

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.