

11

AGREEMENT

SCHEDULE

A.1. THE SELLER : ZELPY 2127 (PROPRIETARY) LIMITED
 Registration No. 2003/021162/07
 ("the Seller")

2. ADDRESS : 41 Richefond Circle PO Box 1067
 Umhlanga Ridge Kloof
 Durban 3640
 KwaZulu-Natal
 e-mail : craig@grid.co.za

TELEPHONE : (031) 5662704
 TELEFAX : (031) 5664631

B.1. THE PURCHASER : _____

 ("the Purchaser")

2. ADDRESS : _____

 e-mail : _____

TELEPHONE : (H) _____
 (O) _____

TELEFAX : (P) _____
 (Cell) _____

C. DESCRIPTION OF PROPERTY _____
 101Acutts Estate Hillcrest

1. Proposed Erf No _____ Hillcrest, Registration Division FT, Province of KwaZulu-Natal,
 In extent _____ (Two thousand four hundred & forty six)
 square metres, as shown on General Plan SG No 1269/2008 and on the plan attached
 hereto, marked "A", known as 101 Acutts ("the Property".)

D THE PURCHASE PRICE R _____

_____ RAND
inclusive of VAT
("the Purchase Price")

E METHOD OF PAYMENT OF PURCHASE PRICE

1 1 DEPOSIT R _____

_____ RAND

PAYABLE ON SIGNATURE OF THIS AGREEMENT BY THE PURCHASER

2 1 BALANCE OF PURCHASE R _____

_____ RAND

PRICE PAYABLE ON TRANSFER

F 1 AMOUNT OF MORTGAGE BOND REQUIRED BY THE PURCHASER R _____ To be confirmed
_____ RAND

F 2 IF BOND FOR PURCHASE PRICE AND IMPROVEMENTS, AMOUNT AVAILABLE TO PAY SELLER AGAINST REGISTRATION OF TRANSFER R _____
_____ RAND

G MORTGAGE ORIGINATOR TBA

H OCCUPATION DATE Date of registration of transfer ("the Occupation Date")
Seven months from building plan approval

- I ESTIMATED LEVY PAYABLE TO THE ASSOCIATION
 - I 1 MONTHLY LEVY R2, 836 68 (Two Thousand Eight Hundred and Thirty Six Rand & Sixty Eight Cents) per month
 - I 2 LEVY STABILISATION FUND R 11,346 72 (Eleven Thousand Three Hundred & Forty Six Rand & Seventy Two Cents) ONCE OFF
PLUS SPECIAL SECURITY STABILISATION FUND R 3,500 00 (Three thousand Five Hundred Rand) ONCE OFF
- J THE CONVEYANCERS
Strauss Daly
9th Floor Strauss Daly Place, 41 Richefond Circle,
Ridgeside Office Park,
Umhlanga
4320
P O Box 4974 Durban 4000 | Docex 27 Durban
Tel +27 (0) 31 570 5600 | Fax +27 (0) 31 570 5799

sbowles@straussdaly.co.za (Simone Bowles)
www.straussdaly.co.za
("the Conveyancers")
- K THE SELLING AGENT
- L SURETY/IES FOR THE PURCHASER (IF ANY)
NAME/S _____

ADDRESS/ES _____

- M MORA INTEREST 2 (TWO) per cent per annum above the prime lending rate charged from time to time by Absa Bank Limited
- N THE MANAGING AGENT Mr (101Acutts Estate Manager)

CONDITIONS

1 **PREAMBLE**

- 1 1 The Seller is the owner of the Property described in C of the Schedule
- 1 2 The Purchaser wishes to purchase the Property described in C of the Schedule

2 **INTERPRETATION**

- 2 1 In this Agreement, unless otherwise indicated by the context
 - 2 1 1 the words and phrases used and/or defined in the Schedule shall have the meanings assigned to them therein,
 - 2 1 2 "the Property" shall mean the property described in C of the Schedule,
 - 2 1 3 the effective date of this Agreement shall be the date upon which this Agreement is signed by the Seller,
 - 2 1 4 "the Developer" shall, mean Zelpy 2127 (Proprietary) Limited, when acting in its capacity as developer of the Estate,
 - 2 1 5 "the Estate" shall mean "101 Acutts", in the process of establishment on Portion 2 of Erf 673 Hillcrest, as shown on General Plan SG No 1269/2008,
 - 2 1 6 "the Association" shall mean the 101 Acutts Homeowners' Association (NPC) Registration No 2008/018028/08,
 - 2 1 7 "the Articles" shall mean the Articles of Association of the Association , a copy of which is attached hereto, marked "B1", which Articles are in the process of being amended in the manner set forth in Annexure "B2" hereto,
 - 2 1 8 "the Conduct Rules shall mean the Conduct Rules of the Association, a copy of which is attached hereto, marked "C",
 - 2 1 9 "the Common Property" shall have the same meaning assigned to it as in the Articles and Conduct Rules,
 - 2 1 10 "the Building Contract" shall mean the building contract, to be entered into by and between Grid Construction (Proprietary) Limited or any other building contractor and the Purchaser in terms of 18 3, provided that such other building contractor is approved by the Seller,
 - 2 1 11 words importing the singular shall include the plural and vice versa, and words importing a particular gender shall include the other genders,
 - 2 1 12 clause headings are for guidance only and are not relevant to the interpretation hereof,
 - 2 1 13 reference to a natural person shall include a reference to a body corporate and vice versa
- 2 2 The provisions of the preamble are specifically incorporated in this Agreement
- 2 3 This Agreement (including its annexures and any other documents specifically incorporated by reference herein) contains the whole agreement between the parties relative to the subject matter hereof and there are no other conditions, stipulations, warranties or representations which are binding between the parties other than those

recorded herein. No variation of any of the terms or conditions of this Agreement shall be binding on the parties unless committed to writing and signed by them respectively.

2.4 The grant of any concession or condonation of any breach of the terms or conditions of this Agreement, or other act of relaxation or indulgence on the part of the Seller shall not in any way constitute, operate or be deemed to be a waiver by the Seller of any of its rights under this Agreement, nor shall it constitute a novation of this Agreement.

3 SALE

The Seller hereby sells to the Purchaser, which hereby purchases, the Property set out in C of the Schedule.

4 PURCHASE PRICE AND PAYMENT

The Purchase Price shall be the amount set out in D of the Schedule and shall be paid by the Purchaser as follows:

4.1 The amount set out in E 1.1 of the Schedule shall be paid in cash and lodged with the Conveyancers to be held by them in trust for the Purchaser and released to the Seller on the date of registration of transfer of the Property into the name of the Purchaser. Once the Purchaser has complied with the financial institution's and the Conveyancer's usual requirements in terms of the Financial Intelligence Centre Act, the said amount/s shall be deposited in an interest bearing Nedbank Corporate Saver or Investec Corporate Cash Manager account, in terms of Section 78 (2A) of the Attorneys Act, interest thereon less the Conveyancer's usual commission (5 (FIVE) per cent of interest earned) to be for the benefit of the Purchaser.

4.2 The amount set out in E 2.1 of the Schedule, representing the balance of the purchase price, shall be paid on registration of transfer of the Property into the Purchaser's name and secured pending transfer by the Purchaser delivering to the Seller a bank guarantee/s, which guarantee/s shall be in a form acceptable to the Seller and shall provide for payment as aforesaid and which shall be delivered to the Seller within 14 (FOURTEEN) days after the Purchaser is requested to do so by the Conveyancers, which request shall not, however, be made prior to the date upon which the loan referred to in 1.8.1 is granted in terms thereof, but which may otherwise be made for delivery of the guarantees at any time, regardless of whether or not the documents for transfer are ready for lodging at the relevant time. Should the Purchaser elect to make a cash payment to the Conveyancers in lieu of a bank guarantee/s, then the provisions of 4.1 relating to investment, release and interest shall mutatis mutandis apply in respect thereof.

4.3 Notwithstanding anything to the contrary herein contained, inasmuch as the purchase price is the VAT inclusive price determined at the current rate of 15 (FIFTEEN) per cent, in the event of the rate at which VAT is chargeable being amended after the date of signature hereof by the Purchaser, but in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

5 PLACE OF PAYMENT

All payments to be made by the Purchaser to the Seller in terms of this Agreement shall be made, without deduction or demand and free of exchange, as follows:

5 1 in the case of the payment/s to be made in terms of 4 1, to the Conveyancers, provided that the Purchaser's cheque/s in the relevant amount/s in favour of the trust account of the Conveyancers shall be handed by the Purchaser to the Seller for onward transmission to the Conveyancers

5 2 in the case of all other payments, to the Seller

6 **OCCUPATION DATE**

6 1 The Purchaser shall be entitled to occupation of the Property on the Occupation Date set forth in H of the Schedule

6 2 Occupation and possession of the Property shall be given to the Purchaser on the Occupation Date, on which date all risk in and to, and benefit of, the Property shall pass to the Purchaser which shall be liable for the payment of all rates, taxes, Association and other levies and other charges incurred in respect of the Property relating to any period after the Occupation Date. The Conveyancers shall make any necessary adjustment between the parties in this regard with effect from the Occupation Date

7 **BEACONS / BUILDING ACTIVITIES**

7 1 The Seller shall indicate the position of the beacons or pegs on the Property

7 2 The Purchase acknowledges that, on the Occupation Date, buildings on other erven in the Estate may be incomplete and that occupants of the Property may suffer inconvenience from building operations. Vacant possession and occupation of the property is therefore not warranted on the Occupation Date

8 **SERVITUDES AND CONDITIONS**

8 1 The Property shall be transferred by the Conveyancers to the Purchaser subject to such servitudes and conditions as may apply and subject to such conditions as may have been imposed by the relevant authorities upon the granting of the approval. The Purchaser accepts the Property subject to any such servitudes and conditions

8 2 The Property is sold as described in the existing Title Deed thereof and subject to all conditions and servitudes, if any, attaching thereto or mentioned or referred to in the said Title Deeds or holding deed

8 3 The Seller hereby acknowledges that it has, to the best of its knowledge, disclosed the servitudes and conditions relating to the Property, which the Purchaser also hereby acknowledges

The Purchaser is satisfied with the location of any servitudes and was given the opportunity to ask any questions regard any servitudes and conditions relating to the Property and fully understands the effect of such servitudes and conditions

8 5 Furthermore, the Purchaser is satisfied to purchase the Property subject to the said servitudes and conditions and warrants that such servitudes and conditions do not restrict the use of the Property for which the Purchaser wishes to purchase the Property

8 6 The Property is subject to the servitudes as indicated on the General Plan attached hereto which forms part of the Sales Pack, which General Plan indicates the location of the Property together with applicable servitudes

8 7 The Purchaser further acknowledges that the Association shall become responsible for compliance with any Environmental Management Plan applicable to the estate, as amended or added to from time to time. The Purchaser accordingly undertakes to use its best endeavours to procure that the Association shall comply with such plan from time to time and shall further assume all of the Seller's obligations in respect thereof. In addition, the Purchaser undertakes to ensure that this acknowledgement and undertaking (including the obligation to make it binding on future purchasers) is drawn to the attention of, and made binding on, any purchaser of the Property from the Purchaser. The Purchaser acknowledges that it has read and understood the said Environmental Management Plan, considers it fair and reasonable and will be bound thereby.

9 **TRANSFER**

9 1 The Seller shall not be obliged to pass transfer to the Purchaser, notwithstanding anything to the contrary herein contained, until such time as the total Purchase Price and all other amounts for which the Purchaser may be liable in terms hereof to the date of transfer have been paid and/or payment thereof has been secured as herein provided.

9 2 Transfer of the Property shall be effected by the Conveyancers representing the Seller and all expenses of and incidental to the preparation and registration of the transfer (plus VAT thereon, where applicable) and conveyancers fees in respect of such transfer, shall be borne by the Purchaser. The same shall apply to the payment of all conveyancer's fees, stamp duties and other similar conveyancer's disbursements in connection with the preparation and registration of any bond granted to the Purchaser which is registered over the Property (plus VAT thereon, where applicable), including any initiation fee, security assessment fee and any other similar charges raised by the said Bank itself with regard to the Bond. The Purchaser shall, within 7 (SEVEN) days of being called upon to do so by the Conveyancers, furnish all such information, sign all such documents and pay all such costs which are for the Purchaser's account and which may be necessary or required to enable the Conveyancers to pass transfer and register any bond.

9 3 It is recorded that the Seller will be unable to effect transfer of the Property into the name of the Purchaser until the phase of the Estate which includes the Property has been duly established as an approved private township, the certificate contemplated by section 28 (1) of the Town Planning Ordinance (No 27 of 1949) has been issued in respect thereof, the reserved lots (if any) have been transferred and all suspensive conditions have been fulfilled and, further, that it is the intention to effect transfer as soon as possible thereafter.

9 4 1 It is recorded that

9 4 1 1 in order to effect transfer of the Property, the Conveyancers will be required to lodge, inter alia, a transfer duty exemption certificate, issued by the South African Revenue Services ("SARS") with the Deeds Registry,

9 4 1 2 SARS have adopted a policy of not issuing the aforesaid certificate in the event of any party to the transaction being in arrears with the payment of any amount/s SARS believes is/are due to it or otherwise not being in compliance with tax laws.

9 4 2 Accordingly, should SARS refuse to issue a transfer duty exemption certificate in respect of the sale of the Property in terms of this Agreement 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 Agreement and the Seller shall be entitled to exercise its rights in terms of 10 and/or 19.

10 **BREACH**

10 1 Should any party (the "defaulting party") commit a breach of any of the provisions of this Agreement then the party which is not in breach ("the aggrieved party") shall be entitled to give the defaulting party written notice to remedy the breach. If the defaulting party fails to comply with that notice within 10 (TEN) days of receipt thereof, subject to any other provisions of this Agreement to the contrary, the aggrieved party shall be entitled to cancel this Agreement or to claim specific performance, in either event without prejudice to the aggrieved party's right to claim damages. The foregoing is without prejudice to such other rights as the aggrieved party may have in terms of this Agreement, common law or statute.

10 2 In the event of the Seller cancelling this Agreement as aforesaid, any amount or amounts paid to the Seller or the Conveyancers (including any amount paid in trust and any interest that may have accrued thereon) shall be forfeited to and retained by the Seller as rouwkoop, alternatively, if the Seller so elects, he may recover any damages howsoever, incurred as a result of such cancellation (including any losses and expenses on a re-sale, whether by public auction or private treaty), in which case the amount or amounts paid to the Seller or the Conveyancers as aforesaid (including any amount paid in trust and any interest that may have accrued thereon) will not be forfeited as rouwkoop but may be retained by the Seller by way of set off or partial set off against the damages claimed by the Seller.

10 3 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 Agreement 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 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 **CESSION AND ASSIGNMENT OF RIGHTS**

11 1 The Purchaser shall not be entitled to sell, assign, cede or make over its rights under this Agreement, or in any manner alienate its rights to the Property, prior to registration of transfer of the Property, without the prior written consent of the Seller.

11 2 The Seller shall, however, be entitled at any time prior to transfer of the Property to the Purchaser, to cede and assign its rights and obligations under this Agreement to a third party of its choice.

12 **NOTICES AND DOMICILIA**

Any notices required to be sent to either party in terms of this Agreement shall be in writing and shall be delivered personally, or alternatively sent by pre-paid registered post, and addressed to the party concerned at its domicile address set forth in A in the case of the Seller, or B in the case of the Purchaser, of the Schedule, or at such other address (not being a post office box or post restante) in the Republic of South Africa as that party may nominate in writing to the other. Any notice sent by pre-paid registered post in accordance with the foregoing shall be deemed to have been received 4 (FOUR) days after posting. The parties hereby choose the said addresses as their respective domicilia citandi et executandi for all purposes under this Agreement. This clause shall not be construed as invalidating a written notice actually received by a party at any other address or by any other means.

13 **SELLING AGENT'S COMMISSION**

To the extent that an agent has been the effective cause of this sale, such agent's name and address shall be reflected in K of the Schedule, in which event the Seller shall be liable for and shall pay to the Selling Agent agent's commission on the sale In such circumstances, the Purchaser warrants that

13 1 the Selling Agent was the sole effective cause of the sale,

13 2 it was not introduced to the Property, or this Agreement, by any agent other than the Selling Agent named in the Schedule as aforesaid, and

13 3 no commission shall become payable by the Seller to any agent other than the Selling Agent named in the Schedule as aforesaid

The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against/suffered by the Seller arising out of a breach of any of the foregoing warranties

13 4 The Agent/Property Practitioner referred to in K of the Schedule hereby warrants the validity of his/her Fidelity Fund Certificate as at the date of signature of this Agreement

14 **JURISDICTION / COSTS**

14 1 The Purchaser hereby consents in terms of Section 45 of the Magistrates' Courts Act, No 32 of 1944, as amended, to the jurisdiction of any Magistrate's Court having jurisdiction over its person under Section 28 of that Act, notwithstanding that any action or proceeding arising out of this Agreement would otherwise be beyond the jurisdiction of such Court The Seller shall, however, have the right to institute action in any other Court of competent jurisdiction

14 2 The Purchaser agrees that, in the event of the Seller instructing its attorneys and/or taking legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfil any of its obligations in terms hereof, then the Purchaser shall pay all legal costs plus VAT incurred by the Seller in connection therewith as between attorney and own client, including collection commission laid down at the tariff rate applicable

15 **JOINT AND SEVERAL LIABILITY**

Should this Agreement be signed by more than 1 (ONE) person as Purchaser the obligations of all the said signatories shall be joint and several

16 **TRUSTEE**

If this Agreement is entered into by the signatory for the Purchaser in his capacity as trustee for a company or close corporation to be formed, then

16 1 the said signatory, by his signature hereto, hereby binds himself in favour of the Seller as surety and co-principal debtor, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company or close corporation in terms of or arising out of this Agreement or any cancellation hereof, and

16.2 without prejudice to the provisions of 16.1, in the event of such company or close corporation not being formed within 30 (THIRTY) days after the date of signature of this Agreement, and/or failing within 7 (SEVEN) days of incorporation to ratify and make the provisions of this Agreement binding upon itself, and/or failing within the said 7 (SEVEN) day period to deliver to the Conveyancers the originals or notarially certified copies of its certificate of incorporation, memorandum and articles of association, certificate to commence business and all necessary resolutions of shareholders and/or directors in respect of this sale, in the case of a company, or of its founding statement, any applicable association agreement (or confirmation that there is none) and the written consent signed by all the members in respect of the ratification and adoption of this sale, in the case of a close corporation, then and in any such event, the said signatory shall be personally liable in terms hereof as if he had contracted in his own personal capacity

17 **COMPANY/CLOSE CORPORATION/TRUST**

If this Agreement is signed as Purchaser by a person purporting to act for and on behalf of a company or close corporation or trust (other than a company or close corporation or trust not yet formed), he shall be deemed to warrant that he is duly authorised so to sign this Agreement and shall by his signature hereto bind himself in favour of the Seller as surety and co-principal debtor under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company or close corporation or trust in terms of or arising out of this Agreement or any cancellation hereof

18 **SUSPENSIVE CONDITIONS**

This Agreement is subject to the suspensive conditions that

18.1 the Purchaser raises and receives a loan, upon security of a first mortgage bond over the Property, from a recognised financial institution, upon its usual terms and conditions, in the amount referred to in F 1 of the Schedule by not later than the expiry of a period of 90 (NINETY) days after the date of signature of this Agreement by the Seller

18.1.1 The Purchaser hereby undertakes to do all such things and to sign all such documents as may be necessary and/or requisite in order to apply for and procure the grant of the said loan from a bank, building society or other financial institution and to furnish written proof to the Seller of the granting or refusal thereof

18.1.2 The Purchaser hereby irrevocably appoints the Mortgage Originator referred to in G of the Schedule as its agent to apply for such loan on the Purchaser's behalf and to obtain such written approval, consent and authority from any recognised financial institution and the Purchaser undertakes to sign all documents and do whatever may be necessary to be done

18.1.3 The Seller shall have the right to extend the 90 (NINETY) day period referred to in 18.1 for a further period not exceeding 90 (NINETY) days, provided that it gives the Purchaser written notice thereof prior to expiry of the initial 90 (NINETY) day period

18.1.4 The Purchaser acknowledges that it is fully aware of the requirements of the banks with regard to the maximum loan which banks are prepared to grant on the basis of income and commitments of the borrower and the Purchaser hereby warrants that its income is sufficient in relation to its commitments to meet the requirements of the banks in this regard and having regard to the amount of the loan to be applied for

18.1.5 Where the Purchaser is married and the spouse of the Purchaser signs this Agreement as envisaged in 20, or where the Purchaser is a company or close corporation or trust (whether to be formed or already formed in the case of a company or close corporation), such spouse or the person/s signing this Agreement

on behalf of, or as trustee for, the relevant company or close corporation or trust, by his/their signature hereto, undertakes to sign any documents which may be required by any person or institution in order to procure the loan and/or register the bond envisaged in 18.1, including without limitation, any deed of suretyship, loan application and the power of attorney to pass the bond. The said spouse or other person/s also hereby warrant/s that his/their income is sufficient to procure such loan and undertake/s to furnish forthwith any information requested by the person or institution/s to which application is made for such loan. Failure by such spouse or other person/s to comply with all or any of the provisions of this clause shall constitute a material breach of this Agreement.

18.1.6 This suspensive condition shall be deemed to have been fulfilled as soon as the Purchaser or its agent has received confirmation that the loan in question has been approved in principle by the financial institution, or a quotation in terms of the National Credit Act from the financial institution, irrespective of any loan agreement between the Purchaser and the institution, regardless of any conditions imposed by the institution in granting such loan and regardless of whether or not either or both of the aforesaid events occurs prior to the date of signature of this Agreement by the Seller provided that, where an amount is stipulated in F.2 of the Schedule, this suspensive condition shall only be deemed to have been fulfilled if the mortgage loan granted provides for the payment on transfer of the Property of an amount which is not less than the amount so stipulated in F.2 of the Schedule.

18.2 by not later than 90 (NINETY) days after the date of delivery of this Agreement, duly signed by the Purchaser, to the Seller, the persons (if any) named in L of the Schedule shall sign and deliver to the Seller a Deed of Suretyship approved by the Seller, guaranteeing the obligations of the Purchaser to the Seller in terms of this Agreement. This condition shall be deemed to have been fulfilled upon receipt by the Seller of the signed Deed/s of suretyship, regardless of whether or not such delivery occurs prior to the date of signature of this Agreement by the Seller,

To be deleted if
this contract is not
Plot and Plan

18.3 the Building Contract is signed and entered into by and between the parties thereto by not later than expiry of a period of 90 (NINETY) days after the date of signature of this Agreement by the Seller and is thereafter perfected to the extent that all suspensive conditions to which it is subject are duly and timeously fulfilled,

18.4 the Purchaser is successful in procuring at its cost the approval by the Design Review Committee of the Association and the applicable local authority of its building plans in respect of the buildings and other improvements which the Purchaser intends to be erected on the Property in terms of the Building Contract, by not later than, in the case of Design Review Committee approval 90 (NINETY) days, and in the case of local authority approval 180 (ONE HUNDRED AND EIGHTY) days, after the date of signature of this Agreement by the Seller.

18.5 prior to lodgement of the documents for transfer in the Deeds Office, the Association gives its written consent to the transfer of the Property into the name of the Purchaser, which consent will only be granted once the Purchaser and the Seller have fulfilled all their obligations to the Association in terms of the Agreement and the Articles and Conduct Rules.

In the event of any of the said suspensive conditions not being timeously fulfilled, then this sale shall lapse and be of no further force or effect between the parties and each party shall restore to the other party everything which it has received from the other party in terms hereof, neither party having any other claim against the other in respect thereof.

19 MORA AND ARREAR INTEREST

19.1 In the event of the Purchaser failing to comply with any terms or conditions of this Agreement on due date, as a result of which registration of transfer is delayed, the

Seller shall in addition to any other rights which it may have in terms hereof or at law, be entitled to claim from the Purchaser interest on the full Purchase Price at the rate of 2 (TWO) per cent per annum above the prime overdraft rate charged from time to time by ABSA BANK calculated from the date upon which the obligation in question fell due for performance up to the date upon which it was actually performed, or for the period of any delay in registration of transfer which results therefrom, whichever is the longer. Such interest shall be payable by the Purchaser to the Seller on demand.

19.2 For the purposes of this clause (19) the Purchaser shall be deemed to be responsible for any delay in the date of transfer which is caused by failure on the part of any financial institution from which the Purchaser obtains mortgage finance or any conveyancer nominated by such financial institution to procure the issue of guarantees as contemplated in this Agreement and to lodge document in the Deeds Office when called upon to do so by the Conveyancers. In addition and without prejudice to any other rights which the Seller may have in terms hereof or at law, the Purchaser shall be liable for interest on any amounts in arrears at a rate equal to the mora interest rate referred to in 19.1.

19.3 In any case where the Seller is entitled to mora interest in terms of 19.1, the Purchaser shall in addition thereto be liable for all rates, levies and other expenses arising from the Property.

20 **MARRIED PURCHASER**

In the event of the Purchaser being married, the spouse of the Purchaser, by his signature hereto, in addition to assisting his spouse to enter into this Agreement to the extent that this may be necessary, also binds himself, his heirs, executors or assigns to and on behalf of the Seller, its order or assigns, as surety and co-principal debtor, jointly, severally and in solidum for the due performance by the Purchaser of all its obligations in terms of this Agreement and hereby renounces the benefits of excussion and division, with the meaning of which he declares himself to be fully acquainted. Furthermore, the spouse agrees that it shall always be in the discretion of the Seller, without notice to the spouse, to grant time or other indulgences to the Purchaser, to delay the date/s for any payment/s or for the performance of all or any of the obligations of the Purchaser in terms of this Agreement or to vary the terms of this Agreement or to make any arrangements with the Purchaser, and the spouse agrees that he shall not be entitled to give notice of termination of his liability under this Agreement or to withdraw from this suretyship or in any way to limit his liability hereunder for so long as the Purchaser has failed to carry out or fulfil all of its obligations in terms of this Agreement.

21 **ESTATE AND ASSOCIATION**

21.1 From the Occupation Date the Purchaser shall

21.1.1 comply with the provisions of the Conduct Rules,

21.1.2 waive all claims against the Association and/or the Seller for any loss or damage to property or for any injury to person which the Purchaser may sustain in or about the Property or the Common Property, and

21.1.3 indemnify the Association and/or the Seller against any such claim that may be made against the Association and/or the Seller by any of the Purchaser's invitees, employees or agents for any loss or damage to property or injury to person/s howsoever such loss or damage or injury may be caused.

21.2 The Purchaser shall

- 21 2 1 on registration of transfer of the Property into its name become and, whilst it is the registered owner of the Property, remain a member of the Association,
- 21 2 2 conform to and comply with the Memorandum of the Association and the Articles,
- 21 2 3 conform to and comply with any Conduct Rules formulated from time to time by the Directors of the Association in accordance with the powers vested in them in the said Articles,
- 21 2 4 conform to and comply with the Building Design Code and Landscape Design Code applicable to the Estate, copies of which are attached hereto, marked "E1" and "E2", and shall also comply with the environmental management plan, and
- 21 2 5 whilst a member of the Association and with effect from the date of registration of the Property into its name, pay all fees, levies and/or special levies raised and charged by the Association against the members of the Association
- 21 3 The Purchaser
- 21 3 1 irrevocably authorises the Seller to do all such things as may be necessary to enrol the Purchaser as a member of the Association with effect from the date of registration of transfer and consents to sign any documentation necessary in this regard, and
- 21 3 2 shall remain a member until it ceases to be the owner of the Property
- 21 3 3 The PURCHASER shall sign a debit order authorisation for the payment of the monthly levies to the Managing agents for the duration of their ownership (Annexure "G")
- 21 4 The Purchaser shall not
- 21 4 1 sell the Property to any person unless it incorporates a provision in the agreement of sale that such purchaser acknowledges that it is aware of the Association and that such purchaser shall be obliged, on receiving transfer of the Property, to become a member of the Association and be subject to all the obligations of such membership,
- 21 4 2 be entitled to register the transfer of the Property to such proposed purchaser unless and until it has received from the Association a certificate stating that all amounts owing to the Association have been paid
- 21 5 Without limiting the provisions of 11 1 the Purchaser acknowledges that the conditions of title of the Property may include a condition to the effect that
- The ownership of neither the lot, nor any further subdivision, nor any unit erected thereon as defined in the Sectional Titles Act No 95 of 1986, shall be transferred to another person or entity until such person or entity is bound to become, and remain, a member of the "Home Owners Association" for the duration of such person's or entities ownership thereof and a clearance certificate has been issued by such association to the effect that its articles of association have been complied with, such condition to be registered in such form as the Association's/Developer's conveyancers may determine and the Registrar of Deeds may permit
- 21 6 The Purchaser acknowledges that it is aware that
- 21 6 1 the Association may be obliged by to acquire ownership of private roads and private open spaces in the Estate and accordingly the Purchaser undertakes to do everything possible as a member of the Association to facilitate such acquisition and subsequent transfer of the said private roads and/or open spaces to the Association, and

- 21 6 2 the services which will be provided by the Association to its members will include, but are not limited to maintenance of Common Property and servitude areas within same
- 21 7 1 The Purchaser acknowledges and agrees that, in order for the Developer to successfully complete the Estate, it is deemed necessary by the directors of the Developer to have control of the Association and they shall during the Development Period as that term is defined in the Articles, be entitled to
- 21 7 1 1 nominate all the directors of the board of the Association to the exclusion of the appointment of any other person by the owners,
- 21 7 1 2 carry or veto any proposed ordinary or special resolution of the Association by voting in favour of or against such resolution,
- 21 7 1 3 enter into any contract or pre-incorporation contract which it may in its own discretion deem necessary on behalf of the Association
- 21 7 2 The Purchaser, hereby irrevocably and in rem suam appoints the Seller or it nominee, to specifically exercise any of its rights which it might have in regard to
- 21 7 2 1 voting for the election of 100 (ONE HUNDRED) per cent of the directors (including the chairman) of the board of the Association,
- 21 7 2 2 attendance at all meeting of the Association,
- 21 7 2 3 voting in favour or against any proposed ordinary or special resolution of the Association
- 21 7 3 The rights of the Seller as set out above shall cease at the termination of the said Development Period and thereafter the Purchaser shall be entitled to 1 (ONE) vote for each unit or erf registered in its name
- 21 7 4 It is specifically recorded however pursuant to the requirements of the Ethekewini Municipality that the provisions of the above clauses shall not apply to the control and implementation of the environmental management plan for the Estate and that the Purchaser and other purchasers in the Estate shall have the right to stand and be appointed as a director of the Association, limited however to the portfolio of environmental matters and the implementation and control of the environmental management plan
- 21 8 The parties agree that, to the extent that it is in their power to do so, but only if the Seller so requires, they shall appoint the Managing Agent referred to in N of the Schedule as the Managing Agent for the Estate
- 21 9 The Purchaser acknowledges that the construction of double-storey residential dwellings is permitted in the Estate and the Purchaser undertakes and agrees not to object or appeal against, or in any way interfere with, the Developer's rights or the rights of any other owners in the Estate in this regard
- 21 10 The PURCHASER acknowledges that he may not sell or otherwise alienate the PROPERTY without the prior written consent of Zelpy first having been obtained
- 22 **SECURITY**
- 22 1 The Developer in developing the Estate will install certain security systems, facilities and procedures

- 22 2 The Developer and the Seller shall assign to the Association the responsibility for maintaining and operating such security systems, facilities and procedures and the obligation of procuring any additional security requirements which the Association might in due course deem necessary
- 22 3 The Purchaser acknowledges that it is aware of the rights of access in favour of the Association for the purposes of providing security to the Estate, as provided in the proposed amended Articles
- 23 **PRIVATE TOWNSHIP**
- It is recorded that the private township comprising the Estate has been declared an approved private township
- 24 **BUILDING CLAUSE**
- The PURCHASER shall commence the dwelling to be erected on the PROPERTY within a 12 (TWELVE) month period from DATE OF TRANSFER Provided that the construction of the dwelling must be completed within 12 months from the starting thereof Should the PURCHASER fail to so complete the dwelling, the PURCHASER shall be liable for the payment of a fine to the ASSOCIATION as may determine from time to time by the ASSOCIATION
- 25 **LEVY STABILISATION FUND**
- 25 1 The PURCHASER is aware that he will have to contribute to the Levy Stabilisation Fund referred to in clause 12 (This amount is payable on or before the DATE OF POSSESSION or the DATE OF TRANSFER, whichever occurs first) and is dependent upon the ASSOCIATION
- 25 2 The PURCHASER agrees that he shall have no right to reclaim from the ASSOCIATION any amount paid to the ASSOCIATION by way of the monthly levy, special levy or contribution to the Levy Stabilisation Fund referred to above
- 26 **PROTECTION OF PERSONAL INFORMATION ACT NO.4 OF 2013**
- 26 1 The Purchaser hereby consents to ZELPY 2127 (PROPRIETARY) LIMITED processing and retaining his/her personal information for legitimate and business related purposes as contemplated in the Protection of Personal Information Act No 4 of 2013 ("POPIA") The Purchaser hereby acknowledges that his/her personal information will be stored and retained by ZELPY 2127 (PROPRIETARY) LIMITED electronically in a centralised data base and will be accessible to ZELPY 2127 (PROPRIETARY) LIMITED's subsidiary companies and/or associates and/or affiliates and/or service providers for legitimate and business related purposes only
- 26 2 I, the Purchaser, hereby consents * does not consent * to ZELPY 2127 (PROPRIETARY) LIMITED contacting me in respect of any similar products or services offered by ZELPY 2127 (PROPRIETARY) LIMITED and/or its subsidiaries and/or associates and/or affiliates and/or service providers which relates to this Sale Agreement, as per the personal information I have included in this Sale Agreement
- 26 3 I, the Purchaser, hereby consents * does not consent * to receive direct marketing from ZELPY 2127 (PROPRIETARY) LIMITED and/or its Nominee and/or its subsidiaries and/or associates and/or affiliates and/or service providers in respect of any future developments to be constructed and marketed by ZELPY 2127 (PROPRIETARY) LIMITED and/or its Nominee and/or its subsidiaries and/or associates and/or affiliates and/or service providers for the purposes of promoting or

offering to supply, in ZELPY 2127 (PROPRIETARY) LIMITED's ordinary course of business, any goods or services, by means of electronic communication in the form of e-mails, SMS's and/or telephone calls, as per the personal information I have included in this Sale Agreement

- * e-mail
- * telephone
- * SMS

- 26 4 The Purchaser hereby consents to ZELPY 2127 (PROPRIETARY) LIMITED and/or its Nominee and/or its subsidiaries and/or associates and/or affiliates and/or service providers, retaining the Purchaser's records of personal information, provided in terms of this Sale Agreement, for as longer than the prescribed retention periods dictated in POPIA or as may be required, for historical, statistical or research purposes, in accordance with the procedures and protocols ZELPY 2127 (PROPRIETARY) LIMITED have put in place to safeguard the records from being used for any other purposes

*Delete whichever is not applicable

27 FORCE MAJEURE

A party shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay is

- 27 1 Beyond the reasonable control of a party,
- 27 2 Materially affects the performance of any of its obligations under this agreement, and
- 27 3 Could not reasonably have been foreseen or provided against, such as, but not limited to, war, riots, fire, flood, hurricane, typhoon, earthquake, lightning, explosion, strikes, lockouts, slowdowns, prolonged shortage of energy supplies, acts of state or government, pandemics and disease,
- But will not be excused for failure or delay resulting from only general economic conditions or other general market effects

28 PROPERTY PRACTITIONERS ACT

In terms of the Property Practitioners Act 22 of 2019 (the Act) the following is applicable

- 32 1 Should the DEVELOPER sell the unit privately then in that instance the DEVELOPER warrants that they are in possession of a current Fidelity Fund certificate under the provisions of the Act
- 32 2 In accordance with the Act a Mandatory Disclosure Form regarding the state of repair of the property is required to be signed and form part of the sales pack however due to the nature of new developments this condition will take place on hand over and will form part of the snag list

OFFER / ACCEPTANCE

In as much as this Agreement, signed by the Purchaser and delivered to the Seller, shall constitute an offer to purchase the Unit and the Exclusive Use Rights, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller signing same (communication thereof to the Purchaser not being necessary to constitute acceptance) within 210 (TWO HUNDRED AND TEN) days after the date of signature thereof by the Purchaser. It shall also remain open for acceptance by the Seller on the same basis after expiry of the said 210 (TWO HUNDRED AND TEN) day period unless the Purchaser specifically withdraws it by

giving written notice thereof to the Seller. In this regard, it is recorded that the provisions of Section 29(A) of the Alienation of Land Act, No 68 of 1981 (as amended), do not apply to this Agreement as the purchase price exceeds R250 000,00 (TWO HUNDRED AND FIFTY THOUSAND RAND)

28 ANNEXURES

The purchasers hereby acknowledges that they have read and understood the annexures that are available to them on the sellers website and/or by requesting them from the developer

Annexure's	A	Surveyor General Site Plan
	B1	Home Owners Articles of Association
	B2	Amendments to Home Owners Articles of Association
	C	101Acutts Conduct Rules
	D	(Not applicable)
	E1	101Acutts Build Design Code
	E2	101Acutts Landscape Design Code
	F	101Acutts Housing Specifications

SIGNED by the SELLER at _____ on _____

AS WITNESSES

1 _____

2 _____



SIGNED by the PURCHASER at _____ on _____

AS WITNESSES

1 _____

2 _____

PURCHASER / S

1 _____

2 _____