVEN) days of receipt of the notice contemplated in paragraph 11.1 of the CONDITIONS OF SALE.

** Delete if not applicable*

3. COMPLETION OF THE SECTION

- 3.1 The SELLER hereby undertakes to procure that the SECTION is erected substantially in accordance with the PLAN and is sufficiently complete for beneficial occupation, by the DATE OF POSSESSION, provided the PURCHASER has paid or duly secured the Total Consideration referred to in 1.9 of the CONTRACT OF SALE (as contemplated in paragraph 3 of the CONTRACT OF SALE).
- 3.2 The PURCHASER shall not give any instructions of any nature to the ARCHITECT, contractor or sub-contractor(s). Should the SELLER agree to any deviation from the PLAN, such deviation shall be reduced to writing and any amounts payable in terms of such deviation shall be payable by the PURCHASER to the SELLER on demand.
- 3.3 The PURCHASER shall, within 30 (THIRTY) days of the DATE OF POSSESSION, deliver to the SELLER a list, signed by himself, enumerating any defects in the SECTION where same are due to defective materials or workmanship, and the SELLER shall procure that such defects are made good as expeditiously as possible in the circumstances. Once such defects have been made good to the satisfaction of the ARCHITECT (acting as an expert and not an arbitrator and whose decision shall be final and binding on the parties), the PURCHASER shall have no further claim against the SELLER, save as otherwise provided for herein.
- 3.4 Save as provided in this CONTRACT and in the CPA to the contrary, the PURCHASER purchases the PROPERTY voetstoots and shall have no claim against the SELLER in respect of any defects whether latent or patent in the PROPERTY or the common property of the SCHEME.
- 3.5 If there is any dispute between the PURCHASER and the SELLER as to whether the SECTION has been constructed substantially in accordance with the PLAN and/or has been erected in substantially the position as reflected in the SITE PLAN and/or is sufficiently complete for beneficial occupation and/or whether there are any defects in the SECTION due to defective materials or workmanship, then such dispute shall be referred to the

ARCHITECT (acting as an expert and not as an arbitrator) whose decision shall be final and binding upon the parties.

- 3.6 The PURCHASER acknowledges that after the completion of the SECTION, the SELLER and/or its agents, contractors and workmen may be engaged in erecting other dwellings, driveways and other structures on the PARENT PROPERTY and the PURCHASER agrees that the SELLER and/or its agents, contractors and workmen shall at all times have reasonable access to the PARENT PROPERTY for the purposes of carrying out such work as may be necessary to enable the SELLER to procure the erection and layout of the aforementioned dwellings, driveways and other structures. The PURCHASER shall have no claim whatever against the SELLER by reason of any inconvenience or interference with the PURCHASER'S rights arising hereout and the PURCHASER shall not, in any way whatsoever, interfere with the performance of the aforesaid work.
- 3.7 The SELLER warrants that the PROPERTY will be enrolled with the National Home Builders Registration Council as contemplated in the Housing Consumer Protection Measures Act, No. 95 of 1998.
- 3.8 As is required in terms of Section 13(2)(a) of the aforesaid Act 95 of 1998, the SELLER warrants that:
- 3.8.1 the SECTION shall be constructed in a proper and workmanlike manner;
- 3.8.2 the SECTION will be fit for habitation on the DATE OF POSSESSION;
- 3.8.3 the SECTION shall be constructed in accordance with:
- 3.8.3.1 the National Home Builders Registration Council Technical Requirements to the extent applicable to the SECTION at the date of enrolment of such SECTION with the National Home Builders Registration Council; and
- 3.8.3.2 the terms, plans and specifications referred to in this CONTRACT;
- 3.9 As provided for in Section 13(2)(b) of the aforesaid Act 95 of 1998, the SELLER undertakes to:
- 3.9.1 rectify any major structural defects in the SECTION caused by non-compliance with the National Home Builders Registration Council's Technical Requirements which occur within a period of five (5) years from the DATE OF POSSESSION and of which the SELLER is notified of by the PURCHASER within that period;
- 3.9.2 rectify non-compliance with or deviation from the terms, plans and specifications referred to in this CONTRACT or any deficiency related to design, workmanship or material, of which the SELLER is notified by the PURCHASER of within a period of three (3) months from the DATE OF POSSESSION;
- 3.9.3 repair roof leaks attributable to workmanship, design or materials occurring and of which the SELLER is notified by the PURCHASER of within a period of twelve (12) months from the DATE OF POSSESSION.
- 3.10 In no way detracting from the generality of any other provision in this CONTRACT, it is recorded that the SELLER may, at the SELLER's discretion, elect not to install any item on the schedule of finishes (which forms part of the

PLAN), provided that the SELLER installs a similar item of similar quality in its place. In the event of there being any dispute as to whether the item installed by the SELLER is of a similar quality, the certificate by the ARCHITECT (acting as an expert and an arbitrator) certifying that such item is of a similar quality, shall be final and binding on the parties.

3.11 Again, in no way detracting from the SELLER'S rights in terms of this CONTRACT or at law, is specifically recorded that the PURCHASER shall not be entitled to delay or refuse to comply with his obligations in terms of this CONTRACT (including, but in no way limited to the payment of the deposit and the furnishing of the guarantees referred to in paragraph 3 of the CONTRACT OF SALE), if it disputes that the PROPERTY is sufficiently complete for beneficial occupation or should it believe that the SELLER has not complied with his obligations in terms of paragraph 3.3 of the CONDITIONS OF SALE.

3.12 Notwithstanding anything contained herein or elsewhere, under no circumstances whatsoever, shall the SELLER be liable to make good any damage to any unit or the common property of the SCHEME caused by the PURCHASER or the PURCHASER'S employees, contractors, agents, representatives or any other person who comes upon the SCHEME by virtue of the PURCHASER'S rights thereto. Further, the PURCHASER shall be liable for the costs of repairing any damage caused to the common property or any unit in the SCHEME by the PURCHASER, its contractors, agents, representatives, employees or other persons who come upon the SCHEME by virtue of the PURCHASER'S rights thereto.

3.13 Notwithstanding anything contained herein or elsewhere, and in no way detracting from the generality of any other provision of this CONTRACT, it is specifically recorded that the SELLER shall not be liable for the rectification of any defects or faults in the SECTION caused by surface water, storm water or rain water, normal settlement or cracking resulting from normal settlement, normal shrinkage, thermo cracking, geological disturbances, or normal wear and tear from use or neglect by the PURCHASER.

3.14 It is recorded that the SECTION is a "special order good" as contemplated and defined in the CPA, in that the detailed design and specifications of the SECTION (as set out in Annexure "D" and "E" hereto) have been formulated and altered to meet the PURCHASER'S requirements.

4 OCCUPATION DATE

4.1 The SELLER hereby undertakes to use its best endeavours to give to the PURCHASER beneficial occupation of the SECTION by the date stipulated in 1.13 of the CONTRACT OF SALE, provided the PURCHASER has secured the Total Consideration referred to in 1.6 of the CONTRACT OF SALE (as contemplated in paragraph 3 of the CONTRACT OF SALE).

4.2 If, however, the SELLER is of the opinion that, for whatever reason, the SECTION will not be sufficiently complete for beneficial occupation by the date specified in 1.13 of the CONTRACT OF SALE, then -

4.2.1 the SELLER shall notify the PURCHASER of such fact at least 60 (SIXTY) days before such date. In such event the PURCHASER shall accept possession, occupation and use of the SECTION on the date the SELLER notifies him in writing that the SECTION will be sufficiently complete for beneficial occupation, and such subsequent date shall

(subject to the provisions of paragraph 4.5 below) be deemed for all purposes to be the DATE OF POSSESSION;
and

- 4.2.2 if the SECTION is not sufficiently complete for beneficial occupation within 6 (SIX) calendar months after the date specified in 1.13 of the CONTRACT OF SALE, the PURCHASER shall have the right on notice to the SELLER to rescind from this CONTRACT. In such event the PURCHASER shall be entitled to receive a refund of an amount equal to the aggregate of all payments made by the PURCHASER in respect of the Total Consideration referred to in 1.6 of the CONTRACT OF SALE and the PURCHASER shall have no claim of whatsoever nature or howsoever arising against the SELLER for failing for any reason to give possession, occupation and use of the SECTION to the PURCHASER on or before the DATE OF POSSESSION.
- 4.3 The SELLER shall be entitled to anticipate the DATE OF POSSESSION on 30 (THIRTY) days written notice to the PURCHASER provided that such anticipated date shall not be more than 120 (ONE HUNDRED AND TWENTY) days earlier than the date stated in 1.13 of the CONTRACT OF SALE. Should the SELLER bring the date of possession forward by giving the PURCHASER the written notice as aforesaid, such date shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT (subject to the provisions of paragraph 4.5 below).
- 4.4 In the event of any dispute as to when or whether the SECTION is sufficiently complete for beneficial occupation, a certificate by the ARCHITECT (acting as an expert and not an arbitrator) certifying that the SECTION is sufficiently complete for beneficial occupation, shall be final and binding upon the parties.
- 4.5 Notwithstanding anything contained herein, the PURCHASER shall not be entitled to occupation of the SECTION until such time as the Total Consideration, referred to in paragraph 1.9 of the CONTRACT OF SALE, has been secured in full, as contemplated in paragraph 3 of the CONTRACT OF SALE. Should the SECTION be sufficiently complete for beneficial occupation but the amount referred to in 1.6 not have been secured in full, then in that event (without prejudice to the SELLER's rights to claim specific performance or to any other rights the SELLER may have in terms of this CONTRACT or at law) possession and occupation of the SECTION shall only be given to the PURCHASER once such amount has been secured and the date of securement shall be regarded as the DATE OF POSSESSION for the purposes of this CONTRACT.

5 RIGHTS AND OBLIGATIONS IN RESPECT OF OCCUPATION

- 5.1 The PURCHASER acknowledges that, on the DATE OF POSSESSION, the SCHEME may be incomplete and that he and every person claiming occupation and use through him may suffer inconvenience from building operations and from noise and dust resulting therefrom and the PURCHASER shall have no claim whatsoever against the SELLER, or the ASSOCIATION by reason of any such inconvenience.
- 5.2 From the DATE OF POSSESSION the PURCHASER –
- 5.2.1 shall be entitled to beneficial occupation of the SECTION and the SECTION shall be used only for residential purposes subject to compliance with the RULES, and for no other purpose whatsoever;
- 5.2.2 shall, at his own expense, maintain the interior of the SECTION in a good, clean and thoroughly tenantable and attractive condition, and where necessary repair or refurbish any damaged item and replace any lost item;

- 5.2.3 shall, at his own expense, maintain in a good working order and condition all electrical, plumbing and sewerage installations and appurtenances of whatever nature, serving the SECTION;
- 5.2.4 shall be entitled to the use and enjoyment, along with occupiers of other sections in the SCHEME, of those parts of the common property of the SCHEME not subject to rights of exclusive use, subject to the RULES. In using the common property of the SCHEME, the PURCHASER shall do so in such a manner so as to not interfere unduly or unreasonably with the lawful rights of the use and enjoyment thereof by other occupiers of the sections in the SCHEME or other persons lawfully upon the SCHEME. The PURCHASER shall procure that all other occupants of the SECTION comply with the provisions of this CONTRACT;
- 5.2.5 shall at all times comply with the provisions of the ACT and the RULES;
- 5.2.6 waives all claims against the SELLER and the ASSOCIATION for any loss or damage to property or any injury to person which the PURCHASER may sustain in or about the PARENT PROPERTY, and indemnifies the SELLER and the ASSOCIATION against any claim that may be made against the SELLER or the ASSOCIATION by an employee of the PURCHASER'S or any tenant, nominee, invitee or any other person who occupies the PROPERTY or goes upon the PARENT PROPERTY by virtue of the PURCHASER'S rights thereto, for any loss or damage to property or injury to person suffered in or about the PARENT PROPERTY howsoever such loss or damage to property or injury to person may be caused (save for any loss or damage to property or injury to person caused by the intentional or grossly negligent acts of the SELLER or the ASSOCIATION);
- 5.2.7 shall not, without the prior written consent of the SELLER and the ASSOCIATION make or cause or allow to be made any change or improvements to the SECTION or remove or demolish any improvements whatever. If any such changes or improvements are made, with or without the prior written consent of the SELLER and the ASSOCIATION then, without prejudice to any rights the SELLER or the ASSOCIATION may have in terms of the CONTRACT or at law, the PURCHASER shall not have any claim against the SELLER or the ASSOCIATION in respect of any expenditure upon or improvements to the SECTION;
- 5.2.8 shall be liable for the payment of all services provided to the SECTION and any deposits and fees payable in connection with the supply of such services. In no way detracting from the generality of the aforesaid, it is specifically recorded that it shall be incumbent upon the PURCHASER, at the PURCHASER'S cost, to make application for the connection of water, electricity and telephone services to the SECTION and
- 5.2.9 shall be liable for the payment of rates and all other outgoings arising from the PROPERTY.
- 5.3 All the benefit of and risk in and to the PROPERTY shall pass to the PURCHASER on the DATE OF POSSESSION.
- 5.4 The SELLER either personally or through their servants or agents shall be entitled at all reasonable times to have access to the SECTION and the common property of the SCHEME for the purpose of inspection or to carry out any maintenance or repairs whether relative to the SECTION or not, and the PURCHASER shall have no claim against the SELLER for any disturbance in his occupation arising out of the exercise of the rights hereby conferred.

- 5.5 The PURCHASER shall not use the SECTION or permit it to be used in such manner or for such purposes as shall cause a nuisance to any occupier of any section in the SCHEME or interfere with the amenities of the SCHEME or so as to breach the RULES or any law, ordinance or by-law or provision of the Town Planning Scheme in force in relation to the SCHEME.
- 5.6 The maximum number of persons that shall be entitled to occupy the PROPERTY shall be determined by multiplying the number of bedrooms in the SECTION by two.
- 5.7 The SECTION may only be used for the purposes specified in paragraph 1.16 of the CONTRACT.
- 5.8 From DATE OF POSSESSION until the DATE OF TRANSFER (both days inclusive), the PURCHASER shall pay to the SELLER monthly occupational interest on the entire purchase price (referred to in 1.9 of the CONTRACT OF SALE) at a rate equal to the prime overdraft rate charged by Nedbank Limited from time to time. Such occupational interest shall be payable monthly in advance by the first day of each and every month and shall be calculated using the aforesaid prime overdraft rate on the first day of such month. Occupation interest shall be adjusted pro rata for any period of less than 1 month, the final adjustment to be made on the DATE OF TRANSFER.
- 5.9 The PURCHASER shall, as owner of the PROPERTY, have exclusive use of the areas of the common property of the SCHEME referred to in paragraphs 1.3 and 1.4 of the CONTRACT OF SALE, the position of which areas shall be demarcated by the SELLER, in the SELLER'S sole and absolute discretion, and surveyed by the SELLER'S appointed surveyor, at the SELLER'S cost. The PURCHASER shall only be entitled to utilize such areas for the purposes specified by the SELLER, subject to the provisions of the RULES and the ACT. The PURCHASER shall be responsible for the cost of maintaining the aforesaid exclusive use area(s) as contemplated in the ACT. The aforesaid exclusive use areas shall be ceded to the PURCHASER, on the DATE OF TRANSFER, by the CONVEYANCERS, at the PURCHASER'S cost. The PURCHASER undertakes to sign all documentation required by the CONVEYANCERS with regard to the aforesaid cession of the exclusive use areas, within 7 (SEVEN) days of being called upon to do so by the CONVEYANCERS.
- 5.10 The PURCHASER shall be entitled to inspect the SECTION, prior to the DATE OF POSSESSION, at such times and on such dates as may be agreed to by the SELLER (whose agreement shall not be unreasonably withheld), the PURCHASER acknowledging that its visits to the site in this regard need to be limited and regulated due to the fact that the PARENT PROPERTY is partially a construction site (and thus poses a hazard to visitors) and further, as the presence of parties not connected with the construction of the SCHEME may hinder the progress of same. The PURCHASER waives all claims against the SELLER for any loss or damage to property or injury to person which the PURCHASER may sustain in or about the PARENT PROPERTY and indemnifies the SELLER against any claim that may be made against the SELLER by any employee of the PURCHASER or any tenant, nominee, invitee or other person who goes upon the PARENT PROPERTY by virtue of the PURCHASER'S rights in terms of this clause, for any loss or damage to property or injury may be caused (save for any damage to property or injury to person caused by the intentional or grossly negligent act of the SELLER).

6 LEVY AND OTHER CHARGES

- 6.1 The PURCHASER accepts liability with effect from the DATE OF POSSESSION for payment of a monthly levy to the BODY CORPORATE (and prior to the BODY CORPORATE's formation, to the SELLER) in respect of those items listed in the ACT.
- 6.2 The amount stated in 1.11 of the CONTRACT OF SALE is an estimation of the monthly levy payable by the PURCHASER, made in good faith by the SELLER and the SELLER shall not be responsible for any inaccuracy in this estimation.
- 6.3 The PURCHASER agrees that he shall have no right to reclaim from the BODY CORPORATE any amount paid by way of a monthly levy or special levy, save as provided herein.
- 6.4 Notwithstanding anything contained herein or elsewhere, in the event of the SELLER delaying the DATE OF POSSESSION due to the PURCHASER not having secured the Total Consideration (as contemplated in paragraph 4.5 of the CONDITIONS OF SALE), then in that event, the PURCHASER shall be responsible for payment of the aforesaid levy from the date that the ARCHITECT certifies that the SECTION is sufficiently complete for beneficial occupation (as contemplated in paragraph 4.4 of the CONDITIONS OF SALE).

7 TRANSFER

- 7.1 The PURCHASER acknowledges that it is not possible for the SELLER to give transfer of the PROPERTY to the PURCHASER until such time as the Sectional Title Register of the SCHEME is opened in terms of the ACT. Accordingly the SELLER undertakes, in a reasonable time and at its own expense, to take such steps as may be reasonably necessary to procure the opening of the said Sectional Title Register.
- 7.2 Notwithstanding anything to the contrary herein contained, this CONTRACT in its entirety is subject to the said Sectional Title Register being opened by no later than **1 August 2014**. If the said Sectional Title Register is not opened by such date, then failing any agreement to the contrary arrived at between the parties and recorded in writing, the PURCHASER shall have the right, on notice to the SELLER, to resile from this CONTRACT provided that such notice is delivered to the SELLER by 7 August 2014, and in such event:
- 7.2.1 the PURCHASER shall be entitled to be refunded all monies paid on account of the purchase price;
- 7.2.2 save as herein provided, neither party shall have in such event any further claims whatsoever against the other, nor shall the PURCHASER be entitled to claim or allege any right of occupation or tenancy of the PROPERTY and
- 7.2.3 the PURCHASER and every person claiming occupation through the PURCHASER shall vacate the SECTION on a date stated in such notice to the SELLER provided that such date shall not be later than 30 (THIRTY) days from the date of the notice, and the PURCHASER shall re-deliver the SECTION to the SELLER in the same good order and condition as at the DATE OF POSSESSION, fair wear and tear excepted.
- 7.3 The PURCHASER shall, within 7 (SEVEN) days of being called upon to do so by the CONVEYANCERS –

- 7.3.1 pay to the CONVEYANCERS all costs of and incidental to the passing of transfer of the PROPERTY to the PURCHASER, including bond costs, bank charges and all conveyancing fees and disbursements and
- 7.3.2 furnish all such information, sign all such documents and pay all such amounts that may be necessary or required to enable the CONVEYANCERS to pass transfer of the PROPERTY.
- 7.4 The CONVEYANCERS shall pass transfer of the PROPERTY to the PURCHASER as soon as is reasonably practicable in the circumstances, provided the PURCHASER has complied with all his obligations under this CONTRACT.
- 7.5 No liability of any nature whatsoever shall attach to the SELLER arising out of any delays in effecting transfer of the PROPERTY to the PURCHASER.
- 7.6 The PURCHASER shall be obliged to accept ownership of the PROPERTY subject to –
- 7.6.1 the conditions, reservations and servitudes which affect the PARENT PROPERTY;
- 7.6.2 such conditions of sectional title as are imposed by the SELLER, the local authority and the Minister of Local Government (KwaZulu-Natal);
- 7.6.3 any change in the number of the SECTION or any change in the name of the SCHEME (it being recorded that the current proposed name of the SCHEME is "SEASON'S COURT");
- 7.6.4 a condition registered against the title deed to the PROPERTY to the effect that the PROPERTY or any portion thereof or interest therein shall not be alienated, leased or transferred without the written consent of the ASSOCIATION first being had and obtained (it being recorded that the ASSOCIATION shall be entitled, at its absolute discretion, to refuse its written consent until such time as the provisions of its Memorandum of Incorporation and the RULES are complied with and no party to this CONTRACT OF SALE shall have any claim for damages arising out of the ASSOCIATION'S refusal to give such written consent);
- 7.6.5 a condition registered against the title deeds to the PROPERTY to the effect that the PROPERTY shall not be used for any purpose whatsoever save for the purposes referred to in paragraph 1.16 of the CONTRACT.
- 7.7 It is recorded that in order to effect transfer of the PROPERTY, the CONVEYANCERS shall be required to lodge, inter alia, a Transfer Duty exemption certificate, issued by the South African Revenue Services (hereinafter in this paragraph 7.7 referred to as "SARS") with the Deeds Registry. It is further recorded that SARS have adopted a policy of not issuing the aforesaid certificate in the event of any party to the transaction in question being in arrears with the payment of any amounts SARS believes is due to it or otherwise not being in compliance with Tax Laws. Should SARS refuse to issue a Transfer Duty exemption certificate in respect of the sale of the PROPERTY, in terms of this CONTRACT, due to the fact that the PURCHASER is in arrears with any payments to SARS or has otherwise not complied with any Tax Laws, then in that event, the PURCHASER shall be deemed to be in breach of this CONTRACT OF SALE and the SELLER shall be entitled to cancel this CONTRACT should the PURCHASER not rectify such breach within 7 (SEVEN) days of receipt of a notice from the SELLER calling upon him to remedy such breach (as contemplated in paragraph 12.1 of the CONDITIONS OF SALE). Further, should there be any delay in

the issue of the aforesaid Transfer Duty exemption certificate by SARS for either of the aforesaid reasons, then in that event, the PURCHASER shall be deemed to be delaying the registration of transfer which shall entitle the SELLER to claim mora interest from the PURCHASER as contemplated in paragraph 21 of the CONDITIONS OF SALE.

7.8 The PURCHASER acknowledges that:

7.8.1 the documentation necessary to effect transfer of the PROPERTY to the PURCHASER may be lodged with the Deeds Registry as part of a set including the transfer of other units in the SCHEME and that no documentation in the set, including the documentation relating to the transfer of the PROPERTY, can be withdrawn from the Deeds Registry without the entire set being withdrawn;

7.8.2 if it becomes necessary to withdraw the aforesaid set from the Deeds Registry, due to the fact that the PURCHASER has not complied with all its obligations under this CONTRACT, the SELLER shall suffer damages including, but in no way limited to the loss of interest that would have accrued to the SELLER on the purchase price of the properties in the set, from the date of the withdrawal of the set until the date of its re-lodgement and registration;

7.8.3 the SELLER shall be entitled to recover from the PURCHASER all damages the SELLER may have suffered (including the aforesaid interest) as a result of the aforesaid set having to be withdrawn and all transfers in the set having been delayed by virtue of the PURCHASER's failure to comply with the provisions of this CONTRACT.

8 SPECIAL CONDITIONS : THE ASSOCIATION AND TONGAAT HULETT DEVELOPMENTS (PTY) LTD

8.1 The PURCHASER shall enter into the agreement, attached hereto marked Annexure "R3," with the ASSOCIATION and the addendum attached hereto marked Annexure "R2" with Tongaat Hulett Developments (Pty) Ltd;

8.2 Both the SELLER and the PURCHASER acknowledge that the provisions of Annexures "R2" and "R3" hereto, which are for the benefit of, and enforceable by, the ASSOCIATION and Tongaat Hulett Developments (Pty) Ltd, constitute material terms of this CONTRACT.

9. PURCHASER'S ACKNOWLEDGMENTS

9.1 The PURCHASER acknowledges that it understands the English language and considers itself fluent therein.

9.2 It is recorded that, although the PURCHASER has been shown other units in the SCHEME, which have certain characteristics in common with the SECTION, the PURCHASER did not enter into this CONTRACT solely on the basis of any other completed unit in the SCHEME that may have been shown to the PURCHASER prior to the DATE OF SIGNATURE and further, the PURCHASER acknowledges that the SECTION is to be built substantially in accordance with the PLAN and therefore may differ materially from the other already completed units in the SCHEME.

- 9.3 The PURCHASER acknowledges that it has had an opportunity to carefully read and consider the provisions of this CONTRACT and that it has been free to secure independent legal advice in respect of the provisions of same. In addition, the PURCHASER acknowledges that the SELLER undertook that the SELLER or the CONVEYANCERS, would explain any provisions of the CONTRACT which the PURCHASER may not have understood fully and, to the extent that the PURCHASER made the SELLER aware of any provisions of this CONTRACT it did not understand, such provisions were fully explained to the PURCHASER.
- 9.4 It is recorded that ownership of SEASON'S LANE shall be transferred into the joint names of the BODY CORPORATE and the Body Corporate of SEASON'S PARK, in order for same to be utilised by the residents of both schemes for purposes of obtaining vehicular and pedestrian access to their respective units and further, that the costs of maintaining SEASON'S LANE shall be shared equally between the two aforesaid bodies corporate.
- 9.5 It is further recorded that, the SCHEME and SEASON'S PARK will be designed in such a manner so as to allow for common security between the two aforesaid sectional title schemes. In no way detracting from the generality of the aforesaid, it is anticipated that the perimeter fence will encompass both schemes and that there will be a common guard house(s) and vehicular entrance to the schemes across SEASON'S LANE. In this regard, the BODY CORPORATE and the Body Corporate of SEASON'S PARK shall co-operate with a view to entering into an agreement with regard to the operation and maintenance of the common security features, to the mutual benefit of both sectional title schemes, and to ensure that the security of both schemes is maximised.
- 9.6 The PURCHASER hereby irrevocably nominates, constitutes and appoints the SELLER to be its sole agent, to call, (and to the PURCHASER'S exclusion) attend any meeting of the BODY CORPORATE, required in order to approve the items referred to in paragraph 9.4 and 9.5 above, and to vote in favour of the adoption of the resolutions required, in order to give effect to same.

10 AGENT'S COMMISSION

- 10.1 The PURCHASER warrants that it was introduced the PROPERTY by the estate agency referred to in 1.15 of the CONTRACT OF SALE who, it is recorded, was the effective cause of the sale in terms of this CONTRACT. The SELLER shall pay a selling commission to the estate agency referred to in 1.15 of the CONTRACT OF SALE in accordance with the SELLERS mandate with such agent. The aforesaid commission shall be deemed to have been earned and shall be payable on the DATE OF TRANSFER.
- 10.2 The PURCHASER warrants that no agency or agent, other than the agency referred to in clause 1.15 of the CONTRACT OF SALE, was responsible for introducing him to the PROPERTY and further warrants that no other agent or agency will have any claim against the SELLER for agent's commission arising out of this transaction. The PURCHASER indemnifies and holds harmless the SELLER against any loss, damage or expense sustained, suffered or incurred by the SELLER arising out of any breach of the foregoing warranty.

11 DEFAULT

11.1 If the PURCHASER

11.1.1 fails to pay any amount in terms of this CONTRACT, or commits any breach of the remaining conditions of this CONTRACT and should the PURCHASER fail to remedy such breach within 7 (SEVEN) days of the date of delivery, if delivered by hand, or receipt if posted by prepaid registered post, of a written notice calling on him to remedy such breach, or

11.1.2 commits a repetition of such breach within a period of two months after having been warned by the SELLER to desist therefrom,

the SELLER shall be entitled, without prejudice to any other rights, which it may have at law or in terms hereof and at the SELLER'S election to -

(a) cancel this CONTRACT, and retake possession of the PROPERTY, and should the SELLER so elect it may recover any damages however incurred as a result of such cancellation (including any loss and expenses on a resale, whether by public auction or private treaty), in which event the amount or amounts paid to the SELLER or the CONVEYANCERS (including any amount held in trust by the CONVEYANCERS and any interest thereon) shall be retained by the SELLER by way of set off or partial set off against the damages claimed by the SELLER (it being recorded that the damages that the SELLER may suffer in this regard may include, inter alia, loss of interest, agents commission and other professional fees incurred, holding costs incurred in respect of the PROPERTY, including, but in no way limited to, rates and levies payable in respect of the PROPERTY, and should the PROPERTY subsequently be resold for a lower purchase price than that referred to in this CONTRACT, the difference in such purchase prices) or

(b) claim immediate performance by the PURCHASER of all his obligations in terms of this CONTRACT whether or not the due date for the performance shall otherwise have arrived.

11.2 Notwithstanding the foregoing, should the SELLER exercise any of his rights in terms hereof and should the PURCHASER dispute the SELLER'S right to do so, then pending the determination of that dispute, the PURCHASER shall continue to pay all amounts payable in terms of this CONTRACT on the due date thereof, and to comply with all the terms hereof, and the SELLER shall be entitled to recover and accept such payments and/or other performance without prejudice to the SELLER'S claim to have exercised its rights in terms hereof, and in the event of the SELLER succeeding in such dispute, the SELLER shall be entitled to retain such amounts received in the interim as payment for the occupational rights exercised and/or enjoyed by the PURCHASER in the interim.

11.3 For all purposes of this CONTRACT any act or omission on the part of any tenant, nominee or other person who occupies the PROPERTY, or invitee of the PURCHASER, or of such tenant, nominee or other person who goes upon the PARENT PROPERTY, shall be deemed to be an act or omission of the PURCHASER.

- 11.4 Should the SELLER, commit a breach of any of the provisions of this CONTRACT, then the PURCHASER shall be entitled to give the SELLER written notice to remedy the breach. If the SELLER fails to comply with that notice within 7 (SEVEN) days of receipt thereof, subject to any other provisions of this CONTRACT to the contrary, the PURCHASER shall be entitled to cancel this CONTRACT or to claim specific performance, in either event without prejudice to the PURCHASER'S right to claim damages. The foregoing is without prejudice to any other rights the PURCHASER may have in terms of this CONTRACT, common law or statute.

12 JURISDICTION AND COSTS

- 12.1 In the event of any action or application arising out of this CONTRACT, the parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of the Magistrate's Court Act of 1944, as amended. Notwithstanding that such proceedings are otherwise beyond the said court's jurisdiction, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.

- 12.2 Notwithstanding anything to the contrary herein contained either party hereto shall have the right at its sole option and discretion to institute proceedings in any other court which might otherwise have jurisdiction.

- 12.3 All legal costs incurred by either party in consequence of any default of the provisions of this CONTRACT by the other shall be payable by the defaulting party on demand to the maximum amount permitted by Law and shall include collection charges, the costs incurred by the aggrieved party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of the aggrieved party in relation to, in terms of or arising out of this CONTRACT.

13 SOLE CONTRACT

The PURCHASER acknowledges that this CONTRACT constitutes the sole basis of the contract between himself and the SELLER, and that he has not been induced to enter into such contract by any representations or warranties (including, but in no way limited to, any artist's impression of the SCHEME, whether contained in any letter, brochure, advertising material or otherwise) other than those contained herein and he shall be deemed to have satisfied himself in regard to all other relevant matters of whatsoever nature not specially dealt with herein. The PURCHASER confirms that, to the extent that any representations or warranties in respect of the PROPERTY were made to the PURCHASER, prior to the DATE OF SIGNATURE, such representation and/or warranties shall not be binding on the SELLER. Any agreement between the PURCHASER and the SELLER to cancel, alter or add to this CONTRACT shall not be binding and shall be of no force or effect unless reduced to writing and signed by the parties hereto, or by their agents acting on their written instructions.

14 INDEMNITY

THE SELLER DOES NOT WARRANT ANY INFORMATION GIVEN IN RESPECT OF THE PROPERTY, WHETHER THIS INFORMATION IS GIVEN PRIOR TO OR SUBSEQUENT TO THE SIGNING OF THIS CONTRACT, SAVE FOR THE INFORMATION IN RESPECT OF THE PROPERTY SPECIFICALLY

WARRANTED IN THIS CONTRACT. THE SELLER SHALL NOT BE LIABLE FOR ANY CLAIM OF ANY NATURE WHATSOEVER THAT MAY ARISE DUE TO ANY INACCURACIES IN INFORMATION GIVEN IN GOOD FAITH BY THE SELLER TO THE PURCHASER, HIS AGENT OR HIS NOMINEE IN RESPECT OF THE PROPERTY AND THE PURCHASER HEREBY INDEMNIFIES THE SELLER AND HOLDS IT HARMLESS AGAINST AND IN RESPECT OF ANY INJURY, LOSS OR DAMAGE HOWEVER CAUSED WHICH THE PURCHASER MAY SUFFER AS A RESULT OF ANY INACCURACIES IN ANY INFORMATION GIVEN BY THE SELLER IN GOOD FAITH (SAVE FOR THE INFORMATION SPECIFICALLY WARRANTED IN THIS CONTRACT).

15 DOMICILIUM

15.1 The parties choose as their **domicilium citandi et executandi** for all purposes under this CONTRACT, whether in respect of court processes, notices or other documents or communications of whatsoever nature their respective physical addresses referred to in the heading of this CONTRACT OF SALE.

15.2 Any notice or communication required to permit to be given in terms of this CONTRACT shall be valid and effective only if in writing.

15.3 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 address in the Republic of South Africa, provided that the change shall become effective **vis-à-vis** that address on the 7th business day from the deemed receipt of the notice by the addressee.

15.4 Any notice to a party:-

15.4.1 sent by prepaid registered post (by airmail if appropriate) in a correctly addressed envelope to it at its **domicilium citandi et executandi** shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved); or

15.4.2 delivered by hand to a responsible person during ordinary business hours at its **domicilium citandi et executandi**, shall be deemed to have been received on the date of delivery.

15.5 Notwithstanding anything to the contrary herein contained , a written notice or communication actually received by a party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered to its chosen **domicilium citandi et executandi**.

16 COSTS

The SELLER shall bear its own costs in connection with the preparation and execution of this CONTRACT.

17 CESSION

The PURCHASER shall not, sell, assign, cede or dispose of the PURCHASER'S rights under this CONTRACT.

18 ARREARS

18.1 Any amounts in arrears in terms of this CONTRACT shall bear interest at the prime overdraft rate, from time to time, charged by the Standard Bank of South Africa Limited, plus 2 (TWO) percentage points, which interest shall be calculated monthly in advance from the date that such amount became due.

18.2 A certificate by any manager of the said bank as to such prime overdraft rate, from time to time, shall be prima facie proof of such rate.

19 MORA INTEREST

19.1 In the event of there being any delay in the DATE OF TRANSFER for which the PURCHASER is responsible or in the event of the PURCHASER not paying the deposit(s) or furnishing the guarantees referred to in paragraph 3 of the CONTRACT OF SALE timeously, then in that event, the PURCHASER agrees, in addition to any other payment due in terms of this CONTRACT, to pay interest on the full purchase price at the prime overdraft rate charged by the Standard Bank of South Africa Limited, from time to time, plus 2 (TWO) percentage points, calculated from the date the PURCHASER is notified in writing by the SELLER (or the SELLER'S agent) as being in mora, to the date upon which the PURCHASER has ceased to be in mora, both days inclusive.

19.2 A certificate by any manager of the said bank as to such prime overdraft rate shall be prima facie proof of such rate.

20 ELECTRICAL CERTIFICATE

20.1 The SELLER shall at the SELLER'S own expense furnish a certificate of compliance from an accredited person in respect of all electrical installations in the PROPERTY in accordance with the requirements of the Electrical Installation Regulations made under the Occupational, Health and Safety Act No. 85 of 1983. Such certificate shall be delivered to the PURCHASER prior to the DATE OF POSSESSION.

20.2 If the accredited person reports that he is unable to issue such certificate of compliance unless certain works are taken to the electrical installation, the SELLER shall be entitled to have the work done so that the certificate can be furnished timeously.

21 TRUSTEE FOR A COMPANY TO BE FORMED

21.1 In the event of the signatory to this CONTRACT on behalf of the PURCHASER having concluded this CONTRACT in his capacity as a Trustee for a company to be formed (which signatory is hereinafter in paragraph 21 referred to as the "SIGNATORY"), then the SIGNATORY by his signature hereto warrants that the said company:

21.1.1 will be formed;

21.1.2 will ratify and adopt the terms and conditions of the CONTRACT OF SALE; and

- 21.1.3 will provide the SELLER with written proof thereof;
- all within a period of 30 days from the date of signature of this CONTRACT OF SALE by the SIGNATORY.
- 21.2 The SIGNATORY, in his personal capacity hereby under renunciation of the benefits of excussion and division with the full meaning and effect of which he declares himself to be fully acquainted, binds himself and agrees to bind himself as surety and co-principal debtor in solidum with the company to be formed by him in favour of the SELLER for the due and punctual performance of such company's obligations to the SELLER in terms of this CONTRACT OF SALE.
- 21.3 If the terms and conditions of Clause 21.1 above are not fulfilled then the SIGNATORY will by his signature to this CONTRACT OF SALE be deemed ipso facto to have concluded the CONTRACT OF SALE in his personal capacity as PURCHASER.