MANOR

DEED OF SALE - SECTIONAL TITLE

MEMORANDUM OF AGREEMENT

Made and entered into between :

THE TRUSTEES FOR THE TIME BEING OF

THE FINKENSTEIN PORTION THREE TRUST

(herein represented by LEON BASSON and/or DIEDERIK JOHANNES JOOSTE FAKCULYN GOUS duly thereto authorised)

Income Tax Number: 6508122-01-5

P O Box 3865
Windhoek
Tel: 061 – 240 124
No. 10 Eugene Marais Street, Windhoek

(hereinafter referred to as the "SELLER")

and

1. _____

Identity number: _____

Marital status: _____

Income tax number: _____

2. _____

Identity number: _____

Marital status: _____

Income tax number: _____

P O BOX _____

TEL: _____

_____

E-MAIL: _____

(hereinafter referred to as the "PURCHASER")

RECORDAL:

WHEREAS:

A. The SELLER is the registered owner of the following property, namely:

CERTAIN: **Portion 3 of the farm FINKENSTEIN No. 526**
SITUATED: **In the Municipality of Windhoek**
REGISTRATION DIVISION "K", Khomas Region
MEASURING: **43,0026 Hectares**
HELD BY: **Virtue of Deed of Transfer No. T 6066/2007**
(hereinafter called the "Property")

B. The SELLER, established a township thereon called **Finkenstein Manor**, consisting of an estimated number of 282 erven, comprising erven of a mixed density and zoning, for use thereof of residential, retail, commercial and/or leisure purpose or any other purpose the SELLER may in its sole discretion deem necessary and appropriate.

C. The SELLER developed Erf 3 in the nature of a phased sectional title development scheme by erecting thereon certain buildings, comprising sectional title residential units and garages in accordance with the Architect Drawings.
(hereinafter called the "Project" or the "Development")

D. The SELLER wishes to sell the said units together with the right to the exclusive use areas, in terms of the Sectional Title Act (as amended), or any future amendment thereto, to prospective PURCHASERS.

E. The SELLER applied in terms of the provisions of the Sectional Titles Act No. 2 of 2009 (or any amendment thereof), for the opening of a Sectional Title Register in respect of the project and is currently in the process of constructing phase 3 of the Sectional Title Development

F. By signing this Deed of Sale, the PURCHASER shall be making an OFFER to the SELLER in the form of an IRREVOCABLE OFFER, to purchase the undermentioned section, in phase 3 as set out in Clause 2.1.1 hereof, and such offer shall remain irrevocably and unconditionally valid and open for acceptance by the SELLER within a period of 14 days from signature of this Deed of Sale by the PURCHASER. If such acceptance does NOT take place by the SELLER within the aforesaid period, then this offer by the PURCHASER shall fall away, become null and void and neither party shall have any right or further claim against the other party.

G. The PURCHASER intends and offers to purchase a unit established or to be established in accordance with the Sectional Titles Act (as amended), comprising the apartment and common property as more fully described to in Clause 2.1.1 and 2.1.2 hereof.

NOW THEREFORE THIS AGREEMENT WITNESSES :

1.1 DEFINITIONS

In this agreement unless inconsistent with the context :

1.1.1	"Agreement" means:	This agreement and all the Annexures (if any), inclusive of the Architect's Drawings and Specifications.
1.1.2	"Architect" means:	The architect nominated and appointed by the contractor from time to time, but for the purposes of this agreement shall be deemed include the project manager.
1.1.3	"Architect drawings" means:	The drawings according to which the buildings and sections (which together with the common property comprise of the sectional title scheme) are proposed constructed or to be constructed (the contents whereof the PURCHASER hereby acknowledges himself to be fully acquainted with) and whereof the sheets are on display at the offices of the SELLER, its duly appointed agent and of which the PURCHASER hereby acknowledges having perused and duly satisfied himself of the contents and detail thereof being architectural drawings, which said Plans shall henceforth be deemed to be incorporated by reference herein, inclusive of any subsequent variation thereto, as may be effected thereto.
1.1.4	"Buildings" mean:	All new buildings to be erected on the property which development will be known as: _____ as will more fully appear on the Architect Drawings and Specifications.
1.1.5	"Conveyancers" mean:	The SELLER's Attorney Theunissen, Louw & Partners Schutzen Haus, No. 1 Schutzen street, Windhoek Tel: 061 – 237 856
1.1.6	"Exclusive Use area means:	Those portions of the common property indicated as such on the Architect Drawings in respect whereof the PURCHASER will have the exclusive right and use to the exclusion of anybody else.

1.1.7	"Occupation date" means:	The date when the unit is substantially completed and ready for beneficial occupation as determined in terms of Clause 6 hereafter.
1.1.8	"Rules" mean:	The rules of the body corporate accepted in terms of Clause 12 hereafter.
1.1.9	"Specifications" mean:	The specifications and finishing schedule of the buildings and furbishing of the apartments and internal lay-out, and of which the PURCHASER acknowledges himself to be fully acquainted with.
1.1.10	"The Act" means:	The Sectional Title Act, Act No. 2 of 2009, as amended and the Regulations thereto, or any other Act made applicable to Namibia.
1.1.11	"The SELLER" also means:	The Developer and *vice versa*.
1.1.12	"common property" "scheme" "participation quota" "section" "sectional plan" "sectional title register" "unit" "body corporate" "developer" means	the meanings ascribed thereto in the said Act.

1.1.13 Words importing the singular, shall include the plural and *vice versa*, and words importing the masculine gender shall include the female and words importing persons shall include bodies corporate.

1.1.14 Paragraph headings are only for reference, and it will not affect any interpretation of any clause hereof.

1.1.15 The words "material" and "materially" means, when used as an adjective in conjunction with an event, condition, circumstance, effect or other item that there is a substantial likelihood that a reasonable person will in the matter concerned, attach importance to the event, condition, circumstance, effect, or item in evaluating the Party to which it relates and/or the event, condition, circumstance or effect contemplated in this Agreement.

1.1.16 The word "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s.

1.1.17 The words "other", "otherwise" and "*inter alia*" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.

1.1.18 Capitalized terms used in this Agreement have the meaning given to them in this definition clause or as stated elsewhere in this Agreement.

2. PURCHASE AND SALE
(OFFER AND MANNER OF ACCEPTANCE)

2.1 Conditional upon the acceptance by the SELLER of the offer to purchase hereby being made by the PURCHASER, the SELLER hereby sells to the PURCHASER who hereby purchases the unit as established in terms of the Sectional Titles Act (as amended), comprising:

2.1.1 The Section indicated as Unit _____ and Garage No. _____ on Erf _____ Finkenstein which unit number will be affixed on the Section in the aforesaid scheme known as _____ and in accordance with the options and finishing schedule annexed hereto as Annexure "A" and Annexure "B" respectively.

2.1.2 An undivided share in the common property in the land and buildings as shown and more fully described on the said drawings apportioned to the said section in accordance with the participation quota of the said section to be specified in a schedule to be endorsed on the aforesaid sectional plan, and which shall substantially comply and conform with the Architect Drawings.
(hereinafter referred to as the "Unit" or "the property" (depending on the context)).

2.2 Communication of acceptance by the SELLER of this offer to purchase by the PURCHASER shall irrevocably be deemed to have been validly and correctly effected and taken place if the SELLER had delivered a copy of this deed of sale, signed by the SELLER, to the PURCHASER.

3. PURCHASE PRICE AND MANNER OF PAYMENT

3.1 The PURCHASE price is the total sum of N$_____ computed as follows:

The Unit No. _____ N$_____

The Garage No. _____ N$_____

inclusive of estate agents commission and exclusive of VAT if any, and shall be payable by the PURCHASER as follows:

A.

the full purchase price in cash against signature hereof directly to the SELLER or the conveyancer who will then pay the said purchase price immediately to the SELLER, in which event the PURCHASER will be granted a 5% (five percent) reduction on the normal purchase price of the unit, alternatively:

B.

in three equal instalments, as follows:

(i) N$_____ before or on _____

(ii) N$_____ before or on _____

(iii) N$_____ before or on _____

directly to the SELLER or the conveyancer who will then pay the said instalment immediately to the SELLER, in which event the PURCHASER will be granted a 2,5% (two comma five percent) reduction on the normal purchase price of the unit, alternatively

C.

(i) an amount of **N$50 000.00 (FIFTY THOUSAND NAMIBIA DOLLARS)** against signature of this agreement directly to the SELLER.

(ii) the **balance** of the purchase price, alternatively an acceptable Banker's guarantee at the costs of the PURCHASER for the amount of N$_____ payable at such a place and to such a person in Namibia as the SELLER may determine, payment to be effected in the currency of the Republic of Namibia without deduction or demand, **within 30 (Thirty) days after receipt of a written request to such effect by the conveyancers of the SELLER.**

3.2.(a) any amounts so paid by the PURCHASER to the SELLER in terms of clause 3 above, may be utilised by the SELLER or its appointed agent towards the costs and expenses relating to the establishment of the development.

(b) the PURCHASER irrevocably and unconditionally acknowledges, agrees and consents that the deposit referred to in clause 3(c)(i) will be deemed as NON-REFUNDABLE in all circumstances.

(c) The Conveyancer is hereby authorised and instructed by the PURCHASER to pay all monies paid by the PURCHASER to the Conveyancer, in terms of clause 3 above to the SELLER to be utilized in terms of clause 3(a) above.

(d) Should the PURCHASER fail to provide the cash payment, payment guarantee or other acceptable security as referred to in this clause 3, the SELLER shall be entitled at his sole discretion, to cancel the agreement with written notice delivered in terms of clause 15.2 hereof, in which event all monies paid by the PURCHASER shall be forfeited in favour of the SELLER.

(e) Should the SELLER elect not to cancel the agreement in terms of 3.2(h) below, the PURCHASER shall as from the applicable due date referred to herein above:

(i) become liable for the payment of interest to the SELLER on the balance purchase price at the rate of 20% per annum, of a pro rate portion thereof for any part of a year.

(ii) become liable for the payment of levies to the Association as if the property has been duly transferred and registered in the PURCHASER'S name, notwithstanding the fact that such due date may occur before the completion date.

(iii) The interest referred to above shall be due and payable monthly in arrears before or on the last day of each respective month.

(f) All amounts payable by the PURCHASER in terms of this agreement shall be so paid by the PURCHASER free of exchange or bank commission at Windhoek and without deduction or set off by means of an electronic transfer.

(g) This agreement is subject to the suspensive condition that a loan secured by a bond totalling N$_____
is granted by a Commercial Bank or any other financial institution at prevailing bank rates within 60 (sixty) days of date of signature hereof. The PURCHASER undertakes to immediately take all necessary steps and to sign all necessary documents, as well as to comply and procure compliance with all the requirements of the lender. The PURCHASER shall be obliged to, upon request by the SELLERS, furnish proof of the application. Should such loan not be approved, this contract will become null and void.

(h) Within 60 (sixty) days of date of signature hereof, the PURCAHSER shall provide to the SELLER a letter of approval from a Commercial Bank, confirming that in principle the PURCHASER'S loan for the balance of the purchase price has been approved, failing which the SELLER shall be entitled to cancel the agreement, and to refund to the PURCHASER an amount equal to the deposit paid, less a 10% (ten percent) cancellation fee.

(i) The PURCHASER shall be obliged to ensure that his/her loan with the relevant Commercial Bank shall not lapse and to this end the PURCHASER shall confirm with the relevant Commercial Bank at each interval of 6 (six) months that the loan is valid and in force, and re-apply to the bank should it become necessary, until such time as the bond has been registered in the local Deeds Registry.

(j) The PURCHASER shall be obliged to, within 14 (fourteen) days when called upon by the hereinafter mentioned Conveyancers, to furnish an acceptable Banker's guarantee to the SELLER for the amount of N$_____
payable at such place and to such person in Namibia as the SELLER may determine, payment to be effected in the currency of the Republic of Namibia without deduction or demand.

(k) Should any payment towards the Purchase Price be made into the trust account of the Conveyancers before the Transfer Date, the Purchaser hereby authorizes and/or instructs the Conveyancers to invest such funds when reflecting in the Conveyancers' trust account on behalf of the Purchaser in terms of Section 26(3) of the Legal Practitioners Act, 1995 (Act No. 15 of 1995), as amended.

(l) The Conveyancers are duly and irrevocably authorized by the Parties to, on their behalf, effect payments and investments provided for in this Agreement as well as take such other steps as are required to implement this Agreement.

(m) Should VAT become payable on this Transaction by Law before the Transfer Date, then the PURCHASER shall be liable for payment of such VAT amount in addition to the Purchase Price and all other payments due in terms of this Agreement.

4. GUARANTEE

No guarantee in terms whereof the financial institution is entitled to withhold any amount of the Purchase Price until such time as the PURCHASER or a valuator from such institution has certified that the unit has been completed to his/her satisfaction will be a valid guarantee and will therefore be unacceptable to the SELLER.

5. POSSESSION AND OCCUPATION

Possession and occupation of the unit hereby sold shall be tendered by the SELLER to the PURCHASER after the completion of the building comprising of the aforesaid section purchased by the PURCHASER. The following shall irrevocably in interpreting such possession and occupation be deemed to be the position :

5.1 The PURCHASER shall be obliged to take possession and occupation of the unit hereby sold, on the date to be indicated in a notice of possession and occupation in writing which shall be forwarded by the SELLER to the PURCHASER, by registered mail to the PURCHASER, or delivered to him or to his address at least 7 (seven) days prior to the proposed date of possession, mentioned in such notice.
(hereinafter referred to as the "Date of Possession")

5.2 Any dispute that might arise as to whether the unit is in a state fit and ready for beneficial occupation, shall become the subject of adjudication by the Architect who shall oversee the final completion of the Sectional Development Scheme and who shall adjudicate such dispute in their capacity as professional experts and the said arbitrators, are hereby appointed by the parties, and such Architect's decision shall be final and binding upon both parties, as a final arbitration determination.

5.3 On the date of possession all risks as well as benefits in the unit shall pass to the PURCHASER, whether or not physical occupation has, in fact, taken place by the PURCHASER or not, and the PURCHASER shall become liable for the payment of occupational interest in terms of clause 6 hereunder.

5.4 If the date of possession should for whatsoever reason not have been established in accordance with any of the aforegoing provisions, then the date of transfer of the unit shall be deemed to be the date of possession for purposes of this Agreement.

5.5 If the PURCHASER shall (for whatever cause or reason) occupy the unit, then such date of first occupation by him, shall irrevocably also be deemed to be the date of possession (however, the SELLER reserves its right to evict the PURCHASER from the unit, if such occupation should have taken place otherwise than in accordance with this Agreement).

6. OCCUPATIONAL INTEREST

6.1 In the event of the PURCHASER being allowed by the SELLER (within the latter's absolute discretion) to occupy the unit prior to the payment by the PURCHASER of the aforesaid full Purchase Price, referred to in Clause 3 (and likewise in the event of the PURCHASER occupying the unit without any approval of the SELLER), then the PURCHASER shall be obliged to pay occupational interest to the SELLER or his nominee on the Purchase Price, for each cycle of 30 (thirty) days of such occupation (or a pro rata portion thereof), whether occupation is for an interrupted or uninterrupted period, at the rate of 1,5% (one comma five percent) of the Purchase Price for such cycle of 30 (thirty) days, based on the Purchase Price on the FIRST day of each such cycle of 30 (thirty) days.

6.2 Payment is to be made in advance on the FIRST day of each such cycle of 30 (thirty) days at the address of the SELLER as set out above, with the first payment on date of possession. The pro rata share of the occupational interest shall be refunded to the PURCHASER by the SELLER should payment of the Purchase Price be made within the cycle of 30 (thirty) days.

7. TRANSFER

7.1 It is hereby recorded that transfer of the unit hereby sold in the name of the PURCHASER shall be given and taken as close as possible to the date on whichever of the following events might occur, the latest in terms of time:

7.1.1 The sectional title register in respect of the unit hereby sold has been opened in the Deeds Office and the sectional plans have been registered;

7.1.2 The PURCHASER has signed all the necessary transfer documents and has paid the costs, and has paid or guaranteed payment of the full Purchase Price;

7.1.3 The Architect has certified that the buildings are substantially completed for

occupation and the Local Authority has approved the erected scheme. In addition, the Architect shall also prior to such date of transfer issue a certificate that the internal specifications lay-out have been duly completed and that the unit hereby sold is in a state for beneficial occupation, as well as completed to an acceptable standard of workmanship (unless the PURCHASER should waive his insistence on this latter requirement, which can be orally done or by conduct or by implication).

7.2 Subject to the conditions of Clause 7.1 hereof, transfer of the property will be effected by the SELLER's Conveyancer.

7.3 The PURCHASER shall be obliged to take transfer of the unit when requested thereto by the Conveyancer and once the sectional plans have been approved and will not be entitled to withhold transfer as a result of certain building works or retention work still to be carried out by the SELLER.

8. COSTS OF TRANSFER

8.1 All normal costs of transfer of the Unit, including the costs hereof, transfer duty and all other costs which have to be incurred in order to comply with Statutes, other enhancements or regulations relating to the passing of transfer of the Unit and the registration of a bond (if any) is not included in the Purchase Price and shall be paid by the PURCHASERS' financial institution or by the PURCHASER personally immediately when requested thereto by the Legal Practitioners, by default of which the SELLER will be entitled to cancel this Agreement in terms of Clause 15 hereof without any further notice and subject to the SELLER'S rights and remedies set out in the said clause, PROVIDED, however, that the PURCHASER shall not be obliged to make any such payment prior to the fulfilment of any suspensive conditions referred to herein.

8.2 For the purposes aforesaid the parties hereto specifically agree that, notwithstanding the provisions of any act or regulation to the contrary, that the PURCHASER will also be liable for all stamp duty payable on this transaction, whether or not the SELLER might be legally liable therefore.

8.3 The PURCHASER acknowledges that he/she is aware of the fact that transfer duty is payable within 6 (SIX) months from date of the last signature on this deed of sale, from which date a penalty interest of 10% (ten percent) per month is added to the transfer- and stamp duties amount payable.

8.4 The Conveyancer's transfer costs shall be paid by the Purchaser within 3 (three) days from being requested to do so by the Conveyancers which amount shall relate to all the costs incurred in respect of the transfer of the Property into the Purchaser's name, which amount includes transfer duty, the cost of this Agreement, as well as stamp duty and all other costs of transfer and matters incidental thereto. This amount does not form part of the Purchase Price and shall be paid into the trust account of the Conveyancers. The

Parties hereto record and agree that the fees and costs of the Conveyancers will be based upon the fees as prescribed by the regulations to the Deeds Registry Act, 1947 (Act No. 37 of 1947).

9. CONDITIONS OF TITLE AND SPECIAL CONDITIONS OF SALE

9.1 The PURCHASER will be obliged to take transfer of the unit subject to:

9.1.1 the conditions contained in the Sectional Title Scheme or register and imposed by the Local Authority or Government or any other competent authority, or other body of persons of authority having jurisdiction thereover;

9.1.2 any servitude which may be applicable to the unit hereby sold, or to the building structure or to the property upon which the said Sectional Title Scheme is being developed if laid down in accordance with the contents of this Agreement;

9.1.3 any servitudes contained in the title deed of the property;

9.1.4 any conditions which the SELLER as developer intends to impose and which will be contained in Annexures to Sheet 1 of the sectional plan.

9.1.5 any conditions contained in any provision of the Act, regulations or in the first and second schedule rules applicable to the buildings in terms of the sectional Titles Act, or any amended rules, which rules will lie for inspection at the offices of the SELLER and of which the PURCHASER acknowledges he is aware of;

9.1.6 the condition that if a difference (which shall not be material) should exist between the areas of the unit hereby sold, as appears from the Architect's Drawings and Specifications and that as depicted on the participation quota schedule of the sectional plan as accepted by the Registrar of Deeds, then, and in such event, the PURCHASER shall nevertheless be obliged to take transfer of the unit hereby sold, without any claim to be compensated for such difference; provided, however, that such difference shall not be material;

9.1.7 the condition that the unit is being sold "voetstoots" and in accordance with the said Architect's Drawings and Specifications and the participation quota to be endorsed on the final sectional plan (or any modification, alteration or amendment to the said Architect's Drawings and Specifications in order to comply with the provision of the said Act No. 2 of 2009 (as amended), or subject to any conditions which may be laid down in the said Act) or subject to any condition which may be laid down by any authority, referred to in Clause 9.1.1 hereof, as may be required for the approval and the eventual registration of the said Sectional Title Scheme;

9.1.8 and further subject to any exclusive use areas referred to in clause 10 hereof.

10. EXCLUSIVE USE AREAS, RIGHTS AND DUTIES OF THE PARTIES

10.1 The PURCHASER herewith acknowledges that, in respect of any area forming part of the common property and being depicted on the Sectional Plans as being exclusive use areas, such area shall be reserved for the exclusive use and enjoyment of the PURCHASER. The PURCHASER shall:

10.1.1 be absolutely and exclusively entitled to the perpetual exclusive use or enjoyment of such portion of the common property as depicted Sectional Plans subject only to the rules of the Body Corporate;

10.1.2 be obliged to maintain the said area in a neat and tidy condition, at the sole and exclusive costs and expense of such reserved owner;

10.1.3 not be entitled to sell, rent out or otherwise alienate his rights to such areas without first having obtained the prior written consent of the Body Corporate, except if he/they should alienate the complete unit as an indivisible unit together with such right to the exclusive use area;

10.1.4 pay levies on such exclusive use areas, as depicted in the annexed plan if it should so be decided by the Body Corporate at a rate to be determined by such Body Corporate.

11. BODY CORPORATE AND LEVIES PAYABLE

11.1 The PURCHASER records that he is aware that upon transfer of the UNIT into the name of the PURCHASER, he will become a member of the Body Corporate established for the building and assumes liability for the contribution to the fund established in terms of the Sectional Titles Act and Rules for the administration of the Scheme.

11.2 The PURCHASER is aware that the Body Corporate will from time to time, in terms of the Sectional Titles Act, the provisions hereof and the rules governing the buildings, raise levies upon each owner, which levy shall comprise both the contributions referred to in Section 30(1) of the Sectional Title Act (as amended) or such other similar section in any other Sectional Title Act (as amended) applicable at the time and such other contributions as the Body Corporate in its sole discretion may deem necessary for the proper maintenance, control and administration of each section and the building, Such levy shall, without limitation, include such amounts as the Body Corporate considers sufficient to cover the costs of administering, and maintaining the building, including any lift and air-conditioning maintenance, the costs of rates, taxes, sewerage, sanitation security, cleaning, and insurance and basic charges in regard of water, electricity and refuse and other removals.

11.3 In this regards the PURCHASER shall if he occupies the section prior to the effective date, be obliged and hereby assumes liability to pay to the SELLER on a monthly basis in addition to the occupational rent all such amounts which the Body Corporate would have been entitled to receive have it come into operation, which payments shall commence on date of occupation.

12. THE RULES AND CERTAIN COSTS ASPECTS

12.1 The PURCHASER acknowledges that at all times at a general meeting of the Body Corporate operative rules of the Body Corporate may be amended or repealed or substituted the rules, or any other such Rules, the Body Corporate may deem appropriate and necessary.

12.2 To this end the PURCHASER gives and grants to the SELLER an irrevocable power of attorney in *rem suam* (operative from the time the PURCHASER becomes the registered owner of the unit) to attend at such general meeting on behalf of and to the exclusion of the PURCHASER to vote at a meeting of the Body Corporate for the adoption of such rules, as well as for the adoption of the Rules mentioned in Clause 12.1 hereof provided that the rules will not be amended in a different way than contemplated in Clause 12.1 hereof without the prior consent of the PURCHASER, which will not be unnecessarily withheld.

12.3 The SELLER undertakes to obtain similar powers of attorney from the PURCHASERS of other units.

12.4 The costs incurred for the development of the property and for the opening of a sectional title register shall be for the account of the SELLER as developer, which will be paid immediately on request to the conveyancer.

13. SPECIAL CONDITIONS APPLICABLE UNTIL DATE OF REGISTRATION

13.1 From date of occupation until date of registration of transfer, the following conditions will be applicable :

13.1.1 the terms and conditions of the Act (as amended) will be applicable at all times;

13.1.2 the conditions of the Rules will be applicable on the occupant as if he is an owner and will be enforceable by the SELLER;

13.1.3 the PURCHASER is not allowed to effect any alterations or modifications to the unit without the prior written consent of the SELLER, which will not be unreasonably withheld and then only on such terms and conditions as the SELLER may determine;

13.1.4 the PURCHASER shall keep the unit and any exclusive use area in a neat and tidy condition;

13.1.5 the PURCHASER will be responsible for all water and electricity charges, which will be payable upon demand, as well as a pro rata share in respect of rates and taxes to be established on a fair and reasonable basis and in accordance with the same proportion as the floor area of the unit bears to the total floor area of all the buildings;

13.1.6 the PURCHASER shall allow the SELLER or its duly authorised representatives the right of reasonable access to the unit for purposes of inspection, maintenance (if applicable) or reparation (if applicable) which may be foreseen in order to enable the SELLER to comply with its explicit obligations arising under this agreement, and irrespective of whether such access should relate to the unit hereby sold, or to any other unit or to any other improvement on the said erf. The PURCHASER shall, as he hereby does, waive all or any rights based upon interference with, or his right to beneficial occupation or possession of the unit, caused by or resulting from, such said right of reasonable access.

13.2 Until the Body Corporate comes into existence, the SELLER:

13.2.1 will keep the common property in a neat and tidy condition; and

13.2.2 administer the said Sectional Development Scheme and for such purpose collect or recover all monies owing in respect of property tax, water and lights and any or all levies of whatsoever nature relating to the property of the buildings whereof the unit forms a part.

13.3 If the property is destroyed before transfer in such a way that the PURCHASER is not able to occupy the said unit for a period of 6 (six) calendar months, then the SELLER will be entitled to cancel this agreement by way of a written notice to the PURCHASER, in which event the SELLER shall repay all monies received from the PURCHASER in respect of the Purchase Price and the parties will have no further claims against each other as a result of the said cancellation.

14. DEFECTS AND GUARANTEES

The PURCHASER shall within a period of 7 (seven) days after the date of occupation (for which purpose the PURCHASER's attention is specifically drawn to the fact that such date of occupation shall not necessarily coincide with the date upon which the PURCHASER physically occupies the unit) notify the SELLER in writing of any faults or errors occurring in the unit, which said notice to the SELLER shall be either delivered to the SELLER's aforesaid address personally or be sent by means of registered mail to the SELLER's aforesaid address. Should the PURCHASER fail to notify the SELLER in this matter, then it shall irrefutably be deemed that the PURCHASER has received the unit in a good and acceptable state and condition. The SELLER shall repair all faults and errors at its sole and exclusive costs and expense if and when so notified thereof by the PURCHASER in accordance

with the provisions of this Agreement, and if it is confirmed by the Architect to be a valid complaint.

15. BREACH OF CONTRACT BY THE PURCHASER

If the PURCHASER fails to fulfil any deadlines, terms or conditions of this Agreement, the SELLER shall have the right, to immediately either:

15.1 claim for specific performance by the PURCHASER of his obligations under this agreement by fulfilling all his outstanding obligations under this agreement;

15.2 cancel this agreement by registered letter to the PURCHASER, whereupon the PURCHASER shall forfeit any and all amounts paid to the SELLER or his agent or attorney in terms of this agreement and will vacate the unit immediately without prejudice to any of the other rights and remedies of the SELLER and the right to claim damages;

15.3. at all times be entitled to claim damages;

15.4 should the PURCHASER, however, dispute the right of the SELLER to cancel this agreement and retain occupation of the unit subsequent to the cancellation of this agreement by the SELLER, then the PURCHASER shall, notwithstanding, be obliged to continue to pay the monthly levies and occupational interest referred to in clauses 11.3 and 6 hereof, as well as to duly fulfil each and every other obligation arising from this agreement until such dispute has been resolved.

16. OPENING OF THE SECTIONAL TITLE REGISTER

The SELLER undertakes to take all reasonable steps to effect registration of the sectional plan and opening of the sectional title register as soon as possible after the issue of the surveyor's certificate that the buildings are completed and ready for occupation.

17. FINAL AGREEMENT

The SELLER and the PURCHASER hereby record and acknowledge that the terms and conditions of this agreement constitute the entire agreement between them and that no waiver, addition, alteration, variation or amendment hereto shall be of any force or effect unless in writing and signed by both the SELLER and the PURCHASER.

18. MORE THAN ONE PURCHASER

In the event of the PURCHASER to this agreement being more than one person, then in such event all individual PURCHASERS shall be individually and severally held liable in solidum and as co-principal debtors together with the PURCHASER from this agreement, and no such party shall be entitled to any defense or exception of any nature which would otherwise have been available to him in order to evade or in any manner reduce the strict effect and provisions of this clause.

19. JURISDICTION

For purpose of any action, interdict or other form of litigation which might arise from this agreement or form of application, or which might result therefrom, the parties hereto agree to the jurisdiction of the Magistrate's Court for the district of Windhoek notwithstanding the fact that such aforesaid Court might otherwise not have possessed jurisdiction in such matter. This clause shall be deemed to contain the written consent to jurisdiction referred to in clause 45 of the Magistrate's Courts Act No. 33 of 1945, as amended. Notwithstanding anything contained to the contrary herein the SELLER shall at all times reserve the right for itself to demand that any action brought by itself or by the PURCHASER be brought before any other Court with applicable jurisdiction.

20. NOTICES AND DOMICILIA

20.1 The parties hereby choose *domicilium citandi et executandi* for all purposes under this agreement and incidental thereto, including the giving of notices and the serving of any process, the addresses given in the heading to this agreement.

20.2 Any notice to any party shall be addressed to such party at its domicilium aforesaid and either be sent by prepaid registered post or be delivered by hand, or by electronic mail.

20.3 Any party shall be entitled, by written notice, to the other, to change its domicilium to any other address in Namibia. Provided that the change shall become effective only 2 (two) weeks after service of the notice in question, and that such other address is not a post office box or poste restante.

20.4 Any notice given in terms of this agreement which :-

20.4.1 is delivered by hand during normal business hours at the then applicable domicilium of the addressee shall for all purposes be deemed to have been received by the addressee at the time of delivery;

20.4.2 is dispatched by prepaid registered post addressed to the then applicable domicilium of the addressee shall be deemed, until the contrary is proved, to have been received by the addressee on the 14th business day after the date of dispatch.

20.4.3 is sent by electronic mail to the e-mail address of the PURCHASER specified on the front page hereof shall be deemed to have been received by the PURCHASER on the same date as the date of dispatch thereof.

21. WAIVER AND RELAXATION OF AGREEMENT

Notwithstanding any conditions to the contrary contained herein, no extension of time, nor relaxation which the SELLER may give or allow the PURCHASER in regard to the payment of any sum or sums due in terms hereof, or in regard to the fulfillment of any obligation in terms hereof, shall prejudice the SELLER's rights in terms of this agreement, nor be regarded as a waiver or abandonment of any of its

rights.

22. RETENTION

22.1 Notwithstanding anything to the contrary contained herein, the PURCHASER shall not be entitled to retain any sum of money as retention on any of the building works and shall not be entitled to transfer of a unit into his name until the full Purchase Price has been paid or secured.

22.2 For the purposes aforesaid, any instruction from the PURCHASER to retain any amount as a retention will constitute a breach of this agreement and will entitle the SELLER to its remedies referred to in clause 15 hereof.

23. THE PURCHASER AS MANDATORY/MANDATOR

In the event of the PURCHASER to this agreement being a corporate body or signs this agreement as PURCHASER in his capacity as trustee of a company or close corporation to be incorporated, a trust or any other juristic body, or act as mandatory or representative of such instance of body:

23.1 such signatory or PURCHASER hereby binds himself personally as surety and co-principal debtor in solidum for the due and proper fulfillment of all the PURCHASER's obligations and liabilities towards the SELLER in terms of this agreement and herewith renounces the benefits *divisions et excussionsis, dedendarum actionum and da duobus vel pluribus reis debendi*, the meaning and consequences of which he hereby admits being fully conversant with;

23.2 such signatory or PURCHASER acknowledges both in his personal and his mandate capacity, that in the event of the SELLER not accepting his mandate as PURCHASER of the unit, which non-acceptance the SELLER hereby undertakes to transmit to the signatory within 14 (fourteen) days, he shall remain personally liable as PURCHASER in terms of this agreement and as such be obliged to take transfer of the unit in his own name;

23.3 such signatory or PURCHASER shall within 14 (fourteen) days of signature hereof be obliged to divulge to the SELLER all and every detail regarding the nature, juristic character, status, composition and membership of his mandate, failing which it shall be assumed that the mandate is not acceptable to the SELLER, provided further that the SELLER shall still be entitled not to accept the mandate as PURCHASER even though all the requisite information has been divulged timeously, in which event the stipulation of clause 23.2 shall mutandis apply;

23.4 the SELLER, in its absolute discretion, shall be entitled to hold the signatory liable as PURCHASER, as stated in clause 23.1, in the event of the signatory failing to furnish the SELLER's Conveyancer with such documents as may be required to effect transfer to the unit, within such time as the said Conveyancer may determine; provided that in such event the SELLER

shall be entitled to cancel this agreement and hold the signatory liable for all such money, costs and disbursements expended or increased.

24. PHASE DEVELOPMENT (EXTENSIONS OR ENLARGEMENTS)

24.1 The PURCHASER hereby acknowledges and confirms that he is aware that the SELLER may develop the SCHEME in phases.

24.2 The PURCHASER acknowledges that the sale is subject to the following special conditions which will be imposed by the SELLER in terms of Section 11(2) of the Act (as amended), namely, the SELLER, in terms of Section 26 of the Act (as amended) hereby reserves for itself the real right to extent, for its personal account, the SCHEME by the erection and completion from time to time but within a period of 20 (twenty) years from date of opening of the Sectional Title Register.

24.2.1 a further building or buildings; or

24.2.2 a horizontal extension or an existing building; or

24.2.3 a vertical extension or an existing building, on that part of the common property as shown on the Site Plan, to divide such building or buildings into a Section or Sections and common property and to confer the right of exclusive use over parts of such common property upon the owner or owners of one or more of such Sections or any other Section in the SCHEME.

24.3 It is hereby specifically agreed between the two parties that the PURCHASER declares himself to be fully aware of and in agreement with the right of the SELLER (which both are ad idem that the SELLER hereby reserves for itself on an unconditional and irrevocable basis):

24.3.1 to remove any common walls and merge or enlarge any adjacent sections;

24.3.2 to waive compliance with any buildings restrictions;

24.3.3 to develop a garden or walk-ways on the common property.

24.4 No PURCHASER whose consent is required in terms of the Sectional Titles Act (as amended) in respect of any further phases on the common property, extensions of existing buildings or enlargements of sections or for any of the purposes aforesaid, shall be entitled to withhold his written consent to the SELLER, preparing and submitting a new scheme or amended sectional plans to the Local Authority in terms of the said section for approval and upon such approval, taking all necessary steps to develop the scheme in various further phases and for that purpose

to erect additional buildings on the land or to extend the existing buildings in terms of and as indicated on the Architect Drawings, or to enlarge an existing unit and thereafter applying for the registration of a further or amended sectional plan: Provided such additional buildings or extensions or enlargements shall harmonise with the existing buildings on the property.

The PURCHASER hereby authorises the SELLER irrevocably and in rem suam to erect such additional buildings or extensions in terms of the Act (as amended) and undertakes to sign the necessary consent prescribed with the Conveyancer/attorney on signature of the documents to effect registration of transfer of the unit into the name of the PURCHASER.

24.5 Through the PURCHASER's signature hereof, this clause shall be deemed to constitute the PURCHASER's unconditional and irrevocable consent to all the aforementioned activities, entitlements and empowerments in favour of the SELLER (irrespective of any separate power of attorney or instrument which the SELLER might in addition obtain or be entitled to, in above regard). Such aforesaid consent is hereby given, both in the PURCHASER's personal capacity, as well as in his future capacity as sectional owner of the unit or units, hereby being purchased by him, in the said Sectional Development Scheme, as well as in his concomitant capacity as a member of the Body Corporate of this Sectional Development Scheme and in such capacity being eligible to vote at any meeting of such Body Corporate, and as such hereby unconditionally and irrevocably binding himself to vote, for and in favour of the approval and resolution by the said Body Corporate of the aforesaid aims and purposes.

24.6 All persons having an interest in the sections and common property shall be obliged to allow the SELLER as Developer to exercise his positive right to proceed with the development, extensions and enlargements in the manner envisage herein, and no person having an interest in the sections and common property shall be entitled to interfere with or obstruct the SELLER from erecting on the common property the additional buildings, extensions or enlargements in terms of and as indicated on the said Drawings, nor shall such persons have any rights of access to the use of that portion of the common property described and identified on the said Drawings as "the remaining extent" until such time as the aforesaid additional buildings, extensions or enlargements have been completed and the sectional plan(s) thereof registered: Provided that the SELLER shall pay all rates and taxes and imposts due in respect of such portion whilst this condition remains applicable.

24.7 No person mentioned in paragraph 24.6 above, shall have any right to or in any unit comprised in the said additional buildings or extensions, of which units the SELLER shall be the sole owner, and Certificates of Registered Sectional Title shall be issued to and in the name of the developer who will be entitled to dispose of or otherwise deal with such units for his own exclusive benefit and account.

24.8 The owners shall not be entitled to refuse to acknowledge and accept that, upon registration of the sectional plan(s) of the aforesaid buildings or extensions their participation quotas will be

reviewed and adjusted as provided for in the Sectional Titles Act (as amended) or any amendment thereto.

24.9 The proceeds of a sale of any unit in any further phase shall be for the sole account of the SELLER, and not for the Body Corporate and the SELLER shall be entitled thereto.

24.10 Immediately upon opening of the sectional titles register, the registration of the sectional plan(s) and the coming into existence of the Body Corporate in respect of prior Phases of the project, the SELLER shall have the right if he should so wish to enter into a long term lease agreement with the Body Corporate, whereby he will be entitled to lease the whole or the remainder of the property, excluding the area covered by the buildings in Phase 1 of the project, at a total rental of N$100.00 (One Hundred Namibia Dollars) per year. The SELLER further intends to register the said lease in the Deeds Office, Windhoek, and the PURCHASER hereof do hereby consent as far as needs be, to the entering into by the Body Corporate of a long term lease agreement with the SELLER as Developer of the further phases and to the subsequent registration thereof by the SELLER and undertakes to sign any documents which should be necessary to register such long term lease.

24.11 For the purpose aforesaid the SELLER will also be entitled to apply for the issue to him of a Certificate of Registered Title in respect of the common property.

25. COMMON PROPERTY

25.1 It is hereby specifically agreed between the parties that the SELLER shall be entitled at any time prior to the opening of the sectional title register and the establishment of a Body Corporate or thereafter, to apply for the subdivision of the land on which the Sectional Development Scheme is to be developed in terms hereof or once the sectional title register has been opened for the subdivision of the common property and thereafter to apply for the issue to him of a certificate of registered sectional title in respect of the subdivided portion in the prescribed form and for the re-entering of such portion in the lands register.

25.2 For the purposes aforesaid the SELLER shall be entitled to obtain title in respect of such subdivided portion and to sell such portion or deal with it in any manner whatsoever without interference from any PURCHASER and for its own benefit.

25.3 The provisions of clause 24.5 with regard to the consent of the PURCHASER to such subdivision and the power of attorney to the SELLER to act on his behalf, shall apply mutatis mutandis to the provisions of this clause.

26. OWNERS ASSOCIATION

26.1 The SELLER formed an OWNERS ASSOCIATION under the name and style of FINKENSTEIN MANOR OWNERS ASSOCIATION to inter alia regulate, control and manage the common interest of the owners of property within the development, and which will initially comprise of a single

member, namely the SELLER.

26.2 The PURCHASER hereby records and acknowledges that the PROPERTY is be subject to the authority of the Finkenstein Manor Owners Association. Against transfer of the PROPERTY into his name the PURCHASER shall *ipso facto* become a member of the said Finkenstein Manor Owners Association. By adding his signature to this agreement the PURCHASER accepts the terms and conditions of the constitution and rules of the Finkenstein Manor Owners Association annexed hereto as annexure "C", the contents, force and effect of which he hereby declares himself to be fully acquainted with.

26.3 The PURCHASER irrevocably and unconditionally undertakes to enter into a notarial deed of imposition of conditions essentially in the form of and with the terms and conditions contained in Annexure **"D"** hereto.

26.4 The PURCHASER irrevocably and unconditionally undertakes to enter into a notarial deed of Cession of Exclusive Use Area essentially in the form of and with the terms and conditions contained in Annexure "E" hereto.

26.5 The PURCHASER may enter into an agreement with the Moltkeblick Game Farm (Pty) Ltd, in its sole discretion of the Moltkeblick Game Farm (Pty) Ltd, for access to the game farm, in accordance with an agreement still to be finalized.

27. RESTRICTION ON RE-SALE

27.1 In order to successfully complete the development, and in order to defray the costs and expenses of the services, the SELLER is dependant on the marketing and sales of erven, which fact the PURCHASER hereby acknowledges. Therefore the PURCHASER hereby expressly, irrevocably and unconditionally agrees and consents not to sell, donate, exchange or other wisely alienate the property without the prior written consent of the SELLER, which will not unreasonably be withheld, and on such condition as the SELLER may, in its sole discretion impose.

27.2 In the event of a future re-sale of the property by the PURCHASER, the following shall apply:

27.2.1 The written approval and consent of the Association shall be obtained in respect of each and every re-sale of the property, or the shares, membership interest or beneficiary interest in and to any company, close corporation or trust, which may be the owner of the property in the development.

27.2.2 Any re-sale shall be effected in terms of a standard Deed of Sale or Alienation or Disposition agreement embodying the terms and conditions contained herein and such other terms as the Owners Association may impose and shall in particular contain the following:

27.2.2.1 an undertaking by a new PURCHASER or Transferee to abide by the terms and conditions of such agreement the Estate Rules, the Memorandum and Articles of Association of the Owners Association and its Constitution as may be applicable from time to time;

27.2.2.2 an acknowledgement by the PURCHASER or Transferee in any re-sale that upon registration of transfer such PURCHASER or Transferee shall automatically become and remain a member of the Association subject to its Constitution and Rules.

27.2.3 The PURCHASER or Transferee shall be obliged to deliver to the Owners Association a copy of the duly signed Deed of Sale within 7 (seven) days of such sale being effected, failing which the Owners Association shall be entitled to withhold its consent or approval to such re-sale until such time as the PURCHASER or Transferee has complied with the aforesaid obligations.

27.2.4 The PURCHASER shall not be entitled to re-sell or alienate in any manner whatsoever the property or if registered in any corporate entity, the interest or shares in and to such corporate entity to any person or other legal entity prior to the transfer date or the date of occupation whichever date is the later unless prior written approval has been obtained from the SELLER or the Association (whichever is the case) which will only be given once the PURCHASER has complied with all the conditions referred to in this clause 27. It is agreed that and accepted that the said conditions are included in this agreement for the sole benefit of the SELLER as Developers and the Association in order to protect their rights under the agreement. Any such sale by the PURCHASER without the aforesaid consent shall *ipso facto* constitute a breach of this agreement.

27.2.5 The PURCHASER, and any future re-seller of the property, or of any shares or interest in any company, close corporation or trust that may be the legal owner of property in the development or fall within the jurisdiction of the ASSOCIATION shall, against registration of the transfer of the property, shares or interest be liable for payment to the ASSOCIATION of an amount equal to 5% of the selling price of such property, shares or interest. The said amount shall be payable in full to the ASOCIATION against registration of the transfer of the property, shares or interest, as the case may be.

28. ESTATE AGENT'S COMMISSION / CONSULTING AGENT COMMISSION

The SELLER shall pay the Agent's Commission of N$_____ **(VAT inclusive)** which commission shall be deemed to have been earned upon the signature of this Deed of Sale by both parties, as well as the subsequent fulfilment of clause 3 and shall be payable upon the date of registration of transfer into the name of the PURCHASER.

The parties hereto furthermore agree that in the event of the sale being cancelled or transfer not being

implemented as a result of any failure by the PURCHASER to carry out the PURCHASER's obligations hereunder, then the PURCHASER shall be liable to the SELLER and/or the Agent for the agent's commission above-mentioned.

The provisions of this clause 28, are intended by the SELLER and the PURCHASER to be a contract for the benefit of the Agent (stipulatio alteri) which may be enforced by the Agent, it being recorded and agreed that the Agent has accepted the benefits hereof by the Agent's signature at the foot hereof.

The PURCHASER hereby warrants that the only Agent who introduced him to the said property is _____(Agent name & tel no.) of _____ (Agency's name) Income tax number _____ and hereby indemnifies and holds the SELLER free and harmless from and against any claim which may be made by any other Agent in respect of commission arising out of the sale of the property where such other Agent claims to have actually introduced the PURCHASER to the property and/or to the SELLER in connection with the transaction therein set forth.

The commission will be paid into the account of the Agency, being:
Name of Bank: _____
Bank Branch code: _____
Account type: _____
Account no.: _____

29. FIA & POCA

29.1 The SELLER and PURCHASER herewith acknowledge that, in terms of Industry Guidance Note No. 01 of 2012 issued by virtue of the Financial Intelligence Act No. 13 of 2012, both the SELLER and PURCHASER must be fully FIA compliant.

29.2 Both the SELLER and PURCHASER herewith irrevocably and unconditionally undertake to comply with and fulfil the requirements of the legislation referred to above in order to become FIA compliant to the satisfaction of the Conveyancers and the Financial Intelligence Centre.

29.3 Due to the aforementioned undertaking, both the SELLER and PURCHASER agree that this Agreement is therefore subject to the fulfilment of the Suspensive Condition referred to in this agreement.

29.4 The Parties herewith further acknowledge and irrevocably agree that the Conveyancer shall not be obliged to administer and/or invest any monies deposited in their trust account in terms of clause 3.2.(k), unless both the SELLER and PURCHASER have provided the Conveyancer with the documents required in terms of FIA and POCA to the satisfaction of the Conveyancer and the Financial Intelligence Centre. The Conveyancer shall not be liable for any loss of interest suffered as a result of either Parties' failure and/or delay to comply with clauses 3 and 29.

30. *FORCE MAJEURE*

Neither Party shall have any liability to each other under this Agreement if it/he is/are prevented from or delayed in performing any of its/his obligations under this Agreement, or from carrying on its/his business, by acts, events, omissions, or accidents beyond reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, an act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulations or direction, accident, fire, flood or storm.

31. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

31.1 The SELLER at the Signature Date and on each subsequent day that this Agreement is in force –

31.1.1 warrant and represent that to the best of its knowledge and belief, the execution of this Agreement and fulfilment of the obligations in accordance with the terms of this Agreement do not contravene any law or any contractual obligation binding on him;

31.1.2 undertake to sign without delay all such documents and agreements as it may be required to sign by the Conveyancers to give effect to the intent and purpose of this Agreement and the terms and conditions contained herein; and

31.1.3 undertake that he/she shall not alienate the Property to any other person and/or entity during the existence of this Agreement.

31.2 The PURCHASER at the Signature Date and on each subsequent day that this Agreement is in force undertakes to sign, without delay, all such documents and agreements as he may be required to sign by the Conveyancers to give effect to the intent and purpose of this Agreement and the terms and conditions contained herein.

31.3 The PURCHASER acknowledges that he is fully acquainted with the Property and with its nature and extent.

32. GENERAL

32.1 The PURCHASER shall not be entitled to sell, cede, assign or make over the PURCHASER'S rights in terms hereof without the SELLER'S prior written consent.

32.2 No Party, nor the trustee, provisional liquidator, provisional judicial manager or judicial manager may cede any of its rights or delegate any of its obligations under this Agreement, without the written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.

32.3 Prior drafts of this Agreement shall not be admissible in any proceedings as evidence of any matter relating to any negotiations preceding the signature hereof.

32.4 Each provision in this Agreement is severable, the one from the other, and if at any time any provision is or become or is found to be illegal, invalid, defective or unenforceable for any reason by any competent court, the remaining provisions shall be of full force and effect and shall continue to be of full force and effect.

33. BUILDING COMPLIANCE CERTIFICATE

33.1 The SELLER shall arrange, at its expense, to have the buildings or structures erected upon the property and the current use of the property, inspected by an authorized inspector as defined in Regulation 1 of the Municipality of Windhoek Building Regulations published under General Notice 57 of 28 April 1969 and to furnish the Conveyancers and/or the Purchaser with a CERTIFICATE OF COMPLIANCE of the buildings as erected and the use thereof.

33.2 Should any work be required to be done or any other actions to be taken before the CERTIFICATE OF COMPLIANCE can be issued, then such work shall be effected and such actions taken by the SELLER at the expense of the SELLER prior to registration of the transfer.

33.3 In the event of registration of transfer being effected for whichever reason without the SELLER having furnished the Conveyancer and/or Agent or the PURCHASER with a CERTIFICATE OF COMPLIANCE as provided for hereinbefore, none of the parties to this agreement shall have any claim or action whatsoever against the Conveyancers and/or Agent and they, by their signatures hereto, irrevocably and in *rem suam* indemnify the Conveyancers and/or Agent against any such claim or action.

34. INDEMNITY

The Parties herewith agree that they shall at all times, hold harmless and keep indemnified, the Conveyancers (including but not limited to all its employees, partners, officers or contractors who are associated with the firm) against all actions, suits, causes of action, or other legal proceedings of any kind or nature whatsoever, claims, damages, demands, losses, costs, interest, penalties, liabilities, awards, and/or expenses (including reasonable attorneys' fees), arising out of or result from their execution of or any steps taken in accordance with any instructions received to give effect to the objectives of this Agreement and/or the Parties, and/or arising from this Agreement.

35. SIGNATURE

If the PURCHASER signs this Agreement:-

35.1 as trustee or agent for a Company or Close Corporation to be incorporated:-

35.1.1 the PURCHASER in his personal capacity shall be regarded as PURCHASER in terms of this agreement, unless the said Company or Close Corporation is incorporated and duly adopts and ratifies this agreement within 30 (thirty) days after the date upon which the SELLER signs this agreement; or

35.1.2 in the event of the said Company or Close Corporation being duly incorporated and adopting and ratifying this agreement in terms of clause 35.1 above, then the PURCHASER by his signature hereto, hereby interposes and binds himself in favour of the SELLER as surety for and co-principal debtor in solidum with such Company or Close Corporation for the due and timeous performance by it of all of its obligations as PURCHASER in terms of this agreement;

35.2 in his personal capacity, but with the right to nominate an as yet undisclosed third party ("the nominee") to be the PURCHASER in terms of this Agreement:-

35.2.1 the PURCHASER shall be personally liable as PURCHASER in terms of this agreement unless the nominee advises the SELLER in writing within 30 (thirty) days after the date upon which the SELLER signs this agreement that such nominee:-

i. is the undisclosed third party for whom the PURCHASER was acting when he signed this agreement; and

ii. undertakes to be bound by all the terms and conditions of this Agreement as PURCHASER in terms hereof;

35.2.2 in the event of the nominee duly advising the SELLER in terms of 35.2. above, then the PURCHASER by his signature hereto hereby interposes and binds himself in favour of the SELLER as surety for and co-principal debtor in solidum with the nominee for the due and timeous performance by the nominee of all of his obligations as PURCHASER in terms of this agreement.

SIGNED at _____ on _____2026

SELLER

Signature
Name

Signature **WITNESS 1**
Name

Signature **WITNESS 2**
Name

SIGNED at _____ on _____2026

PURCHASER

Signature
Name

PURCHASER

Signature
Name

Signature **WITNESS 1**
Name

Signature **WITNESS 2**
Name

SIGNED at _____ on _____2026

ESTATE AGENT

Signature
Name

ANNEXURE "A"

FINKENSTEIN MANOR SECTIONAL TITLE UNITS							
One Bedroom			**Two Bedrooms**			**Garage**	
Description	**Area m²**	**Cost N$**	**Description**	**Area m²**	**Cost N$**	**Description**	**Area m²**
Complete with garage	**98**	**TBA**	**Complete with garage**	**112**	**1 405 000**	**Single garage**	**24.5**

Included in the above prices

- Telecare unit
- Extra Emergency trigger
- Key safe
- Paratus connection
- TV connection in living room

ANNEXURE "B"

Finkenstein Manor: Construction Specifications

Single Residential Units & Sectional Title Units

1. SUPERSTRUCTURE: FOUNDATIONS & FOUNDATION WALLS

1.1 All external load-bearing walls (220mm) and all internal dividing walls (110mm) will be founded on min 20 MPA mass concrete footings as indicated on the working drawings. All foundations as per appointed Engineers design and approval.

1.2 Conventional building methods, as for normal founding conditions, will be used unless otherwise instructed by the engineer.

2. SUPERSTRUCTURE

2.1 All external walls to be 220mm thick and internal walls to be 110mm thick, constructed with standard 7 MPA cement bricks.

2.2 Pre-cast, pre-stressed concrete lintels will be used over windows and larger than 900mm door openings Reinforced concrete beams will only be used if so specified by the engineer.

2.3 Surface beds according to Engineers design – minimum thickness 85mm.

3. FLOOR FINISHES

3.1 All interior concrete surface beds to be tilled as per Architect`s Drawings as per client's choice.

3.2 All exposed concrete surface beds will be finished smooth with a steel trowel.

3.3 Living rooms, bedrooms, bathrooms, scullery and passages will be tiled with ceramic tiles as per Architect's specification.

3.4 Grouting color as per contractor to match floor tile.

3.5 Shower floors to have a mosaic tile finish as per Architect's specification.

3.6 Aluminum tile edges to match tile thickness will be provided on treads and around windows where tiled.

3.7 Drying Yard will be paved with 60mm concrete pavers as per Architect's specification.

4. SKIRTINGS

All rooms to receive 100mm high tiled skirtings.

5. WALLS AND BEAMS (FINISHES)

Internal walls to receive one coat cement plaster finish, trowelled smooth with a steel trowel.

5.1 External walls will be plastered and finished smooth with wood float.

5.2 Natural Stone Walls cladding ass per Architect `s working drawings and contractor`s approval.

5.3 Plaster Surrounds:

- Selected doors and windows to receive a 150mm plaster surround, and to receive a smooth wood float cement plaster finish. Refer to Architect`s working drawings.

6. PAINT WORK

6.1 All paint to be supplied by Dulux (or similar approved).

6.2 Cornices will be painted with two coats of interior quality white pva paint from Dulux. (or similar approved.)

6.3 All interior plastered wall surfaces will be painted with two coats acrylic PVA.

6.4 All exterior walls to be painted as per Architect`s schedule.

6.5 All mild steel surfaces will be finished with one universal undercoat and two coats paint, color as per Architect`s schedule.

7. BATHROOMS & KITCHEN FINISHES

7.1 Tiles as selected from the sample boards by the purchaser and will be provided as follows: -

- Kitchen –Tiled splashback from countertop to underside of cupboards, as well as behind wash -up sink.
- Bathroom – 1.5m above floor level and 2.1m at the shower.

7.2 A high quality metallic toilet paper holder will be fitted in the toilet.

7.3 All Tiles to be as per Architect's specification.

8. DOORS AND FRAMES

8.1 All external doors to be anodized aluminum framed doors with 6.38 mm safety glass insert panels. Color as per architect`s door schedules.

- All external doors to have 30mm weather step.
- All external doors are to be of aluminium with suitable safety glass panels (laminated glass) – Vinyl strip to be installed as per developer's contractor`s approval.
- Weather mechanism to be fitted to all external doors

8.2 All interior door frames to be 100x50 hardwood timber frames.

All doors are to be semi-solid batten doors with a height of 2100mm.

8.3 Garage Doors to be galvanized, pressed, color impregnated sectional-overhead garage doors. (Supplier for standard doors to be confirmed)

Garage door motor included in cost of garage.

9. WINDOWS

9.1 Materials:

- Anodized Aluminium per AGI or West Coast Aluminium (or similar approved)
- Safety glass applied as per AAMSA. Refer to window schedules.

9.2 Sills:

- All window sills to be plastered and painted, level inside and with a slope externally.

9.3 Lintels:

- The soffit height is at 2100mm above FFL.
- Provision made for a 150mm wide and 50mm thick smooth plaster band around selected windows as per Architect`s drawings.

9.4 No Burglar bars or security doors included. No external burglar bars or security doors allowed without permission from the Developer/ Homeowners Association. The development is intended to be a secured environment.

10. GLAZING

10.1 Glazing to all aluminum windows to be min 4mm laminated and 6.38mm safety glass to all doors, sliding doors and windows as per window schedules.

10.2 Glass standards for sizes to conform to the AAMSA and National Building Regulations.

11. IRONMONGERY

11.1 All external doors will be fitted with a cylinder lockset with aluminum furniture as per manufacturer.

11.2 All internal doors will be fitted with a two-lever lockset with aluminum plated furniture.

11.3 Aluminum frame shower door 2,1m high will be fitted as per manufacturer.

11.4 Door handles as per Architects specification.

11.5 Doorstops to be provided to all doors.

11.6 Aluminum weather strip to be provided at external doors.

12. JOINERY

12.1. Built-in cupboards as per Architect's drawings and specifications.

12.2. Joiner to be appointed and approved by contractor.

12.3. Architect's drawings only indicate the joinery position and sizes, all to be finalized as per architects' details.

13. CEILINGS

13.1 Ceilings will be constructed of 50mm insulated panels with pre-coated chromadeck finish.

13.2 Cornices to be Nucor nice polystyrene core cove cornice as per Everite (or similar approved).

13.3 Garages will have exposed rafters and no ceiling. Optional ceiling to be done at additional cost.

14. ROOFS

14.1 Roof trusses will be constructed of light weight galvanized steel members.

14.2 The material of the pitched roofs and lean-to roofs is standard 0.6 mm galvanized ribbed iron sheeting. KLIPLOK or similar and the color scheme as approved by architect.

15. EAVES, PARAPET AND GUTTERS

15.1 Eaves:

- Eaves to have a min 300mm overhang as per architect`s working drawings. Eaves will not be painted but exposed roof members will be painted 2x coats pva.

15.2 Parapet Walls:

- Parapet walls to be painted with(x3) coats of Dulux Rainshield or similar product approved by Architect.

15.3 Gutters and Downpipes

- Min 75 x 100mm aluminium seamless gutters with 75mm downpipes to be fitted as per architect`s working drawings. Downpipes must be fixed to the walls.

15.4 Fascia Boards:

Nutec fascia boards as per Architect`s working drawings.

16. ELECTRICAL

16.1 An Electrical layout will be provided by the architect.

16.2 External, water-proof light fittings as per Architect's specifications.

16.3 One *Defy* hob, oven and extractor, with 30 Amp isolator will be provided.

16.4 One conduit point for TV to be provided in the Lounge / TV Room and one in Master bedroom.

16.5 Basic alarm to be provided.

16.6 Provision is made for DSTV in the Living Room.

16.7 Provision for A/C installation (by Client) in the Master Bedroom and Living Room.

17. PLUMBING AND SANITARY

17.1 All sanitary fittings to be of quality metallic finish as per Architect's specifications.

17.2 Washbasins to be white porcelain as per Architect's specification.

17.3 WC suites to be concealed cisterns and wall hung pans as per Architect's specifications.

17.4 A Franke (or similar) double bowl sink will be installed.

17.5 The sink unit will be provided with a lever-type sink mixer as per Architect's specification.

17.6 All other taps will be of chromium plated lever-type mixers as standard.

17.7 100 L electrical geyser to be installed, position to be confirmed by Contractor.

17.8 Two standard garden taps per unit will be provided.

17.9 Single stainless-steel wash trough basin to be installed in yard as per Architect's specification.

17.10 Stainless steel grab rails and angle bars will be provided in bathrooms at shower and WC.

19. BOUNDARY WALLS & FENCES

All painted and plastered masonry walls with 2,100mm high drying yard walls and rear yard walls 1,2m high.

20. PAVING

20.1 Paving allowance as per architect`s drawings – refer to plans.

20.2 Paving will be provided from the street edge to end of parking and/or front of garage.

21. SITE WORKS

21.1 The property will be levelled to dispose the stormwater as per municipal regulations.

21.2 A landscaping budget has been allowed and will be used as per developers' own discretion.

22. SECURITY

22.1 Security will provide 24 hour / 7 day a week security in the residential development.

22.2 Perimeter fence standard (to be confirmed by developer) electrified and monitored.

22.3 Permanent patrols by security to be standard.

PLEASE NOTE:

All materials herein specified are subject to availability, where any materials are not readily available, the DEVELOPER shall have the right to use the nearest similar material available.

SPECIFICATION

- In case of a discrepancy between this specification and the drawings and/or any other document the description in this specification will take precedence.
- This specification may be changed without prior notice, with product of the same value and similar quality.

ANNEXURE "C"

CONSTITUTION OF THE

FINKENSTEIN MANOR

OWNERS ASSOCIATION

INDEX

			Page
1.	**NAME**		**32**
2.	**DEFINITIONS**		**32**
3.	**INTERPRETATIONS**		**33**
4.	**JURISDICTION**		**33**
5.	**HEADQUARTERS**		**33**
6.	**ADDRESS**		**33**
7.	**LEGAL PERSONALITY**		**33**
8.	**OBJECTIVES**		**34**
9.	**POWERS**		**34**
10.	**AUTHORITY AND FUNCTION OF THE ASSOCIATION**		**35**
11.	**STRUCTURES OF THE ASSOCIATION:**		**35**
	11.1	MEMBERS OF THE ASSOCIATION	35
		11.1.1 MEMBERSHIP	35
		11.1.2 OBLIGATIONS	36
		11.1.3 BREACH	37
		11.1.4 CESSATION	38
		11.2 TRUSTEES	38
		11.2.1 COMPOSTION AND OFFICE	38
		11.2.2 AUTHORITY AND FUNCTION	39
	11.3	SUB COMMITTEES	40
12.	**MEETINGS:**		**41**
	12.1	GENERAL MEETING:	41
		12.1.1 NOTICE AND MEETING PROCEDURES	41
		12.1.2 QUORUM	42
		12.1.3 VOTING	42
		12.1.4 BUSINESS	42
	12.2	SPECIAL MEETING	43
	12.3	TRUSTEES MEETING	43
		12.3.1 QUORUM	43
		12.3.2 PROCEEDINGS	43
	12.4	SUB COMMITTEE MEETING	44
13.	**RESIDENTS**		**44**
14.	**FINANCE**		**44**
15.	**LIABILITY**		**45**
16.	**SOLE CONSTITUTION**		**46**
17.	**REPEALS AND AMENDMENTS**		**46**
18.	**DISSOLUTION**		**46**

1. NAME

The ASSOCIATION that is hereby constituted shall be the Finkenstein Portion 3 Owners ASSOCIATION.

2. DEFINITIONS

In this constitution the following words shall, unless the context otherwise requires, have the meanings herein after assigned to them:

"Act" means the Local Authority Act 23/1992 and the Regional Councils Act 22/1992;

"ASSOCIATION" means FINKENSTEIN MANOR OWNERS ASSOCIATION;

"Auditors" means the Auditors of the ASSOCIATION;

"Business day" means weekdays other than Saturdays, Sundays and Public Holidays;

"Chairman" means the Chairman of the Trustees;

"Vice-Chairman" means the Vice-Chairman of the Trustees;

"Developer" means Finkenstein Portion Three Trust;

"DEVELOPMENT" means the Estate established by virtue of FINKENSTEIN MANOR being approved for Township Development as such by the relevant authorities.

"Erf" means one of the subdivided erven indicated on the general plan of the development, S.G. no. K468.

"Erven" means the erven indicated on the general plan S.G. no. K468 resulting from the subdivision of the Portion 3 of the Farm Finkenstein No. 526.

“Unit” means any sectional title unit in any sectional title scheme erected on any erf or erven.

"Local Authority" means the City of Windhoek or local authority for the time being;

"MEMBER" means every registered owner and every other person who is in terms of this Constitution a member of the ASSOCIATION;

"Month" means calendar month;

"Office" means the administrative office of the ASSOCIATION;

“property” means an erf or erven as well as a sectional title unit.

"Resolution" means a Resolution passed at a General Meeting or Special Meeting.

"Registered Owner” means the party or parties who are owners of an erf or erven acquired from the developer or a prior registered owner by virtue of a deed duly registered in the Registry of Deeds and includes owners of sectional title units.

“Services” shall mean all internal services to be constructed upon the land which services, inter alia, will relate to Civil Engineering works like streets, stormwater drainage, internal water and sewerage network electrical, and telecommunication services.

"This Constitution" means this Constitution and regulations and by-laws adopted by the ASSOCIATION in terms of this Constitution from time to time in force;

"Trustees" means the Trustees of the ASSOCIATION from time to time and includes alternate and co-opted Trustees;

"in writing" means written, printed or lithographed or partly one and partly another, and other modes of representing or producing words in a visible form;

"Year" means financial period of twelve months ending 28 February.

3. INTERPRETATION

Unless the context otherwise requires,

3.1 any words importing the singular number only shall include the plural number, and vice versa

3.2 words importing any one gender only shall include the other genders and

3.3 the interpretation by the Trustees shall be final and binding on all until amended by a resolution of a General- or Special Meeting.

3.4 for the purpose of this constitution any reference to the word property shall also be deemed and reference to both an erf as well as a sectional title unit wherever appropriate and whenever not specifically referred to as an erf or a unit.

4. JURISDICTION

The area of jurisdiction of the ASSOCIATION shall be:

CERTAIN:	Portion 3 of the farm FINKENSTEIN no. 526
SITUATED:	In the Municipality of Windhoek
	REGISTRATION DIVISION "K", Khomas Region
MEASURING:	43,0026 hectares
HELD BY:	Virtue of Deed of Transfer no. T6066/2007

as indicated on the general plan of development SG. No. K468.

5. HEADQUARTERS

To be nominated by the ASSOCIATION

6. ADDRESS

The office of the ASSOCIATION is situated at 10 Eugene Marais Street, Windhoek.

7. LEGAL PERSONALITY

7.1 The ASSOCIATION is a legal persona and may exercise all the powers of a corporate body including the owning of assets, contracting and the right to conduct legal proceedings in its own name.

7.2 The ASSOCIATION shall sue and be sued in the name of the ASSOCIATION and the domicilium citandi et executandi will be **10 Eugene Marais Street, Windhoek.**

7.3 Members of the ASSOCIATION, including all Trustees, are not personally liable for any decisions taken by the ASSOCIATION or in the name of the ASSOCIATION.

7.4 All assets and liabilities of the ASSOCIATION belong to the ASSOCIATION independent of its Members. Thus, no asset of the ASSOCIATION can be claimed as a private asset by any of its Members, nor can the ASSOCIATION claim any of the assets of a Member as an ASSOCIATION asset.

7.5 The ASSOCIATION is not permitted to distribute any of its profits or gains to any person and is required to utilize its funds solely for investment or the objects for which it has been established or otherwise deal with it in terms of clause 17 infra.

8. OBJECTIVES

The main object of the ASSOCIATION shall be the promotion and advancement of the Development and the protection of the communal interests of the Members, including but not limited to:

8.1 represent the ASSOCIATION on Governmental and other structures that share the same objectives;

8.2 create and maintain such beneficial relationships and structures;

8.3 advance, promote and safeguard the interests of the ASSOCIATION;

8.4 conform to all laws, rules, requirements, regulations, standards and procedures;

8.5 install, maintain and repair the public services and to maintain the exterior of all buildings;

8.6 do all things as may be incidental or conducive to the attainment of the above objectives and to do so in an open and transparent manner, free from racial, religious, or any other form of discrimination.

9. POWERS

The ASSOCIATION shall have the power:

9.1 To employ staff, acquire assets and enter into commitments for the promotion of its aims and objectives.

9.2 To lease, purchase or otherwise acquire premises, equipment, vehicles, furniture and other property assets, whether movable or immoveable.

9.3 To improve, manage, exchange, lease, mortgage, sell, dispose of, turn to account and grant options, rights and privileges in respect of, or otherwise deal with, all or any part of the property and rights of the ASSOCIATION.

9.4 To deposit or invest the monies and assets of the ASSOCIATION not immediately required, in such securities and in such a manner as may from time to time be determined, provided that cash resources and investments will only be made with financial institutions as defined in the Financial Institutions Act (Act 39 of 1984) as amended from time to time.

9.5 To borrow or raise money in such a manner as the ASSOCIATION shall deem fit and in particular to secure the payment of money so borrowed by means of mortgage, pledge, charge of lien upon the whole or part of the ASSOCIATION's property or assets; and also by mortgage, pledge, charge, or lien to secure and guarantee the due performance by the ASSOCIATION of any obligation or liability it may undertake.

9.6 To operate banking accounts and to draw, make, accept, endorse, sign, discount, execute and issue cheques, promissory notes, bills of exchange, bills of landing, warrants, debentures and other negotiable documents.

9.7 To make regulations, rules or bylaws and/or pass resolutions that shall not be inconsistent with the terms of this Constitution.

9.8 To carry on any negotiations or operations for the purpose of directly or indirectly furthering the interest of the ASSOCIATION and to oppose any proceedings or agitation that may seem to the ASSOCIATION to be detrimental to the interest of the ASSOCIATION.

9.9 To perform any such tasks and to do all such other things as are required, incidental or conducive to the attainment of the objectives of the ASSOCIATION.

9.10 To negotiate and conclude co-operation agreements with other neighboring or nearby Owners Associations subject at all times to clause 8 above.

9.11 To conduct, manage and administer or to outsource (on such terms and conditions as it may deem necessary), a frail care center, and for such purpose to set such rules and regulations and to impose such levies as may be necessary and prudent in the circumstances.

9.12 To install, manage and replace public services and to maintain the exterior of all buildings.

10. AUTHORITY AND FUNCTION OF THE ASSOCIATION

The supreme authority of the ASSOCIATION shall be the collective membership at a duly constituted General Meeting or Special Meeting who shall be entitled:

10.1 To adopt repeals or amendments to this Constitution in accordance with the provisions contained therein.

10.2 To amend, modify or amplify the regulations, rules and bylaws of the ASSOCIATION.

10.3 To determine, amend, modify or amplify the general policy of the ASSOCIATION as may be required, incidental or conducive to the attainment of the aims and objectives of the ASSOCIATION.

10.4 To appoint and remove Trustees to attend to the business of the ASSOCIATION under conditions and with powers contained in this Constitution.

11. STRUCTURES

The ASSOCIATION shall consist of Members, Trustees and such sub-committees as the Trustees may from time to time consider conducive to the functioning of the ASSOCIATION. The Members shall appoint the Trustees at a General – or Special Meeting. The Trustees may appoint one or more sub-committee/s.

11.1 MEMBERS

11.1.1 MEMBERSHIP

11.1.1.1 Membership of the ASSOCIATION shall be limited to:

i. the Developer (for as long as it shall be the owner of unsold property in the development);

ii. Registered Owners of property in the Development, provided that where any such ownership vests in more than one person, all such registered owners of any particular property shall be deemed jointly and severally to be one member of the ASSOCIATION, as well as

iii. the statutory Body Corporate of any Sectional Title Scheme.

11.1.1.2 All members shall have the right to participate and vote at meetings of the ASSOCIATION, unless this right is suspended under conditions of this constitution.

11.1.1.3 The rights and obligations of a Member shall not be transferable.

11.1.2 OBLIGATIONS

11.1.2.1 Each Member of the ASSOCIATION shall to the best of his ability further the objects and interests of the ASSOCIATION,

11.1.2.2 comply with the provisions of this constitution, by-laws, rules and regulations;

11.1.2.3 no building or erection of structures shall be commenced with in the Development and no additions or alterations to approved buildings shall be effected until the Trustees or anyone to whom the Trustees have delegated this particular function, have approved in writing the design and construction plans, including material and color of any construction.

11.1.2.4 each Registered Owner shall take care of any trees on an erf registered in his name, and he shall not remove or cut down, or cause to be removed or cut down any trees, without the prior written consent of the Trustees;

11.1.2.5 each Registered Owner may establish a garden in the courtyard on the erf registered in his name in accordance with directions by the ASSOCIATION;

11.1.2.6 THE association shall maintain in a neat and tidy condition the exterior, all buildings and/or structures erected on the property registered in his name;

11.1.2.7 The ASSOCIATION shall adequately insure all buildings and/or structures erected on the property registered in his name (and if requested, to furnish proof of such insurance to the Trustees) and in the event of total/partial destruction shall within a reasonable time period make good such damage or reconstruct in accordance with the original approved plans or, in the event of total reconstruction, in accordance with the Trustees' approval mutandis the provisions of clause 11.1.2.3 to 11.1.2.6.

11.1.2.8 no Registered Owner shall without the prior written consent of the Trustees; and subject to such conditions as it may imposed;

i alter the previously approved external color scheme of buildings/structures erected on the property registered in his name;

ii erect or construct on the property registered in his name any solar power system, outdoor radio aerial or other aerial(s) and/or similar structures;

iii permit any commercial type vehicle, boat, caravan, trailer, or any derelict or abandoned vehicle to be parked on or in front of the property registered in his name which, in the opinion of the Trustees, is unsightly;

iv do or allow to be done which in the opinion of the Trustees is noisome, unsightly, injurious, objectionable or detrimental, or a public or private nuisance or a source of damage or disturbance to any Member, tenant or occupier in the area;

11.1.2.9 in granting any approval in terms hereof the Trustees shall have the right to determine the siting of all buildings and/or structures (including garden/ boundary/link walls) to be erected on an erf and to impose such conditions as the Trustees deem necessary;

11.1.2.10 dogs and other household pets (excluding cats) may be allowed at the sole discretion of the Trustees who may withdraw such concession on one(1) month written notice to that effect should such pets create a nuisance for other Members or visitors and all pets shall be kept in a proper enclosure and shall be on a leash whenever allowed outside of the said enclosure

11.1.2.11 where the Trustees in special circumstances permit the erection of a structure to house animals or birds or the erection of garden/tool shed(s) such structures/sheds shall be screened from public view and animals/birds shall

not constitute a disturbance or nuisance to owners/tenants/occupiers of adjoining properties

11.1.2.12 the decision of the Trustees in regard to the provisions of 11.1.2.1 to 11.1.2.14 shall be final and binding on all parties

11.1.2.13 In respect of the sale, donation, alienation of any property in the Development, or of any interest in and to any legal person or trust who holds a property in the Development, the following shall apply:

No property or interest shall be transferred or ceded without a written agreement duly approved by the ASSOCIATION in writing and to which agreement shall be annexed a copy of this constitution; the Rules and Regulations of the Association; and the Notarial Deed of Imposition of Conditions.

i. the Registered Owner of the property in question or the relevant legal persona or trust has fulfilled all his financial obligations to the ASSOCIATION in terms of this constitution; and

ii. a copy of this constitution be annexed to the Agreement of Sale concluded between the Registered Owner and Purchaser and

iii. the Agreement of Sale in the event of the sale of a property contains the following clause:

"The Purchaser, his heirs, executors, administrators or assigns shall, against registration of transfer of the property ipso facto become and remain a Member of the ASSOCIATION consisting of all Registered Owners of property in the Development and be subject to the constitution and rules and regulations of the ASSOCIATION."

11.1.3 BREACH

If any Registered Owner, tenant or occupier of a property by act or omission commits a breach of any of the conditions of this Constitution and fails to remedy such breach after the Trustees have given the Registered Owner written notice to make good such breach within a time specified in such notice then:

11.1.3.1 The Trustees shall be entitled, without further notice to the member, to institute proceedings against the member and without detracting from the generality of the aforegoing, obtain an interdict against the member.

11.1.3.2 The Trustees (or those employed by the Trustees on behalf of the ASSOCIATION) may enter upon the property to take such action as may be required (as determined in the discretion of the Trustees) to remedy the breach and the member concerned shall be liable to the ASSOCIATION for all costs so incurred which costs, including legal costs, shall be due and payable upon demand. The aforegoing action shall, without detracting from the generality of the aforegoing, include the obtaining of the services of a garden service company.

11.1.3.3 Any Member who fails to make payment to the ASSOCIATION on due date of any levies or other payments or who otherwise breaches or fails in the observance of any of the provisions of this Constitution may, if so determined by a resolution of the Trustees:

11.1.3.3.1 be imposed a fine by the ASSOCIATION to an amount not exceeding an amount equal to double the amount outstanding;

11.1.3.3.2 be ordered to pay to the ASSOCIATION or any Member or other person aggrieved by the breach or failure in question, such sum as the Trustees after suitable enquiries shall deem fit;

11.1.3.3.3 be liable for and pay all legal costs as between attorney and client, collection, commission, expenses and charges incurred by the ASSOCIATION in obtaining the recovery of arrear levies, or any other arrear amounts due and owing by such Member to the ASSOCIATION.

11.1.3.4 The Member concerned shall be invited to attend such meeting of the Trustees by prior notice in writing delivered to such Member not less than 21(twenty one) days before the holding thereof, and such Member shall be given the right to be heard, and to be legally represented, but not to be present at the voting or to take part in the proceedings, other than to the extent allowed by the Chairperson of the meeting.

11.1.3.5 The Trustees shall be entitled to charge interest on arrear amounts (including amounts due in terms of clause 11.1.3.3) at the maximum rate permissible in terms of the Usury Act.

11.1.3.6 Nothing in the aforegoing shall derogate from or in any way prejudice the right of the ASSOCIATION to institute proceedings in any court of component jurisdiction for recovery of any money due by a Member.

11.1.3.7 Any Member who fails to make payment to the ASSOCIATION on due date of any levies or other payments shall immediately forfeits his voting rights at any meeting of the ASSOCIATION and his presence at such meeting shall not be counted for quorum purpose, and does not require a resolution of the Trustees.

11.1.4 CESSATION

11.1.4.1 A Registered Owner may under no circumstances resign as a Member of the ASSOCIATION.

11.1.4.2.1 When a Member ceases to be a Registered Owner of a property, he shall ipso facto cease to be a Member of the ASSOCIATION.

11.2 TRUSTEES

11.2.1 COMPOSITION AND OFFICE

11.2.1.1 There shall be a Board of Trustees of the ASSOCIATION which shall consist of no less than 3 (three) and not more than 5 (five) persons, the exact number to be determined from time to time at a Meeting of the ASSOCIATION of which 3 (three) persons shall be nominated by the Developer as stipulated by and under the conditions of the attached appendix.

11.2.1.2 A Trustee shall be an individual, but need not himself be a Member of the ASSOCIATION, provided that a majority of Trustees shall be Members. A Trustee however, by accepting his appointment to office, shall have to agree to be bound by all the provisions of this Constitution.

11.2.1.3 The nomination of a new trustee shall be done by a Member on a nomination form, which must be delivered to the Office of the ASSOCIATON, duly completed, at least 21 (twenty-one) days before a General Meeting or Special Meeting. The nominee must have accepted the nomination by signing the nomination form, and a further two Members must have seconded the nomination in order for it to be valid. An election to office of such duly nominated trustees shall be done by Resolution at a duly constituted General Meeting or Special Meeting.

11.2.1.4 Each Trustee shall hold office for a period of 3 (three) years, after which period the Trustee shall be deemed to have retired, but will be eligible for re-election.

11.2.1.5 A Trustee shall be deemed to have vacated his office upon:

11.2.1.5.1 his estate being sequestered, whether provisionally or finally, or his surrendering his estate;
11.2.1.5.2 his making any arrangement or composition with his creditors;
11.2.1.5.3 his conviction of any offence involving dishonesty;
11.2.1.5.4 his becoming of unsound mind;
11.2.1.5.5 his resigning from office in writing delivered to the registered office of the ASSOCIATION;
11.2.1.5.6 his being in breach with this Constitution;
11.2.1.5.7 his being removed from office by a Resolution with a simple majority at a General Meeting or Special Meeting.

11.2.1.6 Should the office of a Trustee fall vacant prior to the next General Meeting, the vacancy shall be filled by a person nominated by the remaining Trustees for the time being, and such nominee shall hold office until the next General Meeting when he may be eligible for re-election.

11.2.2 AUTHORITY AND FUNCTIONS

11.2.2.1 Subject to the provisions of this Constitution, and deriving its authority from the Members in General- or Special Meeting, the Trustees shall have both the authority and responsibility for the efficient and effective management and control of the business and affairs of the ASSOCIATION.

11.2.2.2 The trustees shall have the right to co-opt any person or persons nominated by it. A co-opted Trustee shall have no voting rights be subject to all the obligations of the Trustees, provided that such co-opted Trustee shall only serve until the next General Meeting.

11.2.2.3 The Trustees shall be entitled to be reimbursed all reasonable and bona fide expenses incurred by them in or about the performance of their duties as Trustees, and shall also be entitled to reasonable and fair remuneration, fees or salary in respect of the performance of such duties.

11.2.2.4 The trustees shall have the authority to perform the following functions:

11.2.2.4.1 To manage the day-to-day running , including the making, changing and implementing of rules, regulations and byelaws and transact the business of the ASSOCIATION in such manner as it may deem fit and expedient, provided that changes or additions to the rules and regulations shall be reported on at the next General Meeting of the ASSOCIATION.

11.2.2.4.2 To enforce the uniform interpretation of this Constitution and performance of its regulations, rules and byelaws.

11.2.2.4.3 To engage without any favouritism the services of professional officers and any other person/s, professional and otherwise, companies or concerns and upon such terms and conditions as may be deemed expedient.

11.2.2.4.4 To delegate any one or more of its functions and powers to any other committee.

11.2.2.4.5 To prepare and make recommendations regarding repeals or amendments to the ASSOCIATION’s Constitution.

11.2.2.4.6 To develop and implement policies in regard of, but not limited to, investment, procurement, personnel, dispute resolution, promotion and

advancement of the objects of the ASSOCIATION and Members' interests and any other aspect of good governance, the principals of such policies that the ASSOCIATION in Meeting might decide.

11.2.2.4.7 To prepare and propose the budget for the following year, annual management plan and annual capital development plan of the ASSOCIATION.

11.2.2.4.8 To estimate the amount which shall be required by the ASSOCIATION's expenses in regard of maintenance, control, management, administration, reserves and development during each year or any portion thereof.

11.2.2.4.9 To raise and collect levies from registered owners based initially on the Erf size and thereafter on the under-roof area excluding carports and/or any other basis which the Trustees may deem relevant and approved from time to time by a Meeting of the Members.

11.2.2.4.10 To raise special levies on registered owners in respect of such expenses as are mentioned in clause 11.2.2.4.8 for unforeseen and urgent circumstances, which levies may be imposed and be payable in lump sum or by such installments and at such time as the Trustees shall deem fit.

11.2.2.4.11 To raise levies on registered owner for the management administration and conduct of a frail care center.

11.2.2.4.12 To raise a special levy of 5% on the selling price of any property sold and transferred, or any shares in a company or interest in a close corporation or trust that is the owner of a property, sold and transferred.

11.2.2.4.13 To raise special levies for the installation, maintenance and repair or replacement of public services as well as landscaping and exterior maintenance of buildings.

11.3 SUB-COMMITTEES

11.3.1 Deriving the authority from clause 11.2.2.4.4 supra, the Trustees may appoint sub-committee/s to investigate, research and otherwise gather information to advise and make recommendations for the consideration of the Trustees.

11.3.2 The terms of reference, including but not limited to their task, the timeframe, reporting frequency and budget shall be clearly indicated. Should the task take longer than 2 (years) or be of a repetitive nature, the lifespan of the committee may be extended, and reconsidered biannually, by the General Meeting of the ASSOCIATION.

11.3.3 Every sub-committee shall consist of one or more Trustee/s, who shall be the Chairperson, and, subject to clause 11.2.2.4.3, such others as is deemed necessary to efficiently complete the task.

12. MEETINGS

12.1. GENERAL MEETING

The General Meeting of the ASSOCIATION shall be held annually as soon as possible after the end of the ASSOCIATION's financial year, but not later than the end of November, at a time and place determined by the Trustees.

12.1.1 NOTICE AND MEETING PROCEDURES

12.1.1.1 At least 35 (thirty-five) days written notice to all postal and/or electronic addresses of Members shall be given stating the date, time and place of a

General Meeting, together with the provisional agenda and inviting Members to propose business topics to be discussed at the Meeting. Such proposed discussion topics must preferably, but not necessarily be accompanied by a motivation of or background to the topic and reach the office of the ASSOCIATION within 10(ten) days of the date of the notice.

12.1.1.2 The Trustees shall consider all proposals received for possible inclusion in the agenda. If a proposal is not included, the Trustees shall communicate the reasons for their decision to the Member who proposed it.

12.1.1.3 At least 21 (twenty-one) days' notice as in 12.1.1.1 supra shall be given as a reminder with the agenda and background documents to possible resolutions.

12.1.1.4 The duly audited statements of the financial affairs of the ASSOCIATION, the Trustees report, the Trustees' report for the past year, the management plan and the capital development plan for the following year, and the proposed budget for the next financial year shall form part of such notice.

12.1.1.5 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification or present any documents required to be given or sent, or the non- receipt of any such notice, notification or document by any member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution at any Meeting.

12.1.1.6 The Chairperson of the Trustees shall chair the meeting. In the absence of the Chairperson, the Vice-chairperson shall chair the meeting. Should both be absent, the Trustees shall appoint the Chairperson.

12.1.1.7 Minutes shall be kept of all meetings, not necessarily verbatim, reduced to writing within 21 (twenty-one) days and circulated to all Members. If no dispute is declared or if the dispute is in the opinion of the Trustees not material to the intent of the Resolution, the Resolutions of the Meeting shall be implemented. Such minutes shall be kept in perpetuity and open for inspection by a Member.

12.1.2 QUORUM

12.1.2.1 The quorum for the General Meeting shall be 25 (twenty-five) percentage of the Members entitled to vote thereat.

12.1.2.2 If within half an hour from the time appointed for the holding of the General Meeting a quorum is not present, the meeting shall stand adjourned to the same day the next week, at the same place and time or at such other place as the Chairperson of the Trustees shall appoint, and if at such adjourned meeting a quorum is not present, the Members present shall be a quorum.

12.1.3 VOTING

12.1.3.1 Every Member present in person or by proxy (and entitled to vote) shall have 1 (one) vote. Where a single property is registered in more than one persons name, then they shall jointly have 1 (one) vote. Where a Member is the registered Owner of more than one property, he shall have 1 (one) vote in respect of each property.

12.1.3.2 All resolutions put to the vote shall be decided on by a show of hands, unless a Member request a ballot, which shall be taken in a manner the Chairperson directs. The Chairperson shall declare such results of the vote and the decision shall be recorded in the Minutes.

12.1.3.3 All business except amendments to this Constitution, shall be decided on a simple majority vote and in case of equality of votes, the Chairperson shall have a casting vote.

12.1.3.4 Any resolution seeking the repeal or amendment to this Constitution shall require a two-thirds majority.

12.1.4 BUSINESS

The General Meeting shall deal with and consider for acceptance, amendment, qualification or rejection of:

12.1.4.1 the Trustees report;

12.1.4.2 the financial statement of the ASSOCIATION for the financial year preceding the date of such meeting;

12.1.4.3 the annual plan for the year;

12.1.4.4 the capital development plan;

12.1.4.5 the budget as presented by the Trustees, specifically the confirmation of current and, if any, proposed levies, provided that amendments to the budget that can not immediately be quantified or in any way render the budget as impossible to consider at the Meeting, and/or a rejection of the proposed budget, should contain either a date for a revised budget and its presentation to Members or otherwise provide for the continued functioning of the ASSOCIATION;

12.1.4.6 any other business pertinent to such meeting including any Resolutions proposed for adoption, and

12.1.4.7 or the election of Trustees.

12.2 SPECIAL MEETING

12.2.1 The Trustees may, whenever they deem fit, convene a Special Meeting for a specific purpose including to consider and effect repeals and amendments to this constitution.

12.2.2 On receipt of a written request, signed by 20 (twenty) Members, the Trustees shall be obliged to convene a Special Meeting. Such request shall state the reason/s and proposed resolution/s for the Meetings' consideration.

12.2.3 Notice for the Meeting shall be in line with clause 12.1.1.3, quorum and voting as in clauses 12.1.2 and 12.1.3 respectively and the minutes to be dealt with as in 12.1.1.7.

12.3 TRUSTEE MEETING

12.3.1 QUORUM

The quorum of a meeting shall require a majority of the trustees being present. A Trustee may be represented by a proxy by a person who need not be a Trustee of the ASSOCIATION. The appointment must be in writing and a certified copy deposited at the office of the ASSOCIATION before the scheduled start of a meeting of the Trustees.

12.3.2 PROCEEDINGS

12.3.2.1 The Trustees shall meet immediately after the adjournment of a Meeting where one or more Trustees have been elected or re-elected to elect a Chairperson and Vice-Chairperson from their number. Thereafter the Trustees shall meet as needed for the dispatch of business but at least every 6 (six) months.

12.3.2.2 The Chairperson shall preside as such at all meetings of Trustees provided that should at any meeting the Chairperson not be present within 5 (five) minutes after the time appointed for the holding thereof, then the Vice-chairperson

shall act as Chairperson at such meeting. In the case of both being absent, the Trustees present shall appoint a Chairperson from one of their number.

12.3.2.3 Three (3) Trustees may at any time convene a meeting of Trustees by giving to the other Trustees not less than 21 (twenty-one) days written notice with the reason/s for a meeting proposed by them, provided that in case of urgency shorter notice as is reasonable in the circumstances may be given. A resolution in writing signed by a quorum of Trustees present shall be valid and effectual as if it had been passed at a meeting of Trustees duly called and constituted.

12.3.2.4 The Trustees shall:

12.3.2.4.1 ensure that minutes are taken of every meeting, not necessarily verbatim, which minutes shall be reduced to writing within 7 (days) and circulated to all Trustees;

12.3.2.4.2 the decisions contained the minutes may be implemented after 7 (seven) days if no dispute is declared in regard to the correctness of the minutes by any Trustee who was present at the meeting.

12.3.2.4.3 discuss the minutes and it may be changed and then certified correct by the Chairperson at the next meeting of the Trustees;

12.3.2.4.4 cause such minutes to be kept of all meetings of the Trustees in a minute Book of Meeting of Trustees, which book shall be kept in all perpetuity; and such minutes shall be made available to Members on request of a Member.

12.3.2.5 All competent Resolutions recorded in the minutes of any Meeting of Trustees shall be valid and of full force and effect from the passing of such Resolutions, and until varied or rescinded, but no Resolution or purported Resolution of the Trustees shall be of any force or effect, or shall be binding upon the Members or any of the Trustees unless such Resolution is competent within this Constitution and the powers of the Trustees.

12.4 SUB-COMMITTEE MEETING

12.4.1 The quorum shall be one Trustee and the majority of members of the committee.

12.4.2 The proceedings shall be determined by the discretion of the Chairperson who shall be led by practical considerations.

13. RESIDENTS

13.1 Any property may only be permanently occupied by persons, one of which shall be 50 (fifty) years of age or older and in the event of Sectional Title Units, 60 (sixty) years of age or older.

13.2 Children under the age of 18 (eighteen) years may not permanently reside in any property without the written approval of the ASSOCIATION first having been obtained.

13.3 The ASSOCIATION shall at all times, without having to provide reasons, be entitled to withdraw such approval, in which event the child shall no longer be allowed to reside in the property.

13.4 Clause 13.1 shall not be applicable on the surviving spouse of an occupant of a property after the death of the qualified occupant, provided that it shall be the responsibility of such surviving spouse to provide to the ASSOCIATION the particulars of the person younger than 50 (fifty) years who shall occupy the property.

13.5 This clause 13 is only applicable to occupants of a property and does not prohibit a person younger than 50 (fifty) years of age to acquire ownership of a property.

14. FINANCE

14.1 The financial year-end of the ASSOCIATION is the end of February of each year.

14.2 The Trustees shall cause proper books of account and records to be kept so as fairly to record the transactions and financial position of the ASSOCIATION, including:

14.2.1 a record of the assets and liabilities of the ASSOCIATION;

14.2.2 a record off all sums of money received and expended by the ASSOCIATION and the matters in respect of which such receipt and expenditure occur;

14.2.3 a register of Members showing in each case their addresses;

14.2.4 the amounts and dates of monies due and the amounts and dates of monies paid.

14.3 The Trustees shall cause all books of account and records to be retained for a period of 6 (six) years after completion of the transactions, acts or operations to which they relate.

14.4 The Member's accounts and books shall be open for his inspection at all reasonable times during office hours.

14.5 The Trustees may from time to time make reasonable conditions and/or regulations as to the time and manner of the inspection by the Members of the accounts and books of the ASSOCIATION, or any of them, and, subject to such conditions and regulations, the accounts and books of the ASSOCIATION shall be open to the inspection of Members.

14.6 At each General Meeting the Trustees shall present audited financial statements for the preceding financial year of the ASSOCIATION. Such financial statements shall have been drawn up in accordance with generally accepted accounting practice and shall be accompanied by such additional reports as may be necessary at the discretion of the Trustees and/or as recommended by the auditors, and shall be attached to the notice sent to Members convening each General Meeting as set forth in clause 12.1.1.3 supra.

14.7 The budget as approved by the General Meeting shall be strictly adhered to and all deviations from the budget of more than 3 (three) percentage points must be explained by the Trustees.

15. LIABILITY

15.1 The ASSOCIATION does not accept any responsibility and shall not be liable for any indebtedness incurred by, or for any civil and/or criminal action caused by any of its Members, Trustees or agents.

15.2 Privilege in respect of defamation
Every Member of the ASSOCIATION and every TRUSTEE shall be deemed by virtue of his membership, or as the case may be, his holding office as a TRUSTEE, to have waived as against every other Member, the CHAIR, or VICE-CHAIRMAN, or every other TRUSTEE, the AUDITORS and everybody else engaged to perform any function or duty on behalf or for the benefit of the ASSOCIATION, or the TRUSTEES, or any sub-committee, all claims and rights of action which such Member or TRUSTEE, may have as a result of any reference to such member or TRUSTEE, made at any meeting of TRUSTEES, or otherwise in the performance or exercise of any right, function, duty, power or trust, within the ambit of THESE PRESENTS, being a statement, report, complaint, notice or reference, defamatory to such Member or TRUSTEE, or otherwise injurious to the dignity, reputation, business or financial interest of such Member or TRUSTEE, whether such statement be true or false.

15.3 Indemnity

15.3.1 All TRUSTEES and the AUDITORS shall be indemnified out of the funds of the ASSOCIATION against any liabilities *bona fide* incurred by them in their respective said capacities and in the case of a TRUSTEE, in his capacity as CHAIRMAN, VICE-CHAIRMAN, whether defending any proceedings, civil, criminal or otherwise,

in which relief is granted to any such person/s by the Court

15.3.2 Every TRUSTEE, every servant, agent and employee of the ASSOCIATION, and the AUDITORS shall be indemnified by the ASSOCIATION against (and it shall be the duty of the TRUSTEES out of the funds of the ASSOCIATION to pay) all costs, losses and expenses (including traveling expenses) which such person or persons may incur or become liable for by reason of any contract entered into, or any act or deed done, by such person or persons in the discharge of any of his/their respective duties, including in the case of a TRUSTEE, his duties as CHAIRMAN or VICE-CHAIRMAN. Without prejudice to the generality of the above, the ASSOCIATION shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any *bona fide* act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties provided that any such act, deed or letter has been done or written in good faith.

15.3.3 A TRUSTEE shall not be liable for the acts, receipts, neglects or defaults of the AUDITORS or of any of the other TRUSTEES, whether in their capacities as TRUSTEE or as CHAIRMAN or VICE-CHAIRMAN, or for any loss or expense sustained or incurred by the ASSOCIATION through the insufficiency or deficiency of title to any property acquired by the TRUSTEES for or on behalf of the ASSOCIATION, or for the insufficiency of any security in or upon which any of the monies of the ASSOCIATION shall be invested, or for any loss or damage arising from the insolvency or delictual act of any person with whom any monies, securities or effects shall be deposited, or for any loss or damage occasioned by any error of judgment or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of any of the duties of his office/s or in relation thereto, unless the same shall happen through lack of bona fides or breach of duty or breach of trust.

16. SOLE CONSTITUTION

This Constitution is final and binding and is the sole Constitution of the ASSOCIATION. It overrules all prior constitutions and amendments as well as Minutes and Resolutions should they be in conflict in any way with this Constitution.

17. REPEALS AND AMENDMENTS

Notices of repeals or amendments to this Constitution can be proposed by any Member of the ASSOCIATION eligible to vote. Such notice must be in writing and received at the office of the ASSOCIATION at least 21 (twenty one) days before the prescribed notice period of such Meeting, for inclusion in the Agenda of a General Meeting or Special Meeting specially convened for that purpose. The proposal shall be accepted if supported by at least two thirds of the votes at a duly constituted meeting.

18. DISSOLUTION

The ASSOCIATION retains the right to dissolve itself by its own Resolution taken at a duly constituted Special Meeting, provided that the motion is adopted by two thirds of the Members present.

18.1 Upon adoption of the resolution to dissolve, steps are taken immediately to wind-up the affairs of the ASSOCIATION in terms of the Companies Act (Act 61 of 1973) as amended or substituted from time to time and where applicable.

18.2 The ASSOCIATION shall upon its dissolution or liquidation be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some other ASSOCIATION with objects similar to those of the ASSOCIATION.

APPENDIX A

1. The Developer shall remain a Member of the ASSOCIATION until such time as:

   1.1 Service agreements with Nampower and Namwater have been negotiated and finalized.

   1.2 All bulk services have been completed.

   1.3 Possible co-operation agreements with Finkenstein Estate and Finkenstein Manor have been negotiated and finalized.

   1.4 All unsold properties have been sold.

   1.5 The Developer voluntarily resigns.

2. The Developer is exempt from paying levies on unsold property.

ANNEXURE "D"

PROTOCOL NO.

NOTARIAL DEED OF IMPOSITION OF CONDITIONS

Know all men whom it may concern

That on this the day of before me

PETRUS GERHARDUS STRAUSS

a Notary Public, duly appointed, residing and practising at Windhoek, Namibia, personally came and appeared

TOBIAS JOHANNES ADRIAN LOUW and/or MARLE WESSELS

hereinafter called the Appearer in his capacity as duly authorized agent of:

1. _____
_____
_____

(hereinafter called "THE OWNER")

by virtue of a Power of Attorney granted to him at WINDHOEK on the
day of , and

2. **GIDEON JOHANNES FAKCULYN GOUS and/or RONALD LEONARD KUBAS,** in his capacity as trustee and duly authorized thereto by the **FINKENSTEIN MANOR OWNERS ASSOCIATION** (hereinafter referred to as "the ASSOCIATION"),

by virtue of a Power of Attorney granted to him at WINDHOEK on the
day of , and

which Power of Attorney appointing the Appearer have this day been exhibited to me and now remains filed in my Protocol,

AND the said Appearer declared that:

WHEREAS the OWNER is the registered OWNER of a sectional title unit described as

(a) **Section No. _____** as shown and more fully described on **Sectional Plan No. SS _____** in the development scheme known as _____ in respect of the land and building or buildings situated at Erf No. _____ Finkenstein, in the Municipality of Windhoek, Registration Division "K", Khomas Region, of which the floor area, according to the Sectional Plan is _____ **Square metres** in extent, and

(b) an undivided share in the common property in the development scheme, apportioned to that Section in accordance with the participation quota as endorsed on the Sectional Plan held under **Certificate of Registered Sectional Title No. _____(_____) Unit** dated _____

the said unit is subject to or shall benefit by:

(i) the servitudes, other real rights and conditions, if any, as contained in the schedule of conditions referred to in Section 11(3)(b) and the servitudes referred to in section 30 of the Sectional Titles Act, 2009 (Act 2 of 2009); and
(ii) any alteration to the building or buildings or to a section or to the common property shown on the said sectional plan.

(hereinafter referred to as "the Property")

NOW THEREFORE THE APPEARER DECLARED THAT

1. The PROPERTY shall be subject to the following conditions in favour of the ASSOCIATION, namely:

1.1 Such servitudes across the property as may be necessary for the purposes of servitude of allowing electricity cables and/or wires, main and/or other water pipes and pipelines and foul sewers and stormwater pipes, ditches and channels of any other property or properties to be conveyed across the property, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon in such manner and position as may from time to time be reasonably required.

1.2 The OWNER and/or its successors in title shall by virtue of his ownership of the PROPERTY automatically become and remain a member of the ASSOCIATION and be bound by its Constitution or Memorandum and Articles of ASSOCIATION and any Rules adopted by the ASSOCIATION as amended from time to time until such OWNER ceases to be an OWNER.

1.3 The OWNER and/or its successors in title shall by virtue of its automatic membership of the ASSOCIATION, and payment of levies as such be liable for the management and future maintenance and replacement of all services upon the PROPERTY which services, include but are not limited to water, electricity, street, open spaces and sewer, maintenance, and security.

1.4.1 The PROPERTY or any portion thereof shall not be sold, alienated, transferred or leased without a written contract approved by the ASSOCIATION in writing which approval shall only be issued once the ASSOCIATION has confirmed in writing that it has satisfied itself that all conditions imposed by the ASSOCIATION have been met and that all amounts due to it by the OWNER have been paid.

1.4.2 No OWNER of shares in a company, or of membership interest in a close corporation, which is the OWNER of a PROPERTY in the township development, shall be entitled to sell, donate, lease or otherwise alienate his shares or membership interest, without a written contract approved by the ASSOCIATION, in writing which approval shall only be issued once the ASSOCIATION has confirmed in writing that it has satisfied itself that all conditions imposed by the ASSOCIATION have been met and that all amounts due and payable to it by the OWNER has been duly paid.

1.4.3 No trustee of a trust which is the OWNER of PROPERTY in the township development shall sell, donate, lease or otherwisely alienate the beneficial interest in the trust without a written contract approved by the ASSOCIATION in writing.

1.5 The restrictions in 1.4 above shall not apply to the registration of a mortgage bond over the property by the owner.

1.6.1 The alienation of a PROPERTY by the Owner (which includes the sale of shares in a company, the sale of membership interest in a close corporation and or the sale of an interest in a trust) or his successors in title shall be subject to the payment of the following levies and contributions,

namely: an amount equal to 5% (five percent) of the re-sale price or the value determined in terms of clause 1.6.3 hereof.

1.6.2 The OWNER or his assigns will be liable to issue a bank guarantee for the amounts due to the ASSOCIATION in favour of the nominated Conveyancer of the ASSOCIATION, which guarantee must be to the satisfaction of the said Conveyancers and payable against transfer of the PROPERTY, shares or interest into the name of the PURCHASER.

1.6.3 In the event of testamentary or intestate disposition the value of the PROPERTY, shares or interest will be in accordance with the value accepted by the <aster of the High Court in the liquidation and distribution account. If, however, the value of the PROPERTY or the interest in the PROPERTY, stated in the liquidation and distribution account has been reduced by the value of an outstanding bond, or in the case of a change of a beneficiary of a trust, which will result in no entry in the liquidation and distribution account, then the value of the PROPERTY or the interest into the PROPERTY, for purposes of calculating the 5% levy, shall be the fair market value of the property determined by a sworn valuator, without taking into account the value of the outstanding bond.

16.4 The abovementioned liability to pay a 5% levy, shall be applicable ad infinitum on every property in the Finkenstein Manor and may only be varied or cancelled with the written consent of the ASSOCIATION.

1.7 The PROPERTY may only be permanently occupied by persons of whom 1 (one) is 50 (fifty) years of age or older and in the event of Sectional Title Units, 1 (one) is 60 (sixty) years of age or older.

1.8 Neither the PROPERTY nor any interest therein or thereto, shall be sold or transferred to any person or entity who has not agreed to become a member of the ASSOCIATION and to be bound by its Memorandum and Articles of ASSOCIATION and any Rules adopted by it and who has not secured payment by way or a debit order or such other method of payment acceptable to the ASSOCIATION of the monthly levy due to it.

1.9 No further improvements of any nature may be effected on the PROPERTY without the prior written approval of the SELLER and ASSOCIATION or its nominee and any building plans in respect of any such improvements to be erected on the PROPERTY shall be subject to prior written approval of the said ASSOCIATION. Such approval will be required without limitation to all external finishes including materials and colours for all exterior walls, roofs and windows and such improvements shall at all times comply with the Architectural Plans and Specifications as accepted by the ASSOCIATION.

1.10 The OWNER and/or its successors in title of the PROPERTY shall not make any application for the rezoning, consolidation or subdivision of his PROPERTY without the prior written consent of the ASSOCIATION.

1.11 The PROPERTY shall be subject to a right of access by the ASSOCIATION and its appointed employees and/or agents for the purpose of the construction and day to day maintenance of

services including that of water, sewerage, drainage, electricity, telecommunication services, roads and pathways, which right also includes the right to place on such PROPERTY any material that may be excavated on the PROPERTY or any adjacent PROPERTY.

2. The OWNER or his successors in title shall further be entitled to make use of all roads and pathways constructed within the DEVELOPMENT, the ownership of which will vest in the ASSOCIATION, for purposes of obtaining access to the PROPERTY and such use shall be so vested in perpetuity.

3. **SUCCESSORS IN TITLE**

The terms "OWNER" and "ASSOCIATION" include their respective successors in title or assigns and all the rights and obligations herein created are so vested and imposed in perpetuity.

4. **ACCEPTANCE**

And the appearer on behalf of the OWNER and the ASSOCIATION hereby accept, in so far as is necessary, the benefits of the agreement subject to the terms and conditions aforesaid.

THIS DONE AND EXECUTED by the appearer before me, Notary Public on the day month, and year first aforewritten, in the presence of the subscribing witnesses.

AS WITNESSES:

1. _____ _____q.q

2. _____ _____q.q

QUOD ATTESTOR

_____
NOTARY PUBLIC

Please note that this Confirmation on its own is not sufficient proof in terms of the Financial Intelligence Act, No. 3 of 2007 and additional documents as specified, must still be supplied, if required to do so

Information required by Bond or Transfer Attorney to comply with Financial Intelligence Act, No. 3 of 2007

I, the undersigned PURCHASER

_____

Identity number _____

HEREBY CONFIRM THAT THE FOLLOWING INFORMATION IS TRUE AND CORRECT

1. THAT my name and identity number/date of birth are correct as reflected above and annexed hereto a copy of my identity document / my passport.

2. THAT my current residential address is as follows:

   _____

3. THAT my postal address is as follows:

   _____

4. THAT the source of income/funds to finance the transaction registration is as follows:
   Cash – please specify origin of money: _____
   Financial Institution – please specify bank's name: _____

5. I am unmarried Yes /or NO
   I am married to _____
   on (date) _____ in community of property
   / out of community of property at (place) _____
   (please attach copy of spouse's identity document, marriage certificate and marriage contract, if applicable)

CONTACT DETAILS OF PURCHASER

Name of Employer: _____
Telephone No. (Work): _____
Telephone No. (Home): _____
Cell phone No.: _____
E-mail address: _____

This done and signed at _____ this _____ day of _____

_____
PURCHASER

INFORMATION FOR TRANSFER PURPOSES:

PURCHASER:

This property is to be registered into the name of a –
(Please attach Company/CC/Trust documents)

1. Company / Close Corporation / Trust name: _____

   _____

2. Company / Registration no.: _____

3. Full names of Directors / Members / Trustees: ***(Please attach copy of Identity document)***

   _____

   _____

4. Auditor / Accounting Officer: _____

5. Postal Address: _____

6. Residential Address: _____

7. Telephone numbers: _____

This property is to be registered into my personal name – ***(Please attach copies of Identity document)***

1. Full names: _____

2. Identity number: _____

3. Postal Address: _____

4. Residential Address: _____

5. Telephone numbers: _____

6.1 Are you married: ***(Please attach copy of marriage certificate & ANC contract)***

   a) Yes / No

   b) In community of property

   c) Out of community of property

   (delete whichever is not applicable)

6.2 If married: ***(Please attach copy of wife's/husband's Identity document)***

   a) Full names of spouse: _____

   b) Date of Birth: _____

6.3 Place of marriage: _____