



## **BUILDING AGREEMENT**

ENTERED INTO BY AND BETWEEN

**LUTALO PROJECTS**  
**Registration Number : 2007/012974/07**  
*(hereinafter referred to as "the CONTRACTOR")*

AND

\_\_\_\_\_  
*(hereinafter referred to as "the EMPLOYER")*

The parties hereby enter into a Building Agreement on the terms and conditions described in the Schedule and Conditions annexed thereto.

### **SCHEDULE**

#### **A. THE EMPLOYER**

Full Name(s)		
ID Number(s)		
Marriage Status		
Physical Address		
Postal Address		
Phone (H)		
Phone (B)		
Fax		
Cell phone		
E-Mail Address		

#### **B. DESCRIPTION OF THE PROPERTY**

Erf nr	
Erf Size	
Top Structure size	
Township	GROENEWEIDE EXTENSION 10

*(hereinafter referred to as "the Property")*

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

**C. CONTRACT PRICE** *(Excluding the purchase price of the Property)*

Contract Price	R (inclusive of VAT)
Land price	R
Plus (Additions)	R
Total Contract Price	R (inclusive of VAT)

**D. LOAN REQUIRED**

As per Agreement of Sale
--------------------------

**E. THE CONTRACTOR**

Full Name	LUTALO PROJECTS. REGISTRATION NR: 2007/012974/07
Address	4 JOHNSON STREET, CINDERELLA, BOKSBURG
Telephone	011 913-0319
Email	<a href="mailto:dean@lutaloprojects.co.za">dean@lutaloprojects.co.za</a>

THIS DONE AND SIGNED BY THE EMPLOYER AT \_\_\_\_\_ ON \_\_\_\_\_ 2021

EMPLOYER	WITNESS 1	AGENT

THIS DONE AND SIGNED ON BEHALF OF THE CONTRACTOR AT \_\_\_\_\_ ON \_\_\_\_\_ 2021

CONTRACTOR	WITNESS 1	AGENT

THIS DONE AND SIGNED BY THE AGENT AT \_\_\_\_\_ ON \_\_\_\_\_ 2021

AGENT

accepting the benefits hereof.

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

**WHEREBY THE PARTIES AGREE AS FOLLOWS:**

**1 INTERPRETATION**

**1.1 Words**

Any reference to:-

**1.1.1 WORDS** relating to the singular shall mean and include the plural, and *vice versa*, where the context permits or desires;

**1.1.2 WORDS** relating to natural persons shall mean and include associations or persons having corporate status by Statute or common law, and close corporations, and *vice versa* where the context permits or desires;

**1.1.3 WORDS** referring to any gender shall include the other gender and the neuter gender. He shall include she and it, and *vice versa*.

**1.2 Annexures**

The annexures to this Agreement form an integral part hereof, and shall have the same force and effect as if set out in the body of this Agreement.

**1.3 Rule of construction/Contra proferentem rule**

The rule of construction that a contract (*this Agreement*) shall be interpreted against the party responsible for the drafting or preparation of this Agreement shall not apply nor shall this Agreement be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement by, *inter alia*, having structured, drafted or introduced any one or other or all the provisions / terms herein contained.

**1.4 Recordals**

Recordals shall be binding on the Parties and are not merely for information purposes.

**1.5**

**Value Added Tax**

Unless specifically otherwise provided, all amounts in this Agreement are inclusive of Value Added Tax (*if applicable*).

**1.6**

**Periods and their calculation**

Any reference in this Agreement to :-

**1.6.1**

*day/s*

shall mean calendar days but shall exclude the first day and shall include the last day, save that if the last day falls on a Saturday, Sunday or public holiday in South Africa, it shall be the first business day thereafter;

**1.6.2**

*month/s*

shall mean 1 (*one*) calendar month and with reference to a number of months from a specific date a calendar month commencing on such specific date and extending to the corresponding date less 1 (*one*) day of any particular subsequent month, and "*Monthly*" has the corresponding meaning; and

**1.6.3**

*year/s*

shall mean each period of 12 (*twelve*) consecutive months commencing on the commencement date or any anniversary on that date.

**1.7**

**Reference to Agreement in the body of this Agreement**

**1.7.1**

The parties note and record that there is reference in this Agreement to the parties acting "*by Agreement*" or in unison consequent upon the Agreement.

**1.7.2**

Any reference in this Agreement to a situation in which the parties are required to agree on something or may agree or are required to do something by Agreement, shall mean a written and signed Agreement which may be evidenced by an exchange of written

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

communications (*for example correspondence*), provided the correspondence is intended to constitute the contemplated Agreement between the parties.

## 1.8 Words and Numerals

Where figures are referred to in numerals and in words, the numerals shall prevail, unless the context indicates a contrary intention.

## 2 DEFINITIONS

2.1 In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings :-

2.1.1 **“Contractor”** shall mean that company described as such in paragraph **E** of the schedule;

2.1.2 **“Employer”** shall mean that person(s) described as such in paragraph **A** of the schedule;

2.1.3 **“Developer”** shall mean that company described as such in paragraph **E** of the schedule;

2.1.4 **“Seller”** shall mean Renaldo and Barry's Coins (Pty) Ltd, Registration number: 2011/124110/07

2.1.5 **“Agreement of Sale”** shall mean the Agreement of Sale entered into the Employee and the Seller in terms of which this contract is subject to.

2.1.6 **“Parties”** shall mean the parties to this Agreement;

2.1.7 **"Additional Period"** shall mean that additional period to which the Contractor is entitled – whether in terms of this Agreement or otherwise – to complete the works;

2.1.8 **“Completion Date”** shall mean:-

2.1.8.1 5 (*five*) months after the hand-over date; plus

2.1.8.2 the additional period;

2.1.9 **“Contract documents”** shall mean the Variation Order (*Annexure “A”*), the P.C. Schedule (*Annexure “B”*) the Plans, Building Specification and Fixtures and

Finishes Schedule (*Annexure “C”*) and the Finishes Schedule (*Annexure “D”*);

2.1.10 **"Defective Work"** shall mean any work executed by the Contractor which is defective or incomplete or subject to any legitimate complaint which ordinarily would require the Contractor to remedy and/or complete same provided however it is contained in the written notification referred to in clause 10.1.3 hereof;

2.1.11 **“Hand-over Date”** shall mean 7 (*seven*) days after the date the Property is transferred into the name of the Purchaser or on any such earlier date that the Parties may agree to in writing duly signed;

2.1.12 **"Loan"** shall mean the loan referred to in clause **D** of the schedule as read with the Agreement of Sale;

2.1.13 **"Practical Completion"** shall mean when the works are substantially complete and in the event of a dispute, a certificate of practical completion issued by the Contractors' nominated architect who in this context shall be acting as an expert at common law, shall be binding on the parties;

2.1.14 **"Prime"** shall mean the publicly quoted overdraft rate as published by the Contractors banker from time to time, computed from and calculated on a monthly basis, monthly in advance on the balance outstanding on the last calendar day of each preceding month until date of final payment, subject however to the maximum interest rate allowed at law from time to time (*if any*);

2.1.15 **"Property"** shall mean the immovable property referred to in paragraph **B** of the schedule;

2.1.16 **“Mandate Agreement”** shall mean the agreement entered into and between the Developer and the Seller;

2.1.17 **“Works”** shall mean the dwelling to be constructed on the Property in terms of this Agreement and detailed in the contract documents.

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

### 3 PREAMBLE & BACKGROUND

- 3.1 WHEREAS the Seller and the Developer entered into the Mandate Agreement in terms whereof the Developer may market and sell the Property together with a Building Agreement;
- 3.2 WHEREAS the Developer appointed the Contractor in terms of the Mandate Agreement;
- 3.3 WHEREAS the Employer has concluded the Agreement of Sale with the Seller and is in the process of taking transfer of the Property;
- 3.4 AND WHEREAS the Agreement of Sale is conditional upon inter alia, the conclusion of this Agreement;
- 3.5 AND WHEREAS in concluding the Agreement of Sale the Employer is to apply for a Loan sufficient to enable him to acquire the Property and effect the works by way of one interlinked and indivisible transaction;
- 3.6 NOW THEREFORE the Contractor is appointed to execute and complete the works and the Contractor hereby accepts the appointment subject to the terms and conditions set out below.

### 4 CONDITION PRECEDENT

This Agreement is conditional upon the Employer procuring the Loan in terms of the Agreement of Sale.

### 5 CONTRACT PRICE

- 5.1 The contract price is the sum referred to in paragraph C of the Schedule and all amounts due by the Employer, or the Employer's agent namely the grantor of the Loan, shall be secured in terms of the Agreement of Sale.
- 5.2 Each financial institution has different criteria's regarding tranches payments and will apply accordingly.
- 5.3 If the contract price is payable in cash, payments shall be paid in four tranches namely:-

EVENT	PERCENTAGE OF THE WHOLE
Window sill height	25%
Roof plate height	25%
Complete installation of roof	25%
Practical completion	25%

- 5.4 Whilst the Parties do not anticipate the contract price varying, should same vary, then any additional amount payable by the Employer to the Contractor (*over and above the contract price*) shall be paid within 7 days of demand.

### 6 PAYMENT OF THE CONTRACT PRICE.

- 6.1 In the event that the Client has the funds available to satisfy the Price or part thereof, as a cash payment, then the Client shall make payment of the Price, or part thereof, into the trust banking account of the Conveyancers, the details of which are contained in the Details Schedule. The Employer hereby irrevocable authorises and instructs the Conveyancers to pay any and all amounts that become due and payable to the contractor, in terms of the Details Schedule.
- 6.2 The contractor shall be entitled to withdraw the funds held by the Conveyancers in terms of clause 6.1 above, on the basis as contained in the Details Schedule, furthermore the Employer shall make payment of the Price as detailed above within 30 days of the Signature Date. In this regard Client shall do all things required, and sign all things required by the Conveyancers to affect transfer and/or the disbursement, of the funds in and/or from the trust banking account.
- 6.3 Under no circumstances whatsoever shall the Employer withhold, defer, or make any deduction from any payment due to the contractor, whether or not the contractor is indebted to the Employer or in breach of any obligation to the Employer in terms of this Agreement or otherwise.
- 6.4 The Contractor shall be entitled to receive progress draws from the issuer of the guarantee in accordance with the payment events referred to in clause 5.2 above.

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

- 6.5 The Employer undertakes to sign on demand by the Contractor the necessary requests for payment draws and other documents that the issuer of a guarantee may require for the purposes of making payment to the Contractor.
- 6.6 Should the Employer fail within 24 hours of being called upon to execute such payment draws, the Contractor shall be entitled to do so as the Employer's agent and present same to the issuer of the guarantee for payment.
- 7 CERTIFICATE ISSUED BY THE CONTRACTOR**
- 7.1 A certificate under the signature of the Contractor (*the appointment or qualification or authority of such person signing on behalf of the Contractor need not be proved*) as to the amount due and/or owing by us to the Contractor at any time subsequent to date of signature hereof, and the due date for the payment of such amount, and/or the extent of our obligations hereunder, and/or the computation of the amount due and/or owing by us, shall be :-
- 7.1.1 binding on the Employer and *prima facie* proof of the amount of our indebtedness hereunder; and
- 7.1.2 valid and enforceable as a liquid document against the Employer for the purpose of obtaining provisional sentence or Judgment against us.
- 8 OCCUPATION**
- Occupation shall be given to the Employer on the Completion Date provided that the contract price has been paid in full by payment of monies and not by way of any guarantees.
- 9 CONTRACTOR'S OBLIGATIONS**
- The Contractor's obligations shall be limited only to the below-mentioned matters: -
- 9.1 provide all of the necessary materials, labour, goods and equipment necessary to execute the works;
- 9.2 comply with all applicable statutory provisions and local authority requirements;
- 9.3 complete and hand over the works on the Completion Date (*subject to clause 6*);
- 9.4 make good, at its own expense, all incomplete and Defective Work within 30 (*thirty*) days after the Completion Date;
- 9.5 provide adequate supervision and management of the Works;
- 9.6 prepare the final account in terms of clause 14;
- 9.7 provide the financial institution upon request with a waiver of its lien, NHBRC registration certificate, Builders all risk policy, Building Plans and appointment of engineers certificate, in a form and on conditions required by the financial institution;
- 9.8 comply with all statutes, regulations and bylaws of local or other authorities having jurisdiction regarding the execution of the Works, and obtain all certificates and other documents required by such authorities;
- 9.9 pay all fees of the relevant authorities in respect of the approval of the plans and drawings;
- 9.10 where the Contractor is not liable for damage to or physical loss of the works, the cost of repairing such damage or making good such loss shall be treated as a variation in terms of clause 14 hereof.
- 10 EMPLOYER'S OBLIGATIONS**
- 10.1 The Employer shall: -
- 10.1.1 hand the site to the Contractor on the Property Hand-Over Date;
- 10.1.2 make payments due to the Contractor as set out in clauses 5 and 6;
- 10.1.3 within 21 days of the Completion Date issue – should it consider there to be the need – a written notification incorporating the Defective Work with sufficient particularity to enable the Contractor to identify same specifically;

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

- 10.1.4 not authorise any progress payments against the building loan other than progress payments in favour of the Project Account;
- 10.1.5 arrange for water, sewer and electrical connections, and pay on request of the Contractor all fees in respect of these connections;
- 10.1.6 not issue instructions to, interfere with, hinder or obstruct the Contractor's employees and/or other persons employed or acting on behalf of the Contractor;
- 10.1.7 sign any documentation that the Contractor may reasonably require on demand;
- 10.1.8 not do any act, matter or thing which may in any way compromise or prejudice the Contractor's ability to timeously perform its obligations in terms of this Agreement;
- 10.1.9 provide the Contractor with reasonable access to the site and works at all times to enable the Contractor to fulfil its obligations in terms of this Agreement including any defective work.
- 10.2 Should the works be delayed through any fault of the Employer or those for whom he is responsible, the Contractor shall be entitled to recover any direct loss or expense incurred by such delay.
- 10.3 The Contractor shall not be responsible for any damage or loss caused by wear and tear, misuse, neglect, negligence, or accident unless caused by the Contractor or those for whom he is responsible.
- 11 RISK AND INSURANCE**
- 11.1 The Contractor shall, in all circumstances, be at risk for loss of, or damage to the Works and to its equipment, material or vehicles, prior to the Completion Date.
- 11.2 The Contractor shall further take out insurance in respect of its employees as is required by law.
- 12 EXCLUSION OF LIABILITY ATTACHING TO THE CONTRACTOR**
- 12.1 The Contractor shall not be liable for damage to or physical loss of the Works where this results from any of the following circumstances, and the Employer hereby indemnifies the Contractor in such circumstances:-
- 12.1.1 civil commotion, riot, strike, lockout or disorder by persons other than the Contractor's employees or his sub-contractors;
- 12.1.2 confiscation or requisition by any public or local authority;
- 12.1.3 the use or occupation of any part of the Works by the Employer, the Employer's servants and agents, or those for whose acts or omissions they are responsible;
- 12.1.4 an act or omission by others engaged by the Employer and those for whose acts or commissions they are responsible;
- 12.1.5 design of the Works by any person.
- 13 EXTENSION OF CONSTRUCTION PERIOD**
- 13.1 The Contractor will be entitled to a reasonable extension of the construction period if a delay is caused as a result of :-
- 13.1.1 strikes; war; sanctions, any political events
- 13.1.2 acts of God;
- 13.1.3 damage to the works as a result of a cause for which the Contractor is not responsible;
- 13.1.4 inclement weather conditions;
- 13.1.5 additional work or amendments;
- 13.1.6 *vis major*;
- 13.1.7 shortage in building material;
- 13.1.8 any act or omission by the Employer or its agent and in this latter regard, the issuer of the guarantee shall be deemed to be the Employer's agent;
- 13.1.9 any other Act or event which has caused the delay and over which the Contractor does not have complete control.

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

13.2 The Contractor shall be entitled, upon a breach by the Employer of any of its obligations in terms of this Agreement (*all of which shall be deemed to be essential obligations*) to cease performing its obligations in regard to the Works. Any delays in the completion of the Works occasioned as a result of the matters referred to in this sub-clause shall:-

13.2.1 form part of the additional period; and

13.2.2 entitle the Contractor to claim direct and consequential damages arising out of and in connection therewith.

#### 14 FINAL ACCOUNT

The final value of the Works shall be determined by the calculation of omissions and additions to the contract price as caused by the effect of variations agreed to. The valuation of such omissions and additions shall be based on the Contractor's usual rates. A final account shall be prepared by the Contractor and delivered to the Employer on or before the Completion Date. Any amount due in terms hereof shall be paid by the debtor to the creditor within 7 (*seven*) days of delivery of the final account. Where the final account is accompanied by a certificate of the sort referred to in clause 7, the certificate and the final account shall be read as one.

14.1 No variations, extras or omissions shall vitiate this agreement. The costs of, the method of payment for, any extras, and valuation of any omissions and variations shall first be agreed between the Parties and thereafter shall be recorded and signed for identification purposes, or, alternatively, be confirmed in writing in the form of a letter, variation order or invoice by the Contractor and the Employer, setting out the relevant extras, omissions or variations, as the case may be.

14.2 All materials included in the specification and schedule of finishes are subject to their availability and in the event of any material not being readily available, with the prior written consent of the Employer and the Bank being had, the Employer shall be entitled to use the nearest similar material available.

#### 15 ACKNOWLEDGEMENT BY EMPLOYER

The Employer acknowledges that he has acquainted himself with all relevant facts that may have influenced the conclusion of this agreement, and the Contractor cannot be held liable for failing to disclose any particulars within his knowledge.

#### 16 GENERAL

##### 16.1 Whole Agreement

This Agreement contains the entire Agreement between the parties in regard to what is contained or referred to in this Agreement

##### 16.2 Prior Arrangements, Agreements, Understandings

This Agreement is intended to cancel any prior arrangements, Agreements or understandings of any nature whatsoever that may exist between one or more or all of the parties in regard to any aspect, matter or thing referred to herein.

##### 16.3 Notice

Any notice in terms of this Agreement shall be in writing.

##### 16.4 Indulgence, Waiver or Abandonment

No indulgence, waiver or relaxation by either party shall constitute a waiver nor an abandonment of any right the other parties may have consequent upon any party's breach.

##### 16.5 Amendment or cancellation

Any Agreement to amend the terms hereof, or the cancellation hereof by mutual consent, shall be of no force or effect unless reduced to writing and signed by all the parties.

#### 17 BREACH BY THE PARTIES

##### 17.1 Mora notice

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------



Save as may be provided to the contrary in this Agreement, should any party (*"the defaulting party"*) commit a breach of any of the provisions of this Agreement, then the other party/ies (*"the aggrieved party/ies"*) shall be obliged to give the defaulting party 10 (*Ten*) working days written notice to remedy the breach where the aggrieved party wishes to make an election or to take any steps consequent upon such breach.

**17.2 Consequences of failure to remedy breach**

If the defaulting party fails to timeously remedy the breach, the aggrieved party/ies shall be entitled to make such election, take such steps and institute such proceedings (*subject, however, to mediation and arbitration where and if applicable*) as are permitted at law.

**17.3 Remedies not exclusive of other remedies**

17.3.1 No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy available at law, in equity, by statute or otherwise, and each and every other remedy given hereunder or now or hereafter existing at law, in equity, by statute or otherwise.

17.3.2 The election of any party to pursue one or more such remedy shall not constitute a waiver by such party of the right to pursue any other available remedy.

**17.4 Overriding provision**

Notwithstanding any matter referred to above (*and the preceding clause in particular*), the Employer may not cancel this Agreement unless the breach is one which goes to the root of this Agreement and is one that is incapable of being remedied by the payment of monies.

**18 CANCELLATION CLAUSE**

18.1 Should the Employer fail to :-

18.1.1 comply punctually with any obligations on the due date; or

18.1.2 comply punctually with any other provision of this Agreement;

and should he remain in default 10 (*ten*) working days after despatch of written notice by registered post, by the Contractor claiming performance of such obligation or provision, the Contractor shall be entitled :

18.1.3 to claim the contract price (*or the balance thereof*) payable in terms of this Agreement together with interest thereon at the rate stipulated in the Schedule per year as from the date of default, without prejudice to any claim for damages which he may have against the Employer, or alternatively,

18.1.4 to cancel this Agreement.

18.2 Should this Agreement be cancelled for whatever reason, the Contractor shall be entitled to claim its damages.

**19 ADDRESS FOR SERVING OF NOTICES**

19.1 The parties hereto choose as their Addresses for serving of Notices for all purposes under this Agreement including, but not limited to the delivery of letters or documents instituting actions or applications, the below-mentioned addresses :-

**CONTRACTOR**  
**As per schedule E**

**EMPLOYER**  
**As per schedule A**

19.2 Either party shall be entitled to vary their *addresses* provided :-

19.2.1 notice as envisaged in this Agreement is given to the other party; and

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

- 19.2.2 such changed *address* will only become effective once such notice has actually been received by the other party; and
- 19.2.3 such changed *address* shall :-
- 19.2.3.1 be within the municipal areas of Gauteng; and
- 19.2.3.2 shall not be a *poste restante* nor a plot number, but must be an easily ascertainable physical address.

## 20 UNDERTAKING BY EMPLOYER RE: DEALING WITH THE PROPERTY

- 20.1 For the purpose of this clause any reference to "*dealing with*" shall mean and include to sell, encumber, hypothecate, donate, alienate, cede, rent out or in any way whatsoever deal with the Property.
- 20.2 Until such time as the Contractor has received payment in full in respect of all its claims (*liquid or illiquid*) arising out of and in connection with this Agreement the Employer shall not in any way be entitled to deal with the property.

## 21 GENERAL

- 21.1 Until the full contract price, interest and all moneys payable in terms hereof have been paid, the Employer shall not be entitled in any way to alienate, pledge, cede or deal with its rights and interest under this Agreement, to re-sell or to let the Property or any part thereof without the prior written consent of the Contractor having been obtained.
- 21.2 The Contractor may cede or otherwise dispose of his rights and obligations in terms of this Agreement at any time.

## 22 ALTERNATE DISPUTE RESOLUTION PROCESS

- 22.1 Notwithstanding any provision referred to above, where the dispute pertains to the extent of the work done or not done by the Contractor, or the quality of the work, the existence of any defect and/or the performance by the Contractor in terms of this Agreement, same shall be determined by the Contractor's nominated architect

who shall act as an expert and whose decision shall be final and binding.

- 22.2 In the event of a dispute, the parties agree that they shall immediately meet on an informal and without prejudice basis, with a view to exploring a possible resolution of the dispute.

- 22.2.1 In the event that the parties are not able to resolve the dispute then and in such event the parties shall mediate the dispute.

- 22.2.2 In this regard the parties shall, by Agreement, nominate a mediator who shall not have any right or entitlement to issue an award and/or decision which is binding on the parties.

- 22.2.3 In the event that the parties cannot reach Agreement on the identity of the mediator, then and in such event the Bar Chairman shall nominate the mediator.

### 22.3

- 22.3.1 Should the dispute not be resolved within 21 (*twenty one*) days of the mediation commencing, the parties agree that the dispute shall be resolved by way of arbitration.

- 22.3.2 In this regard the dispute shall be governed by the Rules of the Arbitration Foundation of Southern Africa.

- 22.4.3 Notwithstanding the above the Employer may approach the Courts for appropriate relief.

## 23 STIPULATION IN RESPECT OF DEVELOPER

- 23.1 It is recorded that the Contractor is indebted to The Developer in terms of a preferred contractors agreement entered into between the Developer and The Contractor.

- 23.2 The incorporation of this clause constitutes a *stipulatio alteri* (*stipulation for the benefit of a third party*) in favour of The Developer.

## 24 INSURANCE

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

- 24.1 The Contractor shall insure and remain insured for the Contractor's risk in respect of common law liability and public liability from the time it is given possession of the site until the Works have been completed as contemplated herein. The public liability and common law liability policies shall contain clauses indemnifying the Employer against risk arising out of the execution of the contract and the policy documents shall be made available to the Employer on demand for inspection and verification purposes.
- 24.2 The works and the material goods intended for Incorporation in the Works and place on or adjacent to the site shall be at the risk of the Contractor for all risks or loss or damage howsoever caused and the Contractor shall insure the Works until the completion thereof against risk of loss or damage by fire, lighting, explosion, standard special perils, riot, strike, civil commotion, political riot and earthquake or such other risks as the Bank may require in an amount sufficient to cover the repair or replacement thereof.
- 24.3 From the completion date as contemplated herein the Works shall be and remain at the Sole risk of the Employer, who shall insure the same from such date and

shall have the interest of the bank at mortgage noted on such policy of insurance.

## 25 **MORA INTEREST**

Mora interest is payable by the Employer to the Contractor in respect of any arrears payable by the Employer to the Contractor computed at the greater of prime or the legal interest rate, plus 2% points, computed from due date of payment until date of final payment. In the event that interest become payable, all payments received by the Contractor subsequent thereto shall in the first instance be appropriated towards interest and thereafter the capital.

## 26 **SIGNATURE**

Signed on behalf of the parties as set out, each signatory warranting that he or she has due authority to do so.

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

**Annexure "A**

**Variation Order**

Date	Description of Extra Work (Variation)	Amount
	<p>PLEASE NOTE THAT ANY VARIATION ORDER MUST BE PAID IN FULL IN ADVANCE</p>	
		<b>TOTAL</b>

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

**ATTACH RELEVANT ANNEXURE  
DEPENDING ON SIZE**

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

**Annexure “C”**

**Plans**

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------

## Annexure “D”

### Finishes

#### ON THE OUTSIDE OF THE BUILDING

OUTSIDE WALLS	-	BAGGED PLASTER FINISHINGS (Client to choose colour)
WINDOWS	-	CHARCOAL OR ALUMINIUM
	-	CONCRETE WINDOW SIL
PILLARS / ENTERTAINMENT AREA WALLS NOTICABLE FROM THE STREET FRONT	-	RED SEMI-FACEBRICK
GARAGE DOORS	-	CHARCOAL // ALUMINIUM // WOOD INSTALLED WITHOUT MOTOR
GUTTERS	-	NONE
ROOF TILES	-	ROUNDED SPANISH TILE Client to choose colour - MOTTLED // TAN
ENTERTAINMENT AREA	-	SLIPFREE TERRACOTA TILE
FRONT DOOR	-	ALUMINIUM // GLASS // WOOD
FRONT PAVING	-	NO IMPRINTED PAVING ALLOWED
FRONT GARDEN	-	LANDSCAPED WITH PALMS BEFITTING SPANISH THEME

#### ON THE INSIDE OF THE BUILDING

INSIDE WALLS	-	PLASTERED
FLOORS	-	LIGHT COLOUR TILES / CARPETS
KITCHEN	-	GRANITE
	-	DOUBLE ALUMINIUM SINK
APPLIANCES	-	GAS STOVE AND GEYSER
LIGHT FITTINGS	-	LED LIGHTS
SANATARY FITTINGS	-	WHITE
	-	MOSAIC TILES IN SHOWER AND KITCHEN BACK SPLASH
CUPBOARDS	-	Client to choose colour
SKIRTINGS	-	6cm TILE THROUGH OUT
INSIDE DOORS	-	STEEL DOOR FRAME
PLUGS	-	2 x m2

AGENCY	AGENT	EMPLOYER	CO-EMPLOYER	CONTRACTOR	WITNESS 1	WITNESS 2
--------	-------	----------	-------------	------------	-----------	-----------