

YELLOWWOOD ON 10TH

SECTIONAL TITLE IN PHASES

Unit No. _____

2 Covered Parking Bay
Nos. _____ *&* _____

AGREEMENT OF PURCHASE AND SALE

between

NAMRU 89 CC
REGISTRATION NUMBER: 1989/033938/23

Herein represented by Elias Homem de Gouveia
in his capacity as director/duly authorised representative

THE SELLER

AND

1. _____

And

2. _____

THE PURCHASER

The SELLER sells the Section to the PURCHASER, who hereby purchases the Unit on the terms and conditions set out in the Schedule of Particulars and Standard Terms and Conditions hereunder.

SCHEDULE OF PARTICULARS:

1. SELLER

- 1.1 NAME: **NAMRU 89 CC**
- 1.2 REGISTRATION NUMBER: **1989/033938/23**
- 1.3 DOMICILIUM ADDRESS: **1 Bentonite Street, Alrode, Alberton**
1451
- 1.4 TEL NO/FAX NO and EMAIL: Tel: (011) 868 4105
email: **admin@albertsdal4.co.za**

2. PURCHASER

- FULL NAMES: 1. _____
2. _____
- 2.2 SURNAME: 1. _____
2. _____
- 2.3 IDENTITY/REG 1. _____
2. _____
- 2.3 INCOME TAX NUMBER 1. _____
2. _____
- 2.5 TEL No: 1. (W) _____ (C) _____
(H) _____

2. (W) _____ (C) _____
(H) _____

2.6 E-MAIL: 1. _____
2. _____

2.7 DOMICILIUM ADDRESS (*address for service of notices*):

1. _____

2. _____

2.8 POSTAL ADDRESS:

1. _____
2. _____

2.9 MARITAL STATUS: (Check the applicable box. Not required if a company, cc or trust)

☐ SINGLE/DIVORCED/WIDOW/WIDOWER

☐ MARRIED ANC (Ante Nuptial Contract)

☐ MARRIED IN COMMUNITY OF PROPERTY

☐ FOREIGN STATUS

3. **SPOUSE OF 1ST PURCHASER / 2ND PURCHASER***

3.1 FULL NAMES: _____

3.2 SURNAME: _____

3.3 IDENTITY NUMBER: _____

3.4 TELEPHONE NUMBERS: (W) _____ (C) _____

(H) _____ (F) _____

3.5 INCOME TAX NUMBER: _____

3.6 E-MAIL: _____

3.7 DOMICILIUM ADDRESS (*address for service of notices*):

3.8 POSTAL ADDRESS:

3.9 MARITAL STATUS: (Check the applicable box)

☐ SINGLE/DIVORCED/WIDOW/WIDOWER

☐ MARRIED ANC(Ante Nuptial Contract)

☐ MARRIED IN COMMUNITY OF PROPERTY

☐ FOREIGN STATUS

4. **SECTION**

Unit number _____ **YELLOWWOOD ON 10TH** as reflected on the Scheme Layout Plan and on the Sectional Plan situate at **ERF 912 RAVENSWOOD EXTENTION 83 TOWNSHIP & CONSOLIDATED (UNREG) ERF 942 RAVENSWOOD EXTENSION 84 (ERF 913&914)** together with an undivided share in the Common Property apportioned to the Section in accordance with its participation quota.

5. **SOLE UTILIZATION AREA**

2 Covered Parking Bays number _____ & _____ as indicated on the site plan marked "A" hereto.

The sole utilization areas will be reserved for the use of the owner of the Section in the Management or Conduct Rules of the Body Corporate.

6. **PURCHASE PRICE**

R _____ (inclusive of VAT)

(_____)

Subject to the provisions of clause 3 in the Standard Terms and Conditions attached hereto.

7. **DEPOSIT**

R 3000.00 (Two Thousand Rand)

Payable to :

DU PLESSIS VAN LOGGENBERG

Bank: Standard Bank

Branch: Benoni

Account No.: 22443622

Branch code: 051001

Reference: Unit: *(insert number)* **YELLOWWOOD ON 10TH**

8. **BALANCE OF PURCHASE PRICE**

R _____

(_____)

9. **MORTGAGE BOND (LOAN AMOUNT)**

R _____

(_____)

The PURCHASER hereby warrants (guarantees as true) to the SELLER that the information contained in the Schedule of Particulars is true and correct.

SIGNED by the parties on the dates and at the places set out below.

PURCHASER, who by his/her signature hereto warrants his/her capacity to enter into and sign this Agreement,

Date: _____ Place: _____

Witness: _____

Assisted herein insofar as may be necessary by me, the PURCHASER'S spouse, and binding myself to the SELLER as surety for and co-principle debtor *in solidum* with my spouse for his/her obligations in terms of this Agreement.

SPOUSE of PURCHASER (If Married In Community of Property)

Date: _____ Place: _____

Witness: _____

For and on behalf of the **SELLER & BUILDER: (NAMRU 89 CC)**

Date: _____ Place: BOKSBURG

Witness: _____

For and on behalf of the **AGENCY**

Date: _____ Place: BOKSBURG

YELLOWWOOD ON 10TH

INSTRUCTION TO INVEST TRUST MONEYS

(In respect of a conveyancing transaction)

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

TRANSFER FROM:

NAMRU 89 CC Registration Number 1989/033938/23

TO, the undersigned:

1. **Full Names of Purchaser:** _____
Identity Number _____
2. **Full Names of Purchaser:** _____ **Identity**
Number _____

OF : SECTION _____ YELLOWWOOD ON 10TH

being the Transferee/s in the abovementioned transaction, hereby confirm my/our instructions to Du Plessis Van Loggenberg Inc to invest all funds paid to Du Plessis Van Loggenberg Inc by me/us on account of the purchase price, on the basis that:

1. the amount is invested in a trust savings account or other interest-bearing account;
2. the account contains a reference to Section 86(4) of the Legal Practice Act, 2014 (Act 28 of 2014);
3. In terms of section 86(5) of the Legal Practice Act No. 28 of 2014, 5% of the interest which accrues on such investment must be paid over to the Legal Practitioners Fidelity Fund and vests in the Fund;
4. the interest which accrues on such investment is to be for the company/close corporation/my benefit and is to be paid to me/us/, after deducting your professional fee and costs for administering the investment, as soon as possible after the date of registration of the above-mentioned transaction;
5. the capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.
6. I am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.

1. **PURCHASER/S SIGNATURE or authorised signatory**

DATE

2. **PURCHASER/S SIGNATURE or authorised signatory**

DATE

YELLOWWOOD ON 10TH – 2020/11/19

STANDARD TERMS AND CONDITIONS

1. PURCHASE AND SALE

The SELLER hereby sells to the PURCHASER, who hereby purchases, the Unit for the Purchase Price and on the terms and conditions set out in this Agreement. The Section, subject to 6.2, shall be built in accordance with the Scheme Layout Plan and the Floor Plan together with the specifications and schedule finishes and PURCHASER acknowledges that these may vary depending on supply or civil engineer instructions.

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Initial

2. INTERPRETATION

In this Agreement unless inconsistent with or otherwise indicated by the context the following words and expressions shall have the meanings assigned to them hereunder:

- 2.1 **“Act”** means the Sectional Titles Act, 1986 (as amended) and all regulations thereunder;
- 2.2 **"Agent"** means the Agent(s) appointed by the Seller from time to time;
- 2.3 **“Agreement”** means the Standard Terms and Conditions and all annexures hereto as follows:
- Annexure **A**-Site Plan
Annexure **B**-Floor plan
Annexure **C**-Schedule of Finishes
Annexure **D**-Draft Body Corporate Conduct Rules
- 2.4 **“Bond Originating Company”** means the Bond Origination Company appointed by the SELLER if any;
- 2.5 **"Builder"** **NAMRU 89 CC: NHBRC Registration Number 1-147229786**
Physical Address: 1 Bentonite Street, Alrode, Alberton
Postal Address: PO Box 123711, Alrode, 1452
- 2.6 **“Building/s”** means the Buildings and all improvements to be erected on the Land in Phases and in accordance with the Scheme Layout Plan and the Floor Plan applicable to each Section in the Scheme situate at **ERF 912 RAVENSWOOD EXTENSION 83 TOWNSHIP & CONSOLIDATED (UNREG) ERF 942 RAVENSWOOD EXTENSION 84 (ERF 913 & 914)**
- 2.7 **“Common Property”** means the portions of the scheme not forming part of any Section and/or Unit in the scheme in terms of the Act and excludes any Exclusive Use Areas (if any);

2.8	“Deposit”	means the Deposit referred to in clause 7 of the Schedule of Particulars;
2.9	“Effective Interest Rate”	means the current Prime Interest Rate of Standard Bank Limited or such other rates as contemplated in 3.6;
2.10	“Fixtures and Fittings”	shall include, but will not be limited to: wall plaster, tiles, plumbing, windows, doors, cupboards, electrical wiring and fittings;
2.11	“Floor Plan”	means the Floor Plan of the Section attached marked “B” and includes the electrical Layout and the specifications and schedule of finishes marked “C” ;
2.12	“Guarantee Due Date”	means 7 (seven) days from being requested by the SELLER'S Conveyancers;
2.13	“Estimated Monthly Levy and Local Authority deposits”	means approximately R1100.00 (One Thousand One Hundred Rand) per Unit per month levy payable (yearly increases will amount to approximately 7,5% per year) to the management agent of the Body Corporate as well as a once off connection deposit (payable on transfer/occupation whichever date is the earliest) of approximately R4000,00 for water and electricity”;
2.14	“Land”	means proposed ERF 912 RAVENSWOOD EXTENSION 83 TOWNSHIP & CONSOLIDATED (UNREG) ERF 942 RAVENSWOOD EXTENSION 84 (ERF 913 & 914) SITUATED AT NO 104 TENTH AVENUE BOKSBURG 1459, GAUTENG
2.15	“Mortgage Bond”	means the Loan Amount referred to in clause 9 of the Schedule of Particulars;
2.16	“Occupation Date”	means date of registration of transfer of the SECTION into the name of the PURCHASER or a date to be agreed upon between the parties in terms of Clause 4 below;
2.17	“Occupational Rental”	means 1 % (One percent) of the Purchase Price per month which amount shall be payable monthly in advance by the PURCHASER to the SELLER (no rates and taxes will be payable by the PURCHASER during the period from date of occupation until date of registration of transfer of the unit into the name of the PURCHASER);
2.18	“Participation Quota”	means the Participation Quota allocated to the Section in the Sectional Plan and upon opening of the sectional title register, the registered Sectional Plan;
2.19	“Plan/s”	means the Floor Plan and the Scheme Layout Plan;
2.20	“Purchase Price”	means the Purchase Price referred to in clause 6 of the Schedule of Particulars;
2.21	“PURCHASER”	means the PURCHASER referred to in clause 2 and 3 of the Schedule of Particulars and includes the PURCHASER'S successors-in-title (<i>the successive owners of the titled land</i>), in the context of the use and occupation of the Unit;

- 2.22 **“Rules”** means the management and conduct rules imposed in terms of the Act as amended by the Developer;
- 2.23 **“Scheme”** means the sectional title development scheme in phases in respect of the Buildings to be named **YELLOWWOOD ON 10TH** situated at 104 TENTH AVENUE BOKSBURG, 1459, GAUTENG (**Erf 942 – Extension 84 – Ravenswood Township**).
- 2.24 **“Scheme Layout Plan”** means the Site Layout Plan attached marked **“A”**;
- 2.25 **“Section”** means Section/Unit referred to in clause 4 of the Schedule of Particulars;
- 2.26 **“Sectional Plan/s”** means the Sectional Plan to be approved by the Surveyor-General;
- 2.27 **“SELLER”** means the SELLER referred to in clause 1 of the Schedule of Particulars;
- 2.28 **“SELLER’S Conveyancers”** means **DU PLESSIS VAN LOGGENBERG** 011 425 4340 – 134 Pretoria Rynfield, Benoni e-mail stellav@dpvl.co.za
- 2.29 **“Signing Date”** means the date of signing of this Agreement by the PURCHASER;
- 2.30 **“Sole Utilization Area”** means the Sole Utilization Area referred to in clause 5 of the Schedule of Particulars to be allocated for sole use by the PURCHASER in the Management or Conduct Rules of the Body Corporate;
- 2.31 **“Structure”** means the foundations, brickwork, concrete and reinforcing and shall expressly exclude wall plaster;
- 2.32 **“Unit”** means the Section together with its undivided share in the Common Property determined in accordance with the Participation Quota and the Sole Utilization Area allocated to the Section in terms of this Agreement and the Rules.

3. PURCHASE PRICE AND PAYMENT

- 3.1 The Purchase Price shall be payable as follows:
- 3.1.1 The Deposit shall be payable as follows:-
R3 000, 00 (Two Thousand Rand) to be paid on signature of the agreement to the SELLER'S Conveyancers, to be held in Trust pending registration of transfer, the deposit to be refunded to the PURCHASER in the event that the suspensive conditions (*a condition which must be fulfilled before an obligation/agreement is enforceable*) as contained in clause 12 and 22 in the agreement are not met.
- 3.1.2 The balance of the Purchase Price shall be payable against registration of transfer of the Unit into the name of the PURCHASER and shall be secured on or before the Guarantee Due Date either:
- 3.1.2.1 by payment in cash to the SELLER'S Conveyancers; or

- 3.1.2.2 by a bank guarantee approved by the SELLER, drawn in favour of the SELLER or its nominee and expressed to be payable at JOHANNESBURG free of exchange, set off or deduction against transfer. Such guarantees shall be delivered to the SELLER'S Conveyancers on or before the Guarantee Due Date.
- 3.2 The SELLER'S Conveyancers shall invest any amounts paid to them in terms of 3.1.1 or 3.1.2 in the PURCHASER'S name in an interest-bearing account subject to the provisions of Section 86(4) of the Legal Practice Act, 2014 (Act 28 of 2014). The capital amount of the Deposit shall be paid to the SELLER against registration of transfer and the interest earned thereon, after deduction of the SELLER'S Conveyancers' professional fee for administering the investment, shall be paid to the PURCHASER.
- 3.3 The SELLER shall be entitled, in its sole and absolute discretion, to allocate any amounts received from or for the account of the PURCHASER to the payment of any debt or amount owing by the PURCHASER to the SELLER in terms hereof. If the SELLER fails to make any such allocation all amounts paid shall be deemed to have been allocated firstly to the payment of interest, secondly to the payment of amounts other than the Purchase Price due in terms hereof as well as overdue occupational rent if applicable and finally to payment of the Purchase Price.
- 3.4 The Purchase Price is inclusive of value added tax and includes all costs of transfer subject to the provisions of clause 9.3 below.
- 3.5 If the PURCHASER fails to pay any amount due in terms hereof on or before the due date, such amount shall bear interest at the Effective Interest Rate from the due date for payment to the actual date of payment.
- 3.6 If the published prime overdraft rate of Standard Bank Limited is varied from time to time, the Effective Interest Rate shall likewise be varied.

4. OCCUPATION AND OCCUPATIONAL RENTAL

- 4.1 The PURCHASER shall be entitled to occupation of the Unit from the Occupation Date specified in 2.16, or on such a date prior to the transfer date, to be agreed upon between the parties.
- 4.2 From the Occupation Date until date of registration of transfer, the PURCHASER shall pay Occupational Rental. Such Occupational Rental shall be paid:
- 4.2.1 On the Occupation Date for the period from the Occupation Date until the last day of month in which the Occupation Date falls; and
- 4.2.2 Thereafter monthly in advance on the first day of each and every succeeding month.
- 4.3 If the Occupation Date falls on a day other than the first day of a month, the Occupational Rental payable in terms of 4.2.1 shall be adjusted proportionately.
- 4.4 If a dispute arises between the parties as to whether the Unit is occupiable on the Occupation Date, the dispute shall be resolved by the SELLER'S engineer, whose decision shall be final.
- 4.5 From date of registration of transfer of the SECTION into the name of the PURCHASER, the PURCHASER's liability to pay occupational rental in terms of clause 4.2 above will cease and the PURCHASER will be entitled to a pro rata refund of any occupational rent paid in advance beyond the date of registration, subject to the charges in clause 5.3 and 10.2 below.

5. CONDITIONS OF OCCUPATION

From the Occupation Date the PURCHASER shall, until the date of registration:

- 5.1 Comply with the provisions of the Act and of the Rules which will be applicable to the Scheme on the basis that the SELLER shall, until the body corporate comes into being, enjoy the same rights and powers as the body corporate and the trustees enjoy in terms of such Rules;
- 5.2 Waive all claims against the SELLER for any loss or damage to property or for any injury to person/s which the PURCHASER may sustain in or about the Section, the Building or the Common Property and shall, subject to the provisions of the Consumer Protection Act no 68 of 2008, indemnify the SELLER against any such claim that may be made against the SELLER by any member of the PURCHASER'S family or the PURCHASER'S invitees, employees or agents for any loss or damage to property or injury to persons suffered in or about the Section, the Building or the Common Property howsoever such loss or damage to property or injury to person may be caused;
- 5.3 Pay on demand all charges raised by the relevant Local Authority for the commission and provision of services supply to the unit as well as all charges in respect of other municipal services consumed or utilised in respect of the Unit, on or before due date provided that if the PURCHASER fails to pay any such amount, the SELLER shall be entitled to make payment thereof on the PURCHASER'S behalf and to recover same from the PURCHASER together with interest at the Effective Interest Rate from the date on which such amount is disbursed by the SELLER to the date upon which it is recovered. A prepaid electricity meter will be installed in the Unit and the electricity consumption charges will be for the account of the PURCHASER.
- 5.4 Not do or permit to be done any act, matter or thing as a result of which any insurance policy held by the SELLER in respect of the Buildings may be rendered void or voidable or as a result of which the premiums in respect thereof may be increased;
- 5.5 Not make any alterations to the interior or exterior of the Section of whatsoever nature save insofar as for provided in clause 5.5.1 below:
 - 5.5.1 Should however the PURCHASER apply to the SELLER and in the event of the SELLER granting written permission to the PURCHASER to install burglar proofing of whatsoever nature in the Section, such installation will be at the PURCHASER's risk and costs and in accordance with the SELLER's specifications and in the event of this agreement being cancelled by no default of the SELLER prior to registration of transfer, the aforesaid installation will become the property of the SELLER and the PURCHASER shall have no claim against the SELLER for such an installation;
 - 5.5.2 Any and all alterations to the Section after date of registration of transfer shall be in accordance with the Body Corporate Rule and National & Municipal legislation and only with prior written consent of the Body Corporate;
- 5.6 Maintain the Section in a clean and orderly condition;
- 5.7 Be liable for and pay to the SELLER or the appointed managing agent monthly in advance on the first day of each and every month the Estimated Monthly Levy calculated on the basis of the Participation Quota in respect of the actual total costs of managing, operating, administering, repairing, servicing and maintaining the Common Property including, without restricting the generality of the abovementioned, sewerage and sanitation, insurances of every description as determined by the SELLER, services, salaries, wages, licences, care and maintenance of the Common Property, the cost of water and electricity consumed in the Common Property, wages and other expenses and administration costs, including the cost of collection and recovery of the said costs (all of which costs and charges are hereinafter referred to as "total costs"). It is recorded that the total costs have been estimated and that in the event of such

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Initial

costs being greater than the actual costs incurred the excess shall be paid to the body corporate on its establishment in order to create a reserve. In the event of the estimate being less than the actual costs incurred, which specifically also include bulk electricity to the scheme, the shortfall shall be distributed in accordance with the Participation Quota to each owner in the Scheme and be payable by each owner when called upon to do so;

5.8 Shall prior to taking occupation of the section, arrange with the SELLER to inspect the Unit and furnish the SELLER with a list of defects in the Section **(the Snag List)** and the Seller undertakes to repair such defects prior to occupation of the Section. The PURCHASER is required to sign the due compliance with the Snag list prior to taking occupation of the Section and prior to signature of the transfer documents. The SELLER furthermore undertakes to repair any patent (*a defect that is, or should reasonably be, easily identifiable upon inspection of the goods or property*) and latent (*a defect in an article that is not apparent after ordinary inspection by a "reasonable man"*) defects. The PURCHASER has to notify the SELLER before the expiry of 6 months after registration of transfer if there are any material defects in the SECTION so as to afford the SELLER the opportunity to address such defects if any;

5.9 Not be entitled to let or otherwise part with possession and occupation of the Section and shall be obliged to occupy the Section together with his immediate family, unless:

5.9.1 the PURCHASER has obtained the prior written consent of the SELLER which shall not unreasonably be withheld;

5.9.2 the PURCHASER has provided the SELLER with the full names and details of the tenant/occupier that the PURCHASER intends to let or grant possession and occupation of the Unit to;

5.9.3 the PURCHASER has provided the SELLER or the managing agent with a copy of the lease agreement entered into between the PURCHASER and his tenant/occupier, which agreement must include a clause stipulating that such tenant/occupier will be bound by the Rules;

5.9.4 the PURCHASER hereby undertakes and guarantees that he/she, his tenant and/or occupier will duly comply with all the Rules;

5.9.5 the PURCHASER hereby indemnifies the SELLER against and agrees to be held liable for, any damages or loss that the SELLER may suffer as a result of the PURCHASER'S tenant's or occupier's failure to comply with the Rules; and

Initial

5.9.6 the PURCHASER hereby agrees to accept liability and consents to be liable, for the purposes of this clause 5, for any legal costs on attorney and own client scale, incurred by the SELLER or the managing agent to enforce the Rules against the PURCHASER and/or his tenant/occupier.

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Initial

5.10 prior to the transfer of the SECTION to the PURCHASER not sell or otherwise alienate the Unit except with the prior written consent of the SELLER which shall not unreasonably be withheld, and the SELLER will not grant consent to the simultaneous transfer of this unit to the PURCHASER, together with any subsequent transfer to a third party;

5.11 acknowledge that on the Occupation Date the Common Property and other sections may be incomplete and the PURCHASER and other occupiers must necessarily suffer inconvenience from building operations and from the noise and dust resulting therefrom and that the PURCHASER shall have no claim whatsoever against the SELLER by reason of any such inconvenience, provided that such inconvenience is not caused by the intentional or grossly negligent acts of the SELLER or its agent/s or its employee/s.

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Initial

6. CONDITIONS OF SALE

6.1 The PURCHASER shall be obliged to accept transfer of the Unit subject to the conditions, reservations and servitudes contained in the sectional title register and the SELLER, the local authority or any other authority may impose such conditions of sectional title.

6.2 If the measurements of the Section as stipulated herein differ from those contained in the sectional plan registered by the Registrar of Deeds, the Purchaser shall nevertheless accept transfer of the Unit as set out in the registered sectional plan, if the discrepancy is less than 7% (seven percent), and the Seller shall be deemed to have complied with its obligations in respect of this agreement, notwithstanding any such discrepancy. However, if the discrepancy is more than 7% (seven percent), the Purchaser may cancel this agreement, in which event it shall be entitled to a refund of all money paid by it to the Seller, but shall have no other claim whatsoever against the Seller.

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6.3 The roof and superstructure is NHBRC guaranteed.

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Subject to 5.8 and 6.3 above the SELLER shall be liable for the rectification of any patent or latent defects as per clause 5.8 above relating to the Common Property or the Section before the expiry of a period of 6 months from date of transfer of the SECTION into the name of the PURCHASER.

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Initial

6.4 The PURCHASER acknowledges that annexure A hereto represents the current Scheme Layout Plan, but that the SELLER has however submitted annexure A hereto to the relevant authority for approval.

6.5 The PURCHASER warrants (guarantees as true) that all outstanding tax returns have been submitted to the Receiver and all outstanding tax amounts have been paid to the Receiver, to enable the PURCHASER to take transfer of the SECTION, failing which the SELLER reserves its rights in terms of clause 9.2 and clause 11 of this agreement.

6.6 If the PURCHASER cancels the sale agreement or is the cause of the lapsing of bond approval due to no fault of the SELLER, the SELLER reserves its rights in terms of clause 11 below.

7. SECTIONAL PLANS AND RIGHT OF EXTENSION OF SCHEME

7.1 **The PURCHASER acknowledges that the Sectional Plans of Extension of Scheme have not been approved and hereby agrees that the exact boundaries of the Section forming a part of the Unit shall be those shown on the final approved Sectional Plans of Extension and the SELLER warrants (guarantees as true) that they will be substantially in accordance with those set out in the annexures hereto, and that the undivided share of the Common Property appointed to the Section shall be in accordance with the Participation Quota which is ultimately determined in terms of the Act upon approval and registration of the Sectional Plans;**

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Initial

7.2 The PURCHASER acknowledges that it is aware that the SELLER may decide to develop this Development in stages by erecting and completing from time to time further buildings on specified parts of the common property, to divide such buildings into sections and common property and confer the of exclusive use(if any) over parts of such common property upon the owner or owners of one or more of such sections and to reserve its right in this regard in accordance with the provisions of Section 25(1) of the Act.

7.3 The PURCHASER shall be obliged to allow the SELLER or its successor in title ("the developer") to exercise its rights to develop the sections in the manner envisaged here, and shall not be entitled to interfere with or obstruct the developer in any way from erecting the said buildings on the common property.

7.4 The PURCHASER warrants (guarantees as true) that he is aware that the developer may elect to vary the building lay-out plan and the sectional title plan by interchanging units reflected on the building layout plan. In so far as may be necessary, the PURCHASER hereby agrees to accept such variation and authorise the developer to vote at any meetings on his behalf to amend the participation quotas of the Scheme in order to reflect the said amendment.

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Initial

8. OPENING OF THE SECTIONAL TITLE REGISTER OR EXTENSION OF SCHEME

The parties record that it is not possible for the SELLER to pass transfer of the Unit to the PURCHASER until such time as the Sectional Title Plan is finally approved. Accordingly:

- 8.1 The SELLER undertakes, within a reasonable time and at its own expense, to take such steps as may be reasonably necessary to obtain approval of the Scheme and the opening of the sectional title register of Extension of Scheme;
- 8.2 In spite of anything to be contrary herein contained, if the sectional title register of extension of scheme is not opened within 24(Twenty Four) months of the Signature Date or 6 (Six) months from the Occupation Date, whichever is the later or such further period as may be agreed in writing between the parties, the PURCHASER and the SELLER shall respectively be entitled to unilaterally declare this Agreement null and void in which event:
 - 8.2.1 The PURCHASER and every person claiming occupation through the PURCHASER shall vacate the Section and the PURCHASER shall redeliver the Section to the SELLER in the same good order and condition as at the Occupation Date, fair wear and tear excepted;
 - 8.2.2 The SELLER or the SELLER'S Conveyancers shall refund to the PURCHASER any Deposits paid by the PURCHASER in terms hereof;
- 8.3 The Participation Quota for the residential Unit of the Scheme shall be determined as a percentage expressed to 4 (FOUR) decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the Section into the floor area, correct to the nearest square metre, of all the sections in the Buildings comprised in the Scheme;
- 8.4 The SELLER reserves the right to design access to YELLOWWOOD ON 10TH Development in such a way and along such a route over adjacent properties, as may be required by authorities/the developer and which may cause shared access with other adjacent developments.

9. TRANSFER OF THE UNIT AND TRANSFER, BOND & OTHER FEES

- 9.1 It is the SELLER'S intention that transfer of the Unit shall be affected by the SELLER'S Conveyancers simultaneously with the opening of the sectional title register or as soon thereafter as may be reasonably possible.
- 9.2 The PURCHASER shall, within 5 (Five) days of being called upon to do so by the SELLER'S Conveyancers at a reasonable time (having regard to the date when transfer can and should be given) furnish all such information, sign all such documents and pay all such amounts as may be necessary or required to enable the SELLER'S Conveyancers to pass transfer of the Unit.
- 9.3 The costs of transfer and bond registration (but excluding any fees charged by the Bank and without effecting the generality of the aforesaid it shall specifically exclude Bond Initiation Fees charged by the Bank as well as the cost of an individual insurance certificate for the Unit, should the Purchaser's Bank require such a certificate), shall be borne by the SELLER, provided that:
 - 9.3.1 if the PURCHASER fails to respond timeously to the notice referred to in paragraph 9.2, the PURCHASER shall, on expiry of the notice become liable for and pay the said transfer and bond costs;
 - 9.3.2 the PURCHASER'S bank/financial institution granting the loan, instructs the SELLER'S Conveyancers or their nominees, which has been approved by the SELLER, to attend to the registration of the first mortgage bond. Should the PURCHASER'S bank/financial institution instruct another firm of attorneys to

attend to the registration of the said bond, the PURCHASER will be liable for and pay the said transfer and bond costs; and

9.3.3 the PURCHASER uses the services of the Bond Originating Company(if any) nominated by the SELLER to apply for and obtain a mortgage bond as contemplated in clause 12, unless specifically waived by the SELLER.

9.4 Subject to the provisions of the Act, the PURCHASER shall not, by reason of any reasonable delay or delay caused by the SELLER in the transfer of the Unit to him/her, be entitled to cancel this Agreement or to refrain from paying, or suspend payment of, any amount payable by him/her in terms of this Agreement or to claim and recover from the SELLER any damages or compensation or any remission of Occupational Rental.

9.5 A monthly levy is payable by the Purchaser to the Body Corporate Management Agent from date of transfer or date of occupation, whichever is the earliest.

9.6 A once off water and electricity connection deposit is payable to the Body Corporate Management Agent on date of registration or date of occupation, whichever date is the earliest.

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10. RISK, RATES & TAXES AND DAMAGE AND DESTRUCTION

10.1 All benefit of and risk in and to the Unit shall pass to the PURCHASER on the Occupation Date.

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10.2 From the date of registration of the Section into the name of the PURCHASER, the PURCHASER shall become liable for the rates and taxes levied on the Section by the Local Authority. The SELLER shall be entitled to a pro rata refund for rates and taxes paid in advance beyond the date of registration of transfer of the Section into the name of the PURCHASER.

10.3 In spite of the provisions of 10.1 if, before the body corporate comes into existence, the Building is damaged or destroyed in such a way that:

10.3.1 the PURCHASER is (or the parties agree that he/she will be) deprived of beneficial occupation of the Section for a period in excess of 3 (three) months either party shall have the right by notice to the other to cancel this Agreement; or

10.3.2 If any other sections in the Building are damaged or destroyed and the SELLER reasonably considers it advisable to terminate the Scheme the SELLER shall have the right, by notice to the PURCHASER, to cancel this Agreement, and in either event the provisions of 8.2 above shall apply *mutatis mutandis*.

10.4 In spite of the provisions of the Rules, the SELLER shall, unless the Agreement has been cancelled in terms of 10.3 above, apply any insurance proceeds received by it in respect of the damage or destruction of the Building to the repair and reinstatement of the Section and any other damaged sections but shall not, in any way whatsoever, be liable to the PURCHASER if there are no such proceeds or if such proceeds are inadequate to completely repair and reinstate the Section.

10.5 It is recorded that the SELLER shall, before the body corporate comes into existence, insure the Buildings against such risks and for such amounts as it may in its sole discretion determine.

10.6 It is recorded that the PURCHASER'S bank or any other PURCHASER's bank may require, before the retention on any bond may be uplifted, that the buildings, despite the body corporate not having come into existence, are insured for the replacement value thereof and the SELLER shall be liable for the costs of such insurance from date of occupation and the costs of obtaining the necessary insurance certificate as may be required by such bank only in respect of the buildings. Should the bank require individual certificates for each Unit, the PURCHASER shall be liable for the payment of the costs to obtain an insurance certificate for the Unit from the insurer.

11. BREACH BY PURCHASER

If the PURCHASER defaults in the payment of any sum whatsoever payable by him/her in terms hereof or breaches any of his other obligations (all of which are agreed to be material) hereunder or in terms of the Act or the Rules and fails to remedy such default or breach within **7 (SEVEN) days** of written notice requiring the remedy of such default or breach, the SELLER shall be entitled, without prejudice to any other rights available to it in terms of this Agreement or in law:

- 11.1 To claim and recover from the PURCHASER forthwith the whole of the balance of the Purchase Price then outstanding together with interest thereon reckoned as herein before provided up to the date of payment of such balance as well as all other sums for which the PURCHASER may then be liable in terms of this Agreement, including, but not limited to, any costs (as between attorney and own client) incurred by the SELLER in exercising its rights under or enforcing the provisions of this Agreement in addition to costs of attendance whether action has been instituted or not, and including costs of tracing; provided that the PURCHASER fails to make payment as provided for in terms of this sub-clause, the rights of the SELLER under this Agreement shall not be exhausted and the SELLER shall despite the election to claim immediate payment be entitled to exercise any of the rights available to it in terms hereof or at law; or
- 11.2 To cancel this Agreement, repossess the Section and claim from the PURCHASER such damages as it may have sustained by reason of the cancellation; or
- 11.3 To cancel this Agreement, repossess the Section and the SELLER will claim any damages(which will not significantly exceed the harm suffered by the SELLER) suffered as a consequence of such cancellation and off set such damages against all amounts which the PURCHASER has paid in terms hereof, in which event the PURCHASER shall be deemed to have authorized the SELLER'S Conveyancers to pay to the SELLER any such damages from deposits paid in terms of this agreement and invested by the SELLER'S Conveyancers on his behalf. * _____

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12. MORTGAGE BOND (LOAN AMOUNT)

- 12.1 This Agreement is subject to the suspensive condition (*a condition which must be fulfilled before any obligation/ agreement is enforceable*), that the PURCHASER is able to raise a loan for an amount of not less than the Loan Amount against the security of a first mortgage of the Unit at and upon prevailing bank rates and conditions(acceptable by the SELLER) within **21 (Twenty One)** days of the Signing Date or such later date as the SELLER may determine by giving written notice to the PURCHASER, failing which this Agreement shall lapse and be of no further force or effect and the parties shall be restored to the status *quo ante* (*position they were in*) and the deposit paid will be refunded to the PURCHASER. This condition shall be deemed to be fulfilled immediately a letter is issued by a bank/financial institution stating that the loan has been approved in principle.
- 12.2 The PURCHASER undertakes to do all things reasonably necessary to obtain a loan for the Loan Amount. In giving this undertaking the PURCHASER warrants (guarantees as true) the accuracy of the financial information provided by him/her.
- 12.3 If the PURCHASER fails to do all things reasonably necessary to obtain a loan or fail to comply with or accept any condition reasonably imposed by any potential lender, he/she shall be deemed to be in breach of this Agreement and the SELLER shall be entitled at its election to regard this suspensive condition as having been fulfilled and may exercise its rights in terms of clause 11.
- 12.4 The SELLER is hereby authorize irrevocably and in *rem suam* on behalf of the PURCHASER (*the Purchaser mandates the Seller to act in its place or to do certain things on its behalf in respect of these obligations, and the mandate may not be withdrawn*) to sign all and any necessary documents or

applications to a financial institution in respect of the applicant for the loan should the PURCHASER fail to do so.

- 12.5 Nothing herein contained shall preclude the PURCHASER from making his own arrangement for the raising of a loan for the Loan Amount.
- 12.6 The PURCHASER warrants (guarantees as true) that his financial position is such that having regard to the criteria or requirements usually applied by financial institutions, his application for a loan will not be refused.
- 12.7 The PURCHASER, shall at any time prior to the due date for fulfilment thereof, be entitled to waive such condition by written notice to the SELLER and in such event the PURCHASER will be obliged to furnish guarantees as provided in paragraph 2.12.
- 12.8 Should the PURCHASER, for whatsoever reason including but not limited to the bank / financial institution withdrawing from such loan due to non- affordability, no longer be in a position to secure the loan amount after the approval thereof as referred to in clause 12.1 above, the SELLER and Conveyancer will be entitled to charge a fair cancellation fee for such cancellation of agreement:
 - 12.8.1 the balance deposit (if any) shall be repaid to the PURCHASER minus the fees as referred to in clause 12.9 above; and
 - 12.8.2 the PURCHASER shall be liable for and pay on demand the pro rata transfer and bond costs incurred until date of such breach.
- 12.9 Should the bank notify the PURCHASER after approval that the bond will lapse due to non- compliance by the PURCHASER of the requisite administrative conditions of the bond, and the bond so lapses due to the failure of the PURCHASER to comply, then the SELLER reserves its rights in terms of Clause 11 of this agreement.

13. DOMICILIUM (*Address for service of notices*)

- 13.1 The parties choose their *citandi et executandi* for all purposes under this Agreement whether in respect of court process, notices or other documents or communications of whatsoever nature, at the following addresses:
 - 13.1.1 the SELLER:

Physical address, Facsimile and email: as per clause 1. of the Schedule of Particulars
 - 13.1.2 PURCHASER:

Physical address, Facsimile and email: as per clause 2 and/or 3. of the Schedule of Particulars
- 13.2 Any party shall be able to change his *domicilium citandi et executandi* by written notice to the other. Such change of *domicilium citandi et executandi* shall take effect on the fourteenth day after the delivery to the other parties of the notice referred to therein.
- 13.3 All notices in terms of this Agreement shall be in writing and shall be either:
 - 13.3.1 Delivered by hand to the *domicilium citandi et executandi* of the other party, in which case it shall be deemed to have been given and such other party shall be deemed to have been informed of the contents of the notice when the notice is so delivered; or

- 13.3.2 Posted by prepaid registered post to such other party at the *domicilium citandi et executandi* of the other party, in which case it shall be deemed to have been given to the other party and such other party shall be deemed to have been informed of the contents of the notice on the seventh day after posting.

14. GENERAL

- 14.1 This Agreement represents the entire agreement between the parties. No other terms, conditions, stipulations, undertakings, representations or warranties shall be of any force or effect save as expressly included herein. No variation of or addition to or consensual cancellation of this Agreement and no waiver by the SELLER of any of its rights hereunder shall be of any force or effect unless reduced to writing and signed by or on behalf of both parties.
- 14.2 If more than one person as PURCHASER signed this Agreement the obligations of all the signatories shall be joint and several (*each debtor or each judgement defendant is responsible for the entire amount of the debt*). If this Agreement is not signed by all the persons named as PURCHASERS, this Agreement shall nonetheless be and shall remain binding on the PURCHASERS who have signed this Agreement.
- 14.3 No latitude, extension of time or other indulgence which may be given or allowed by the SELLER to the PURCHASER in respect of any of its obligations in terms of this Agreement shall constitute a waiver, abandonment or novation of the SELLER'S rights in terms hereof.
- 14.4 The PURCHASER shall pay all costs and charges incurred by the SELLER including attorney and own client charges and collection commission incurred by the SELLER in recovering any amount due in terms of this Agreement or in enforcing any provision of this Agreement.

15. CAPACITY OF PURCHASER

- 15.1 Should the PURCHASER be married in community of Property he/she warrants (guarantees as true) that his/her spouse shall forthwith countersign this Agreement where indicated at the foot hereof and thereby:
- 15.1.1 contractually assist him/her herein as far as may be necessary, if at all; and
- 15.1.2 bind him/herself as surety and co-principal debtor jointly and severally with him/her for all his/her obligations arising from this Agreement; and
- 15.1.3 commit him/her also to assist and so bind him/her in respect of the PURCHASER'S application and to obtain a mortgage loan/s and in respect of the mortgage loan/s itself, as contemplated in Clause 12 hereof, should any proposed mortgagee so require.
- 15.2 Should there be a plurality of PURCHASER'S in terms of this Agreement, their obligations arising from this Agreement shall be joint and several.
- 15.3 Should the PURCHASER sign this Agreement as trustee or agent for a company or close corporation to be formed, the signatory shall be deemed to be personally liable in terms of this Agreement should the company or close corporation not be incorporated or not ratify and adopt this Agreement within 30 (thirty) days of the date of signature hereof. Upon incorporation and ratification as aforesaid, the PURCHASER by his signature hereto bind himself as surety for and co-principal debtor *in solidum* (*a promise by one party (the guarantor) to assume responsibility for the whole debt obligation of a borrower if that borrower defaults*) with the company or close corporation for the due and punctual performance by the company or close corporation PURCHASER of its obligations arising out of this Agreement. The PURCHASER shall be obliged to furnish the SELLER'S Conveyancers with written proof of such incorporation and ratification within 10 (ten) days of such incorporation and adoption, failing which the signatory shall be the PURCHASER in his/her personal capacity.

16. COOLING OFF PERIOD AND ACCEPTANCE

The PURCHASER may, within five (5) business days after signing this Agreement, revoke the same by written notice of the PURCHASER'S revocation/termination signed by the PURCHASER and delivered to the Agent or the SELLER within the above prescribed period. This Agreement shall be binding on the SELLER only when duly signed by it until which time no obligation or liability on the part of the SELLER shall be deemed to exist.

17. JURISDICTION

The SELLER and the PURCHASER hereby consent in terms of Section 45 of the Magistrate's Court Act, No 32 of 1944, as amended, to the jurisdiction of any Magistrate's Court having jurisdiction over their respective person under section 28 of the above Act, to determine any action or other legal proceedings arising out of this Agreement. In spite of anything aforesaid, the SELLER shall not be bound to bring any action arising from this Agreement in nor before a Magistrate's Court, but may do so in any other court of competent jurisdiction should it so wish.

18. MANAGING AGENT

It is recorded that the SELLER shall appoint the managing agent to manage the Scheme on behalf of the Body Corporate.

19. REFEREE

If the PURCHASER disputes any decision of or matter certified by the SELLER'S engineer in terms of this Agreement, a referee shall determine such disputes that shall be an engineer agreed upon between the parties and, failing agreement, nominated by the Institute of South African Engineers. The said referee shall act as an expert and not as an arbitrator and shall accordingly not be bound by any rules of court and/or arbitrators. The said referee shall be entitled to determine whether, how, where and when submissions are to be made to him/her, it being the intention of the parties that any such disputes shall be determined at the minimum cost and with the minimum delay possible in the circumstances. Any decision of the said referee, including any decision as to costs, shall be final and binding upon the parties and shall not be open to dispute by either of them.

20. SELLER'S RIGHT

20.1 Pending establishment of the body corporate the SELLER shall be entitled to:

20.1.1 make Management and Conduct Rules for the use and enjoyment of the Common Property and it is specifically herewith indicated that the property hereby conveyed and the Scheme known as YELLOWWOOD ON 10TH as a whole shall be a pet free environment and NO pets of whatsoever nature will be allowed;

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20.1.2 enter the Section at all reasonable times or to authorise its agents or workmen so to enter to inspect same or to carry out repairs;

20.1.3 to exercise all the rights and powers which a body corporate would be entitled to exercise in terms of the Act in respect of the Building, the Land and the owners and/or occupants of sections.

20.2 The PURCHASER hereby appoints the SELLER or the SELLER'S nominee, (*the Purchaser mandates the Seller to act in its place and the mandate may not be withdrawn*) and in rem suam and with power of substitution, to be his lawful agent and attorney to convene such meetings of the body corporate as it deems necessary and there to vote as the PURCHASER'S proxy in favour of any resolution of the body corporate to amend the Rules or pass any other resolution as may be required:

20.2.1 by any bondholder for the grant of its consent to the opening of the sectional title register;

20.2.2 by the local or provincial authority and/or by a mortgagee prior to the grant of a sectional mortgage bond over a Unit in the Scheme;

20.2.3 by the SELLER in order to ensure the proper and efficient management and control of the Scheme, or to ensure that the SELLER is able to exercise in full its rights to develop the Scheme further and to do all things and sign all documents on the PURCHASER'S behalf to give effect to such resolution.

21. CESSION OF RIGHTS

21.1 The SELLER hereby undertakes wherever possible to cede to the body corporate all its rights in respect of any guarantees or warranties provided to the SELLER by contractors employed by it during the construction of the Scheme.

21.2 If any right is ceded in terms of 21.1 above, the PURCHASER acknowledges that the sole right to prosecute any claim in terms of any warranty shall vest in the body corporate only. The PURCHASER therefore waives any claim which it might otherwise have had against the SELLER in respect of any defect in workmanship or materials covered by the warranty or guarantee ceded to the body corporate by the SELLER; provided that this clause shall not affect any claim the PURCHASER may have against the SELLER in terms of clause 5.8;

21.3 Insofar as may be necessary, the PURCHASER hereby authorises and directs the body corporate, when established, to accept any cession of the SELLER'S rights included in any warranty by any contractor as contemplated herein.

22. SUSPENSIVE CONDITION

22.1 This entire agreement is subject to the suspensive condition (*a condition which must be fulfilled before an obligation/ agreement is enforceable*) that if the SELLER is not able to sell at least **80%** of the units in all phases in the sectional title scheme by **no later than 30 AUGUST 2021** then the SELLER shall have an option of 30(thirty) days after the aforesaid date to declare this Deed of Sale null and void and of no further force and effect whereupon the deposits paid by the PURCHASER will be refunded to the PURCHASER.

22.2 This condition is inserted for the benefit of the SELLER and may be waived by it at any time.

23. NHBRC/ELECTRICITY & GAS CERTIFICATES

23.1 The SELLER will on behalf of the PURCHASER obtain the NHBRC enrolment certificate and will abide by all the rules and regulations imposed by the NHBRC from time to time;

23.2 The SELLER will provide the PURCHASER with the Electricity and Gas Certificates (if applicable) as provided for by law.

24. **CONSUMER PROTECTION ACT**

In as far as the CONSUMER PROTECTION ACT NO 68/2008 (CPA) is applicable to this agreement:

- 24.1 The CPA Act should be read together with this agreement;
- 24.2 In as far as any clauses are considered to be irreconcilable with the Act, those clauses shall be deemed to be severable from this agreement; and
- 24.3 The Purchaser acknowledges that his attention has been drawn to any clauses that might be deemed to be a limitation of his rights.

***Footnote:**

I acknowledge that my attention has been drawn to the clauses marked *, which may adversely affect my legal position.