



**AGREEMENT FOR THE GRANT OF A RIGHT OF OCCUPATION
OF A UNIT IN:**

KINGHURST RETIREMENT APARTMENTS

LIST OF DOCUMENTS:

1. Schedule to contract
2. Contract
3. ANNEX 1: Disclosures in terms of the Housing Development Schemes for Retired Persons Act.
4. ANNEX 2: Plans of Kingshurst and of the unit.
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“THE SCHEDULE”

KINGSHURST RETIRMENT APARTMENTS

SCHEDULE TO THE CONTRACT

between

ELANDEO TWELVE CC

REGISTRATION NUMBER: 2009/070329/23

(the “**seller**”)

and

(the “**purchaser**”)

and

(the “**previous holder of the right of occupation**”)

The purchaser acquires the right to occupy a unit (including garage/s and/or/ carport/s), as defined in the contract to which this schedule relates (“the contract”), and jointly with other occupants to utilise certain common facilities and services described hereinafter in KINGSHURST on the terms and conditions mentioned in this schedule, the contract and annexures attached to the aforesaid contract.

1. Details of purchaser (if natural person)

1.1 Full names of purchaser:

1.2 Current residential address:

street number

suburb

town

code

1.3 Current postal address:

1.4 Current telephone number:

Home

work

cell

fax number

1.5 Identity number:

1.6 Income Tax number:

1.7 Marital status:

1.8 Spouse:

2. Details of purchaser (if juristic person)

2.1 Registered name of purchaser

2.2 Physical address:

street number

suburb

town

code

2.3 Postal address:

2.4 Current telephone number:

home

work

cell

fax number

2.5 Income Tax/Vat number:

3. Details of nominated occupant (if applicable)

3.1 Full name of nominated occupant:

3.2 Current residential address:

street number

suburb

town

code

3.3 Current postal address:

3.4 Current telephone numbers:

home

work

cell

fax number

3.5 Identity number:

3.6 Income Tax number:

3.7 Marital status:

in community

out of community

foreign marriage

unmarried

3.8 Spouse:

Surname

first name(s)

identity number

4. Details of joint occupant (if applicable)

4.1 Full name of joint occupant:

4.2 Current residential address:

street number _____suburb _____town _____code _____

4.3 Current postal address:

4.4 Current telephone numbers:

home _____work _____cell _____fax number _____

4.5 Identity number:

4.6 Marital status:

in community _____out of community _____foreign marriage _____unmarried _____

4.7 Spouse:

Surname _____

first name(s) _____

identity number _____

5. Details of previous holder of the right of occupation:

5.1 Registered name of previous holder of the right of occupation

5.2 Physical address:

street number _____

suburb _____

town _____

code _____

5.3 Postal address:

5.4 Current telephone number:

home _____

work _____

cell _____

fax number _____

5.5 Income Tax/Vat number:

6. If Previous holder of the right of occupation nominated an occupant (if applicable)

6.1 Full name of nominated occupant:

6.2 Current residential address:

street number

suburb

town

code

6.3 Current postal address:

6.4 Current telephone numbers:

home

work

cell

fax number

6.5 Identity number:

6.6 Income Tax number:

6.7 Marital status:

in community

out of community

foreign marriage

unmarried

6.8 Spouse:

Surname _____

first name(s) _____

identity number _____

7. Details of joint occupant of previous holders right of occupation (if applicable)

7.1 Full name of joint occupant:

7.2 Current residential address:

street number _____

suburb _____

town _____

code _____

7.3 Current postal address:

7.4 Current telephone numbers:

home _____

work _____

cell _____

fax number _____

7.5 Identity number:

7.6 Marital status:

in community

out of community

foreign marriage

unmarried

7.7 Spouse:

Surname

first name(s)

identity number

8. Unit including garage/carport

8.1 Number of unit and design:

8.2 Floor area in square metres:

8.3 **Levy:**

The monthly levy is approximately

(refer to clause 12 in the contract)

9. Purchase Consideration

The full purchase price payable on the delivery date as defined in this contract R_____

(_____ RANDES)

(refer to clause 7 in the contract)

- 10. The latest date by which the certificates in terms of section 6(1) of the act, as defined in the contract, will be issued and furnished to the purchaser:**

on the delivery date as defined in this contract

11. Possession and Occupational Interest

11.1 The purchaser will take occupation of the unit on _____.

11.2 If the occupation date does not coincide with the date of payment as stipulated in clause 7 of the contract, the purchaser shall pay occupational rental to the previous holder of the life right in the amount of R _____ per month in advance, until date of final payment of the full price as stipulated in clause 7.

11.3 Payment to be made to the previous holder's account being:

12. Sale subject to sale of purchaser's property to be sold

12.1 This agreement is subject to the sale of the purchaser's property, namely _____ than R _____ (or such lesser amount as the purchaser may agree to).

12.2 The seller acknowledges that the purchaser will be deriving funds for the furnishing of guarantees and the payment of costs from the proceeds of the sale of his property.

- 12.3 The purchaser hereby authorises the seller's conveyancers to obtain a copy of the purchaser's agreement of sale and all relevant information from the purchaser's conveyancers.

13. Sale subject to Sale of Purchaser's Property already sold

- 13.1 It is recorded that the purchaser has sold his property being _____
_____ for the sum of R _____

- 13.2 This agreement is further subject and condition upon:

13.2.1. the suspensive conditions, if any, contained in the agreement relating to the sale of the second property being fulfilled timeously;

13.2.2. the second property being transferred into the name of the purchaser thereof within a reasonable time in the circumstances; and

13.2.3. notwithstanding anything to the contrary in the sale agreement or contained, the purchaser receiving the proceeds of such sale at a time which enables the purchaser to comply fully with all the financial obligations undertaken by the purchaser in favour of the seller in terms of the sale agreement.

- 13.3 The Seller agrees that any guarantee provided by the purchaser in terms of this agreement which is expressed to be payable upon transfer of the second property and the simultaneous transactions relating thereto, will comply with the obligations of the purchaser in terms of this agreement.

14. Costs

- 14.1 The required cession and related documentation consequent upon this agreement will be prepared by the attorneys.
- 14.2 The purchaser will pay all costs of and incidental to this contract and the cession.
- 14.3 The costs will include a levy clearance fee.

15. Municipal Rates

- 15.1 In addition to the levies payable in terms of paragraph 8.3 of this schedule, the Purchaser shall furthermore be liable to make a pro-rata contribution, calculated in accordance with the Participation Quota of the Purchaser's unit, towards municipal rates and taxes.
- 15.2 The actual amount payable by the Purchaser in terms of paragraph 15.1 herein above, shall increase immediately upon an increase in the amount levied by the municipality.
- 15.3 Notice of any increase in the amount payable in terms hereof shall be given in writing to the Purchaser by the Management Association of KINGSHURST.

CONTRACT

between

ELANDEO TWELVE CC

(the “seller”)

and

(the “purchaser”)

and

(the “previous holder of the right of occupation”)

Relating to the purchase of a right of occupation, as defined hereunder, in respect of the KINGSHURST as defined hereunder.

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KINGSHURST RETIREMENT APARTMENTS

1. Introduction

- 1.1 The seller is the registered owner of the Erf 537, HUMEWOOD in the Nelson Mandela Bay Metropolitan Municipality, Division of Port Elizabeth, Province of the Eastern Cape 1930 (One thousand nine hundred and thirty) square metres and held under Deed of Transfer T41383/2008 and has established a retirement housing development scheme in accordance with the act, as defined hereunder, on the vacant portion of the land. Deed of Transfer T41383/2008 has been endorsed in terms of Section 4C of the Act. (the “**land**”).
- 1.2 The housing development scheme mentioned in clause 1.1 and situated on the land, as defined hereunder, is known as the KINGSHURST.
- 1.3 The purchaser wishes to acquire from the seller a right of occupation, as defined hereunder, in respect of a unit (including garage/s and/or carport/s and/or patio/s) in KINGSHURST and to jointly utilise certain common facilities and services on the terms and conditions mentioned herein.

2. Definitions

- 2.1 “**Accommodation**” means any building or part of a building or such land set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest.
- 2.2 “**act**” means the Housing Development Schemes for Retired Persons Act No 65 of 1988, as amended and regulations promulgated thereunder;
- 2.3 “**KINGSHURST**” means the housing development scheme in terms of the act at the following physical address:

Corner of Humewood Road and La Roche Drive
Humewood, Port Elizabeth

- 2.4 **“architect”** means Bobby Ellis of Design Studio Architects as appointed by the close corporation.
- 2.5 **“attorneys”** means Lexicon Attorneys of cnr of Westbourne and Clevedon Roads, Central, Port Elizabeth.
- 2.6 **“caregiver”** means a person, either paid or voluntary, who helps the occupant of a unit with his or her activities of daily living, health care, financial matters, if necessary, guidance, companionship and social interaction.
- 2.7 **“common property”** means in relation to the KINGSHURST common property as defined in the Sectional Titles Act, No 95 of 1986 otherwise, the land to which the KINGSHURST relates, together with all buildings, permanent structures and works erected on or installed upon such land, but excluding any building or part of a building or such land set aside for the exclusive occupation of or use by a purchaser in terms of a housing interest.
- 2.8 **“close corporation”** means ELANDEO TWELVE CC Registration No. 2009/070329/23 which is also the Seller in terms of this contract.
- 2.9 **“consideration”** means the consideration mentioned in clause 9 of the schedule.
- 2.10 **“CPA”** means Consumer Protection Act No.68 of 2008.
- 2.11 **“delivery date”** means the date on which the unit is ready for occupation by the purchaser.

- 2.12 **“housing interest”** – in relation to a housing development scheme, means any right to use or occupy land to which the scheme relates.
- 2.13 **“disposal price”** means the consideration, as defined in section 1 of the act, paid by a purchaser, of a unit, as defined hereunder, for the acquisition of a right of occupation.
- 2.14 **“housing interest”** – in relation to a housing development scheme, means any right to use or occupy land to which the scheme relates.
- 2.15 **“joint occupant”** means a retired person, as defined in section 1 of the act, sharing a unit with a purchaser or nominated occupant or a person (other than a retired person as defined in section 1 of the act) who has acquired the written consent of all the holders of housing interests, as defined in section 1 of the act, to occupy a unit at KINGSHURST but not the spouse of either the purchaser or nominated occupant.
- 2.16 **“land”** means Erf 537, Humewood, in the Nelson Mandela Bay Metropolitan Municipality, Division of Port Elizabeth, Province of the Eastern Cape, 1930 (One thousand nine hundred and thirty) square metres in extent and held under Deed of Transfer T41383/2008.
- 2.17 **“managing agent”** means Bellbuoy CC the managing agent appointed by the close corporation as defined herein or by the management association to manage KINGSHURST, or any future managing agent appointed as provided for in clause 18.
- 2.18 **“management association”** means the management association to manage KINGSHURST consisting of every purchaser who acquires a right of occupation in KINGSHURST from the seller as provided for in regulation 8 to the Act.

- 2.19 **“management liaison committee”** means that committee comprising members nominated by the close corporation and the management association to ensure the smooth running of KINGSHURST.
- 2.20 **“nominated occupant”** means the person nominated by the purchaser in terms of clause 21.
- 2.21 **“occupant”** means any one or more of the following persons:
- 2.21.1. if the purchaser is a natural person – the purchaser and his/her spouse or the nominated occupant and his/her spouse;
- 2.21.2. if the purchaser is a juristic person – the nominated occupant, as defined hereunder and his/her spouse.
- 2.22 **“participation quota”** means a percentage expressed to four decimal places, and arrived at by dividing the floor area, correct to the nearest square metre, of the Purchaser’s unit, by the floor area, correct to the nearest square metre, of all the units in the building or buildings in the housing development scheme.
- 2.23 **“principal”** means a juristic person referred to in clause 21.
- 2.24 **“purchaser”** means a purchaser, as defined in section 1 of the act, including a purchaser who has acquired a right of occupation, as defined hereunder, in accordance with the act and includes the purchaser in terms of this contract.
- 2.25 **“right of occupation”** means the right of a purchaser of a housing interest, as defined in section 1 of the act, which confers the power to occupy a unit, as described and defined in clause 3 hereunder in KINGSHURST for the duration of the lifetime of the purchaser or, subject to section 7 of the act, any other person mentioned in this contract in terms of which the housing interest, as defined in section 1 of the act, is acquired, but without

conferring the power to claim transfer of the ownership of the unit as defined herein to which the housing interest relates.

- 2.26 **“spouse”** means the spouse of the purchaser or nominated occupant.
- 2.27 **“special resolution”** means a resolution means a resolution passed by a majority of not less than $\frac{3}{4}$ (three quarters) of the votes of all purchasers at a general meeting of which at least 14 (fourteen) days notice specifying the proposed resolution has been given its agent or successors in title.
- 2.28 **“the contract”** means a contract, as defined in section 1 of the act, which pertains to the alienation of a housing interest in KINGSHURST to a retired person as defined in section 1 of the act.
- 2.29 **“the developer”** means the close corporation as defined herein, which has developed KINGSHURST as a development scheme and who is also the seller.
- 2.30 **“previous life right holder”** means the previous holder of the life right, his/her spouse and his/her executor or successor in title.
- 2.31 **“the parties”** means collectively the seller, purchaser, nominated occupant (if applicable), the spouse of the purchaser, the spouse of the nominated occupant (if applicable) and the joint occupant (if applicable) and previous holder of the life right.
- 2.32 **“total levy”** means all the annual operating costs pertaining to KINGSHURST subject to the provisions of clause 8.3 of the Schedule hereto.
- 2.33 **“unit”** means a unit as defined in section 1 of the Act which comprises a unit (including garage/s and/or carport/s and/or patio/s) allocated to the

purchaser described in the schedule relating to this contract marked “the Schedule”, indicated on the plan annexed hereto as annexure “ANNEX 2(a)” forming part of KINGSHURST and constructed in accordance with the specifications annexed hereto as annexure “ANNEX 2(b)”.

2.34 expressions in the singular also denote the plural, and vice versa.

2.35 pronouns of any gender include the corresponding pronouns of the other gender.

3. Right of occupation

3.1 The seller and the previous holder of right of occupation hereby grants to the purchaser who hereby acquires the right of occupation of the unit for the duration of the lifetime of the purchaser, his/her spouse or the lifetime of the nominated person whichever is the longest. This is subject to the provisions of clauses 7 and 18 hereof and subject to payment of the consideration as set out in clause 9 of the schedule annexed hereto and subject to Section 7 of the Act..

3.2 It is recorded that the right of occupation is not capable of being registered in the deeds office but confers the same right as a registered lease referred to in Section 4A of the Act subject to the provisions of this contract.

4. Consumer Protection Act 68 of 2008

4.1 The right of occupation of the unit is sold with an “implied warranty of quality” as provided for in Section 56 of the CPA being a warranty that the unit complies with the requirements and standards contemplated in Section 55 of the CPA which provides that the purchaser has a right to receive the occupation of the unit on the basis that:

- 4.1.1. it will be reasonably suitable for the purposes for which it is generally intended ;
- 4.1.2. it is of good quality, in good working order and free of any defects;
- 4.1.3. it will be useable and durable for a reasonable period of time, having regard to the use to which the property would normally be put and to the surrounding circumstances of their supply;

except to the extent that the unit has been altered after having left the control of the company.

- 4.2 It is (as provided for in section 55(6) of the CPA), recorded that:

The purchaser agrees to accept the unit as it stands.

- 4.3 The purchaser acknowledges that it has not been influenced by any express or implied information, statement or representation given or made on behalf of the company, unless recorded in this agreement.

- 4.4 It is agreed by the parties that this agreement was not concluded as a result of direct marketing as defined in terms of CPA and the purchaser will therefore not be entitled to the rights afforded in terms of section 16 of the CPA.

5. **Nomination** (if applicable)

- 5.1 The purchaser shall be entitled to nominate a third party **“the third party”** as purchaser of the right of occupation within 30 (thirty) days of the date on which the last signature is affixed to this contract or within such extended time as the parties may agree to in writing.

5.2 Such nomination will be effected by delivery by the purchaser to the seller of a letter assigning its rights and obligations to the third party nominated in terms of clause 4.1 and by delivery of the third party to the seller of a letter confirming unconditional acceptance of the rights and obligations of the purchaser.

5.3 If the nomination is not made by the purchaser and accepted by the third party within a period of 30 (thirty) days or the extended period specified in clause 4.1, the purchaser in his personal capacity will remain the purchaser in terms of this contract.

6. Term

6.1 As from the delivery date, the purchaser or nominated occupant and his/her spouse specified in the schedule, will have the right of occupation during his/her lifetime, whichever will be the longer period, subject to the provisions of this contract.

6.2 The purchaser or nominated occupant and his/her spouse will not be entitled to transfer his/her right of occupation other than in accordance with the provisions of this contract.

7. Consideration

7.1 The consideration payable by the purchaser to the seller in respect of the right of occupation is the sum stipulated in clause 9 of the schedule hereto.

7.2 The consideration is payable on the delivery date as defined in this contract. Any payment made by the purchaser will be pursuant to section 6(3) of the act.

7.3 The purchaser will be obliged, within 14 (fourteen) days of signature hereof by the seller, or within 14 (fourteen) days from fulfilment of the suspensive

conditions contained in clause 12 and 13 of the schedule to furnish to the seller a bank guarantee or other letter of undertaking acceptable to the seller for the due payment of the consideration payable by the purchaser in terms of this contract.

- 7.4 The consideration will be held in trust by the attorneys in accordance with the provisions of section 6(3) of the act and invested at a financial institution of the seller's sole choice, interest to accrue to the purchaser, until payment of the capital amount to the seller. Should the purchaser require the money to be invested by the attorneys, the purchaser must sign an investment authority with the attorneys.
- 7.5 If the purchaser fails to pay the consideration or any part thereof on the due date, the outstanding amount will attract interest from the due date at the prevailing bank overdraft prime interest rate plus 2% compounded in arrear. A certificate by the seller's accountant as to the rate of interest and any amount due hereunder shall be accepted by the purchaser as prima facie proof of such rate prevailing at any time or such amount due.

8. Management

- 8.1 The affairs of KINGSHURST is managed by the management association which has the powers set out in clause 9 and Regulation 9 of the Act. The management association consists of all those persons required to be members of said management association in accordance with regulation 7 of the act.
- 8.2 Subject to the provisions of the act, the management association has appointed a managing agent granting it all necessary authority and powers to act on its behalf to manage KINGSHURST and has the power to appoint future managing agents.
- 8.3 The Management Association Committee will meet bi-monthly but may meet more often if necessary.

- 8.4 The Management Association Committee will have not less than 3 (three) and not more than 7 (seven) members.
- 8.5 The tenancy of the chairperson will be decided by the Management Association.

9. Powers and duties of management association

- 9.1 The management association has the power contained in Regulation 9 of the Act and the duties contained in Regulation 8 which includes the following:
- 9.1.1. make rules of conduct as it may deem appropriate to promote the interests of the whole body of occupants. The occupants shall comply with these rules. No rule, amendment, alteration, substitution or repeal of any rule will be binding without the written approval of the close corporation;
 - 9.1.2. impose levies on purchasers in accordance with the provisions of clause 11;
 - 9.1.3. ensure that the buildings forming part of KINGSHURST are insured pursuant to the provisions of clause 15.
- 9.2 All members must comply with the conduct rules, which is annexed as Annexure 3.

10. Management liaison committee

- 10.1 In order to ensure the smooth running of the apartments, a management liaison committee has been established to meet on a regular basis and to serve as a forum for liaison between the occupants as defined in clause 2.21 and the management of the close corporation for the purpose of discussion of issues relating to the management of the scheme, the exchange of ideas

and the formulation and recommendation of policies in regard to the management of the scheme and the community life of the said occupants.

- 10.2 The said committee comprises of two members nominated by the close corporation and two members nominated by the management association.
- 10.3 The committee shall meet at least 3 (times) during every financial year of the close corporation, provided that each of the members to this committee shall, by written notice to the other members have the right to convene additional meetings of the committee.
- 10.4 The chairman was elected at the first committee meeting from the members nominated by the close corporation.
- 10.5 In the event of an equality of votes, the chairman shall not have a casting vote.
- 10.6 A committee member shall be entitled to appoint another committee member as his proxy to attend, speak and vote at a meeting on his behalf. Such appointment shall be made in writing under signature of the committee member concerned and shall be tabled at the relevant meeting by proxy.
- 10.7 The quorum for meetings of the committee shall be a simple majority in number of the committee members in office from time to time provided that there is representation of each of the parties to this committee at such meeting.
- 10.8 All decisions of the committee shall be taken by a simple majority of votes, each committee member being entitled to one (1) vote.
- 10.9 A resolution in writing, signed by all the committee members, shall be as valid and effectual as if it were passed at a meeting of members of the committee.

- 10.10 The venue of the meetings of the committee will be at such place as the committee members may resolve from time to time.
- 10.11 The notice, accompanied by an agenda which will indicate all items to be discussed, convening a meeting of committee members, shall be delivered to each committee member. The period of notice required to convene a meeting of committee members shall not be less than 7 (seven) days unless all committee members waive compliance therewith in their discretion.
- 10.12 Any proposed changes to the conduct rules or other issues which the management association wishes to propose or discuss will be canvassed at this forum. In the event of the parties failing to reach a majority decision, then the status quo ante will remain.
- 10.13 The parties recognise that this clause is reasonable and necessary for the protection of the close corporation's investment.
- 10.14 In the event of any provisions hereof being in conflict with the act or regulations promulgated thereunder, the provisions of the act or regulations will prevail.

11. Qualifications for occupation of a unit

Any person occupying a unit will be required to qualify in at least one of the following respects:

- 11.1 he/she will be a purchaser or a nominated occupant and will either:
- 11.1.1. be at least 55 years of age and retired by reason of ill-health / infirmity; or
 - 11.1.2. be at least 60 years of age.

- 11.2 he/she will be the spouse of the purchaser or nominated occupant specified in clause 1 of the schedule unless the close corporation agrees in writing to approve a spouse after the date of signature hereof.
- 11.3 he/she will be a joint occupant approved in writing by all the members of the management association in accordance with the provisions of section 7 of the act.
- 11.4 Notwithstanding anything contained in this paragraph or elsewhere in this contract, a Caregiver shall be entitled to occupy a unit with an occupant or joint occupant, for as long as such an occupant or joint occupant requires the assistance of a Caregiver.

12. Levies

- 12.1 The purchaser will pay from the delivery date monthly in advance or before the 7th day of each month, such reasonable levy as the management association may determine is necessary for conducting the affairs and to cover the operating expenses of KINGSHURST, provided that in the event of the management association committee deciding that any expenses in excess of the annual amounts mentioned in clause 11 of ANNEX 1 should in the opinion of the management association committee be incurred (until such time as the time period pertaining to the developer in terms of section 4(x) of the act has expired), such expenses shall only be incurred in consultation with the developer in order to determine whether the aforementioned expenses shall be incurred.
- 12.2 The levy payable by each purchaser is based on that proportion of the total levy as the area of the purchaser's unit (including garage/s and/or carport/s) bears to the aggregate area of all units in KINGSHURST, adjusted by a factor to be determined by the management association for use of the common property at KINGSHURST (the "levy"). In the event of any future extension to the unit, the levy will be adjusted accordingly.

- 12.3 If any levy is not paid on due date, interest will be charged at the prevailing bank overdraft rate plus 2% compounded in arrears plus all costs of collecting same including but not limited to charges levied by the managing agents and all legal costs, including VAT, on the attorney and own client scale and any collection commission.
- 12.4 The monthly levy paid by the purchaser does not include the cost of meals served in any communal dining facility.

13. Health care

- 13.1 It is recorded that there is no frail care facility provided in KINGSHURST.
- 13.2 Nursing care facilities are provided as set out in ANNEX 1.
- 13.3 Although the management association undertakes limited medical care of occupants, it may, taking into account the state of health of an occupant and after taking medical advice from the occupant's doctor, decide that a particular occupant (the "**occupant of ill health**") should move to a hospital or other institution, in which case the occupant of ill health will be obliged to move at his/her own expense. The policy of the management association will, however, be to endeavour to do everything it reasonably can to avoid having to require the occupant of ill health to vacate the unit.
- 13.4 Private health care at the occupant or occupant of ill health's expense in the purchaser's unit may be arranged and supervised by the resident nursing sister at KINGSHURST if required by an occupant or occupant of ill health.
- 13.5 All occupants will furnish the name and address of a medical doctor to the management association for approval. The management association may refuse to approve such a doctor if the doctor is not sufficiently in proximity to KINGSHURST to care adequately for the occupant and the management

association may nominate a medical doctor if an occupant fails to furnish the name of a medical doctor sufficiently in proximity to KINGSHURST.

- 13.6 Each unit will be equipped with an intercom system which will be connected to an operation centre which will be manned on a 24 (twenty four) hour basis. The person on duty will, when contacted by the occupant, make the necessary arrangements for assistance as required.

14. Obligations of occupant

- 14.1 The occupant shall only use and occupy the unit for his/her own residential purposes.

- 14.2 The occupant:

14.2.1. shall not let, sub-let, cede or assign in any way or encumber or alienate any of his/her rights in terms hereof in respect of the unit;

14.2.2. shall not allow any person to occupy or use the unit or any portion thereof without the close corporation's prior written consent thereto;

14.2.3. shall not allow children or any person who does not meet the qualifications set out in clause 10 to reside permanently in KINGSHURST except with the written consent of all the holders of housing interests, as defined in section 1 of the act, to permanently reside in a unit at KINGSHURST;

14.2.4. shall not contravene or permit the contravention of any of the conditions of occupation as set out in this contract and the rules of conduct as determined from time to time by the close corporation, management association or the managing agent;

- 14.2.5. shall not do or permit anything to be done which may cause a nuisance or annoyance to other occupants;
- 14.2.6. shall comply with all rules of conduct as set out in annexure “ANNEX 3” and with any amendments which the managing association may impose from time to time in their sole reasonable discretion;
- 14.2.7. shall, for his/her own account, maintain in a good and acceptable order as required by the management association:
- 14.2.7.1. the interior of the unit; and
- 14.2.7.2. the heat pumps, all electrical installations and equipment and all plumbing, drainage and sewerage works in the unit;
- 14.2.8. shall, on the termination of this contract, deliver to the close corporation the unit hereby used and occupied together with all fixtures and fittings (including blinds) in the unit as at date of occupation in the same good order and condition as it was on date of taking occupation, fair wear and tear excluded;
- 14.2.9. shall pay all expenses in respect of electricity and water consumed by the occupant in respect of the unit;
- 14.2.10. shall have no claim for termination of this contract or for any loss or damages suffered as a result of:
- 14.2.10.1. *vis major*;
- 14.2.10.2. *casus fortuitus*;
- 14.2.10.3. any other cause in whole or in part not under the control of the close corporation;

- 14.2.11. shall not be entitled to withhold or delay any payment to the seller, close corporation, the managing agent or management association as a result of any alleged act or omission on the part of the seller, close corporation, the managing agent or the management association;
- 14.2.12. shall not alter or add to or improve the unit or any portion thereof without the prior written consent of the close corporation and, should the close corporation consent to any alteration, addition or improvement (jointly referred to as “**alteration**”), then and in such event the costs of alteration will be for the occupants account and he/she has no right to reclaim such expenses incurred in effecting the alterations nor does he/she have any right of retention of the unit until such expenses are paid;
- 14.2.13. shall not do anything which may damage the unit;
- 14.2.14. shall not store or keep within the unit, garage or carport relating to the unit, any goods or material which may vitiate any fire insurance policy held by the close corporation or management association or increase the premium payable in respect of such policy;
- 14.2.15. shall not do anything which may exceed the supporting capacity of the floors or any part thereof as determined in the sole discretion of the close corporation;
- 14.2.16. shall notify the close corporation in writing within 14 days from the delivery date of the details of any defects in any unit to be repaired by the close corporation and failing such notification the occupant will be deemed to have received the unit in good order without any defects. Save as provided herein the close corporation will rectify such defects within 2 months of such notification. In respect of

defects in the roofing of the unit, the heat pump or settlement cracks in walls, the period of notification will be one year;

14.2.17. shall prevent, to the best of his/her ability, any blockage of any sewerage or water pipe or drain pipe in or connected with the unit;

14.2.18. shall not alter or overload the electrical system of the unit; and

14.2.19. undertakes to comply promptly and conscientiously with all the terms and conditions of this contract, including the schedule to which this contract relates marked “the schedule” as well as the annexures attached hereto marked respectively annexures ANNEX 1, ANNEX 2 and ANNEX 3.

14.2.20. Shall ensure that a Caregiver occupying a unit with the Occupant, complies promptly and conscientiously with all the terms and conditions of this contract, including the schedule to which this contract relates marked “the schedule” as well as the annexures:

Annexure 1, Annexure 2 and Annexure 3

15. Insurance

15.1 The management association will insure the buildings of which the unit forms part against loss resulting from fire and other such perils as the close corporation may deem necessary and as required by the applicable financial institution and will indemnify the close corporation against any claims whatsoever arising from failure to adequately insure the buildings.

15.2 The occupant will:

15.2.1. not do or permit anything which invalidates the aforementioned insurance, which makes an insurance claim unenforceable or which increases the insurance premiums;

15.2.2. solely and exclusively be at risk for all his/her property and effects in the said unit.

16. The close corporation's rights and obligations

16.1 The close corporation will at all times be entitled but not obliged to perform any of the purchaser's obligations in terms of this contract which the purchaser has failed to perform after expiration of a reasonable period after the close corporation has in writing requested the purchaser to do so and the close corporation may in its own and absolute discretion exercise such right, without prejudice to any other rights which the close corporation may have in terms hereof and may immediately reclaim payment from the purchaser of any amounts paid or costs incurred in respect thereof by the close corporation.

16.2 The close corporation through its servants or agents or through the managing agent or the management association, their servants or agents, may obtain admission to the unit at all reasonable times to:

16.2.1. inspect the unit;

16.2.2. repair, rectify, add to and alter any building or erection on the property;

16.2.3. show any prospective purchaser or tenant (if applicable) the interior and exterior of the unit during reasonable hours.

16.3 If, in the sole opinion of the close corporation, any repairs or renovations to the movable or immovable property belonging to the close corporation are

rendered necessary by reason of any act or omission, whether accidental, negligent or wilful by the purchaser or any occupant or any member of his/her household or any visitor visiting the occupant of such unit, the purchaser or occupant will be liable for the costs of repairing, restoring or renovating such movable or immovable property. The cost of repairs, renovations or restoration will be a debt due by the purchaser or occupant to the close corporation and will be payable on demand.

16.4 Neither the close corporation nor the management association will be liable for any interruption or failure of the electrical or water services that may be supplied or any municipal or other service to KINGSHURST, irrespective of the cause thereof, and they will not be liable for any consequential damage the purchaser or occupant may suffer by reason of such failure or interruption.

16.5 The close corporation will use its best endeavours to ensure that the management association complies with the duties imposed upon it pursuant to this contract and, where possible, within the limits of its resources, will assist the management association financially to do so but accepts no liability should the management association fail to perform any of its obligations pursuant to the contract.

16.6 It is recorded that the close corporation is the sole party entitled to market and dispose of or transfer rights of occupation at KINGSHURST and to recover the consideration for the rights disposed of or transferred.

16.7 Notwithstanding any other provision of this contract but subject to the consent of the management association, the close corporation will be entitled to enforce

all or any of the rights conferred upon the management association pursuant to this contract, just as if the close corporation was the party upon which such rights had been conferred.

17. Damage or destruction of the unit

- 17.1 Should the unit be destroyed totally or partially to such a degree that the occupant is denied beneficial occupation thereof, then and in such event the purchaser will be entitled within 1 calendar month of the occurrence of such damage or destruction to decide if he, she or it wishes to cancel this contract by giving 3 months written notice to the close corporation, failing which this contract will remain of full force and effect.
- 17.2 If the purchaser cancels this contract in terms of 17.1, such cancellation, for the purposes of this contract, will be deemed to be a disposal to the close corporation and the purchaser will be entitled to a refund of the consideration subject to clause 16.3.
- 17.3 Should the purchaser elect not to cancel this contract, the close corporation will, at its own cost but subject to clause 16.3 and as soon as possible, repair the unit.

18. Compulsory disposal of right of occupation

The purchaser or his/her spouse or his/her estate will be obliged to transfer his/her right of occupation in any of the following events-

- 18.1 The death of the purchaser or his/her spouse whichever is later.
- 18.2 The death of the nominated occupant or his/her spouse whichever is the later.
- 18.3 The giving of three calendar months written notice by the purchaser to the management association after the delivery date and after the purchaser has paid the consideration, but not before the delivery date.

18.4 In the event of the purchaser or nominated occupant not having a spouse, the giving of notice to the purchaser or nominated occupant as may in the circumstances be deemed appropriate by the close corporation, provided that the close corporation may only give notice in terms of this clause where:

18.4.1. the state of health of the purchaser or nominated occupant (mentioned in clause 18.4 and 21) is such that, in the opinion of the nursing sister and close corporation and his/her medical practitioner or in the event of a dispute between the aforementioned persons, an independent medical practitioner, the purchaser or nominated occupant is too ill to be adequately cared for in KINGSHURST;

18.4.2. the occupant continually fails to observe the rules of occupancy to the extent that the close corporation is of the opinion that the occupant is a nuisance or a danger to other occupants of KINGSHURST;

18.5 Should the close corporation give notice requiring the purchaser or nominated occupant or his/her spouse to dispose of his/her right of occupation and should the purchaser or nominated occupant or his/her spouse dispute the right to give such notice and remain in occupation of the unit then, pending settlement of such a dispute:

18.5.1. the purchaser or nominated occupant or his/her spouse will continue to pay all amounts payable by the purchaser in terms of this contract on due date thereof as if the contract had not been cancelled;

18.5.2. the management association will be entitled to recover and accept such payment;

18.5.3. the recovery and acceptance of such amount will be without prejudice and will not in any way affect the close corporation's or

management association's claim to oblige the purchaser or nominated occupant or his/her spouse to dispose of his/her right of occupation or any other claim;

18.6 If a dispute between the management association or close corporation and the purchaser or nominated occupant (whichever is applicable) is resolved in favour of the management association or close corporation, the amounts paid in terms hereof will be deemed to be amounts paid by the purchaser on account of the damage suffered by the management association or close corporation by reason of the occupancy of the unit by the occupant.

18.6.1. Should the purchaser or nominated occupant or his/her spouse be obliged to dispose of his/her right of occupation for any reason whatsoever, the purchaser will be liable for payment of levies until disposal of the right to occupy the unit to a new purchaser and the management association will be entitled to offset levies payable by the purchaser or his/her estate against the consideration.

18.7 The close corporation or management association may evict the occupant in the event of breach by the occupant, but still subject to the provisions of clause 29.

18.8 If the purchaser or nominated occupant or his/her spouse or the estate of any of them wishes to or is obliged in terms hereof to dispose of its/his/her right of occupation, the close corporation will and is hereby authorised and empowered on behalf of such person to arrange for the transfer of such right to another purchaser at a consideration to be fixed and agreed to by the close corporation in a bona fide arm's length transaction at a market related price.

18.9 In the event of there being no immediate purchaser for the unit, then the purchaser or his estate will be liable for payment of levies and maintenance of the unit until disposal of the right of occupation by the close corporation.

18.10 In the event of the purchaser wishing to sell or transfer his/her right in respect of a unit, the close corporation shall have a right of first refusal to purchase the right at a price equal to any written offer made by a prospective purchaser to the purchaser in an arm's length transaction. This right shall be exercised by the close corporation by written notice to the purchaser within 14 (fourteen) days from the date of delivery to the close corporation of a copy of the written offer, accompanied by a notice calling upon the close corporation to exercise its right of first refusal.

19. Payment for disposal

19.1 If the disposal price for the right to occupy the unit on disposal is greater than the original consideration as stated in clause 9 of the schedule, the close corporation shall secure payment to the purchaser or his/her estate:

19.1.1. by the person acquiring the right to occupy the unit (the "new purchaser") of the following amounts:

19.1.1.1. an amount equal to the original consideration as stated in clause 9 of the schedule; plus

19.1.1.2. an amount equal to 50% of the difference between the consideration (as stated in clause 9 of the schedule) and the disposal price realised for the disposal of the right of occupation in respect of the unit;

less

19.1.1.3. any amounts owing by the purchaser to the close corporation or the management association;

less

19.1.1.4. where necessary in the opinion of the close corporation, the costs required by the close corporation or management association to reinstate the unit by:

- replacing carpets, repainting and generally repairing the unit in order to dispose of the right of occupation at a fair market price; and/or
- restore the unit to the condition as it was on the date of taking occupation fair wear and tear excluded.

less

19.1.1.5. sales commission of 5,7% (including VAT) on the consideration realised for the disposal.

19.2 If the provisions of clause 19.1 apply, the close corporation shall secure payment to the close corporation by the new purchaser of an amount equal to 50% of the difference between the original consideration and the disposal price plus costs.

19.3 In the event of the disposal price being less than the original consideration stated in clause 9 of the schedule, the close corporation shall procure payment to the purchaser or his/her estate by the new purchaser of the following amounts:

19.3.1. an amount equal to the disposal price;

less

19.3.2. any amounts owing by the purchaser to the close corporation or management association;

19.3.3. where necessary in the opinion of the close corporation, the costs required by the close corporation or management association to reinstate the unit by:

- replacing carpets, repainting and generally repairing the unit in order to dispose of the right of occupation at a fair market price; and/or
- restore the unit to the condition it was on the date of occupation, fair wear and tear excluded.

less

19.3.4. the sales commission of 5,7% (including VAT) on the consideration realised for the disposal.

19.4 All amounts payable to the purchaser or his/her estate in terms of this clause will only be paid after the close corporation has obtained the amount referred to in 19.1.1 or 19.3.1 from the new purchaser.

19.5 All documentation, and implementation relating to any disposal shall be attended to by the attorneys at a fee negotiated with the close corporation from time to time.

19.6 The company will be entitled to retain an amount up to a maximum of 5% of the original consideration for a period of 3 months from disposal to enable the company to calculate all amounts due by the previous holder of the life right in terms of clause 19.

20. Delivery

20.1 In the event of the purchaser taking occupation of the unit before payment to the seller of the consideration stipulated in clause 9 of

the schedule, the purchaser will pay occupational interest on the consideration to the company per month (or a *pro rata* portion for part of a month), monthly in advance, in the amount as stipulated in clause 7 of the schedule.

- 20.2 All risk in and relating to the right to occupy the unit will pass to the purchaser on the date of occupation.

21. Juristic Persons

Should a juristic person acquire the right to occupy the unit, then the parties agree that:

- 21.1 The principal will immediately nominate an occupant and his/her spouse who will be entitled to occupy the unit on the terms and conditions contained in this contract.
- 21.2 On the death of the nominated occupant or his/her spouse whichever will last occur, or on them leaving KINGSHURST, the principal's right will lapse and the right of occupation will be disposed of as previously detailed in this contract.

22. Notices

Any notice which the close corporation and/or seller requires to give to the purchaser/occupant will be deemed to have been validly given if sent by prepaid registered letter to the purchaser/occupant/s at his/her chosen domicilium address or served and delivered by the close corporation and/or seller or its' agent at such address or by hand delivery at such address, which notice will be deemed to have been received 7 days after posting by prepaid registered post, or the day the notice was delivered by hand in terms hereof.

23. Domicilium and Jurisdiction

23.1 The Purchaser/Nominated Occupant/Occupant/Joint occupant chooses as his, her or its *domicilium citandi et executandi* the following address:

23.1.1. up to the date of delivery – the address set out in the Schedule hereto;

23.1.2. from the date of delivery – the address of the unit in KINGSHURST.

23.2 The seller/close corporation chooses its address as set out in the schedule as its *domicilium citandi et executandi*.

24. Joint occupants

Joint occupants will on notice vacate a unit whenever required by the close corporation and will not enjoy any rights in terms of this contract.

25. Indulgences

No extension of time or indulgence granted by either parties of the other parties will be deemed in any way to affect, prejudice or derogate from the rights of such party in any respect under this contract, nor will it in any way be regarded as a waiver of any rights hereunder, or a novation of this contract.

26. Whole agreement

The schedule to this contract, this contract, ANNEX 1, ANNEX 2 and ANNEX 3 constitute the whole of the agreement between the parties hereto relating to the subject matter hereof and save as otherwise provided herein, no amendment, alteration or variation will be of any force or effect unless reduced to writing and signed by the parties hereto.

27. Disputes – Arbitration

- 27.1 In the event of the parties being unable to resolve a difference or dispute amicably, the matter in dispute shall be referred to arbitration in accordance the succeeding provisions:
- 27.1.1. the arbitration proceedings shall be held on an informal basis, it being the intention that a decision should be reached as expeditiously as possible, subject only to the due observance of the principles of justice;
 - 27.1.2. each party to the dispute shall be entitled to be represented at such arbitration proceedings by its legal representatives and/or any other expert or specialist retained by it;
 - 27.1.3. the arbitrator shall permit each party to adduce such evidence and argument as the arbitrator may consider to be relevant to the matter in dispute;
 - 27.1.4. the arbitrator shall be a person agreed between the parties or if they are unable to agree within a period of 3 days of any party having given notice to the other proposing an appointee or alternative appointees, then a person nominated by the President of the Attorneys Association of the South Eastern Cape;
 - 27.1.5. the decision of the arbitrator shall be final and binding upon all parties and capable of being made an order of court on application by any of them;
 - 27.1.6. anything herein contained or implied shall not preclude any party from applying to court for a temporary interdict or other relief of an urgent and temporary nature, pending the award of the arbitrator hereunder;

27.1.7. the costs of and incidental to any such arbitration proceedings shall be in the discretion of the arbitrator who shall be entitled to direct that they shall be taxed as between “party and party” or as between “attorney and client”;

27.1.8. the arbitration shall be held:

27.1.8.1. at Port Elizabeth as soon as possible after the dispute shall have arisen, with a view to its being completed within 2 months after the date upon which the dispute shall have been referred to the arbitrator;

27.1.8.2. except where the provisions of this clause otherwise provide, in terms of the arbitration laws in force.

The provisions of this clause shall be deemed to be severable from the remainder of this contract and shall remain binding and effective as between the parties notwithstanding that this contract may otherwise be cancelled or declared of no force and effect for any reason.

28. Breach

28.1 If any party (the “defaulting party”) shall:

28.1.1. be placed in liquidation sequestration, whether provisional or final; or commit an act of insolvency; or

28.1.2. enter into a compromise with its creditors, as a body, or the majority in number and amount thereof; or

28.1.3. be in breach of any of the terms of this contract and:

28.1.3.1. if the breach is capable of remedy, fails to remedy the breach within a period of 14 days after receipt of written notice from any other party calling upon it so to do; provided that, if the breach is one in which the circumstances prevailing is not reasonably capable of being remedied within the said period of 14 days, the defaulting party shall be allowed such additional period to remedy the breach as is reasonably required therefore;

or

28.1.3.2. if the breach is not capable of being remedied, it goes to the root of this contract or has been committed persistently despite warnings from the other party;

the non-defaulting party shall be entitled to:

28.1.4. terminate this contract with the defaulting party without prejudice to any claim of any nature whatsoever which it may have against the defaulting party arising out of this contract or the breach thereof.

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

_____ in his capacity as Member of the **Seller**, he being duly authorised hereto

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

_____ **PURCHASER OR NOMINEE**
(if applicable)
(Refer to clause 5 of the contract)

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

SPOUSE OF PURCHASER

(if applicable) who assists the purchaser in this contract as far as need be and by his/her signature hereto binds himself/herself as surety and co-principal debtor in favour of the close corporation and the management association for the due fulfilment of the obligation of the purchaser and himself or herself as successor in title to the purchaser's rights under this contract.

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

NOMINATED OCCUPANT (if applicable) and by his/her signature hereto binds himself / herself as surety and co-principal debtor in favour of the close corporation/company and the management association for the due fulfilment of the obligations of purchaser and himself.

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

SPOUSE OF NOMINATED OCCUPANT (if applicable) who assists the purchaser in this contract as far as need be and by his/her signature hereto binds himself/ herself as surety and co-principal debtor in favour of the close corporation/company and the management association for the due fulfilment of the obligations of the purchaser and himself or herself as successor in title to the purchaser's rights under this contract.

SIGNED at _____ this day _____ of _____

WITNESSES:

1. _____

2. _____

PREVIOUS HOLDER OF THE RIGHT OF OCCUPATION

ANNEXURE “ANNEX 1”

This information is provided to comply with section 4 of the Housing Development Scheme for Retired Persons Act No. 65 of 1988, as amended (“the act”).

1. The purchaser chooses English as the language in which this contract is drawn.
2. The housing interest alienated hereby consists of a right of occupation of a unit which right is not registerable in the deed office.
3. The land upon which the development will be situated is described as:

Remainder of Erf 537 Humewood in the Nelson Mandela Bay Metropolitan Municipality, Division of Port Elizabeth, Province of the Eastern Cape, 1930 (One thousand nine hundred and thirty) square metres in extent and held by Deed of Transfer number T41838/2008 (the “**land**”).

- 3.1 The land upon which the development will be situated is registered in the name of the seller.
- 3.2 Notarially certified copies of the contracts may be inspected between the hours 08h00 and 16h00 at the offices of Lexicon Attorneys at Corner of Westbourne and Clevedon Roads, Central, Port Elizabeth 6001.
4. The architect’s certificate required in terms of section 6 of the act has been issued.
5. The rules of conduct which have been framed in respect of “Kingshurst Retirement Apartments” are attached hereto as annexure “ANNEX 3”.
6. The following facilities will be provided in full by the close corporation subject to the approval of the management association once the right of occupation in respect of the last unit in the Kingshurst Retirement Apartments development scheme has been sold:

6.1 **nursing care facilities:**

- 6.1.1. Nursing sister's consulting room will be provided adjacent to the office of the nursing sister;
- 6.1.2. primary health care will be administered at Kingshurst Retirement Apartments by a nursing sister as determined by the management association committee who will be on duty during business hours from Monday to Friday. For the other days of the week as well as after business hours an intercom system which will be manned at all times and a response assistance service will be available.
- 6.1.3. Frail care will not be provided at Kingshurst Retirement Apartments;
- 6.1.4. Any additional care including, but not limited to, ambulance or doctor response will be for the account of the occupant.

6.2 **security:**

Access will be by a remote control electrically operated gate, perimeter fencing with standard electrical wire and an intercom in each unit which will be installed at the developers discretion during the construction of the retirement village.

6.3 **recreation/administration centre:**

A recreation/administration centre as per the attached diagram will only be completed in last phase of the development of Kingshurst Retirement Apartments.

6.4 **Communal and private lawns, including private areas, gardens and outdoor facilities as determined by the close corporation.**

6.5 **other:**

As determined from time to time by the close corporation.

7. The date on which the benefits and risks of the right of occupation to a unit pass to the purchaser is the date of delivery.
8. The seller will be liable for the payment of the costs of drafting this contract.
9. The estimated expenditure for the control, management and administration of Kingshurst Retirement Apartments is fixed for 1 years.

The abovementioned annual expenditures will be recovered in full from the purchasers in the form of monthly levies.

The financial year will extend over 12 months from the first day of January to the last day of December of the following year.

The level of expenditure will be controlled by the management association, however, the close corporation may, in terms of its objectives, use so much of its funds as the close corporation in its sole discretion may determine, to assist Kingshurst Retirement Apartments to defray its expenditure.

10. The management association of Kingshurst Retirement Apartments is established in terms of the regulations relating to the act.
11. All units in Kingshurst Retirement Apartments are, apart from accommodation occupied by essential staff, to be occupied exclusively by occupants who fulfil the following requirements:
 - 11.1 occupants over the age of 55 years who have retired by reason of ill-health or infirmity; or
 - 11.2 occupants over the age of 60 years;

and their spouses, minor children or dependants (who have acquired the written consent of all the holders of housing interests, as defined in section 1 of the act, to occupy a unit at Kingshurst Retirement Apartments as well as

the written consent of the close corporation), as provided for in clause 9 of the contract to which this annexure is annexed.

12. The purchaser's attention is drawn to the rights and remedies available to the purchaser in terms of section 4(3) and sections 8 and 9 of the act.
13. The management structure of Kingshurst Retirement Apartments on completion will be as follows:

Close corporation	Land owner, the party which will dispose of and transfer rights of occupation and will exercise powers and perform functions concerning the management and operation of Kingshurst Retirement Apartments.
Management Association	All persons who acquire a right of occupation in Kingshurst Retirement Apartments.
Managing agent	Bellbuoy CC.

14. The parties, as defined in the contract to which this annexure is annexed, record that the Housing Development Schemes for Retired Persons Act No 65 of 1988 together with its regulations (as amended) were readily available to the purchaser for inspection prior to the signing of the contract.
15. The parties, as defined in the contract to which this annexure is annexed, record that the provisions in this annexure, as required by section 4 of the Housing Development Schemes for Retired Persons Act No 65 of 1988, are specifically included in the contract to which this annexure is annexed.

ANNEXURE “ANNEX 3”**KINGSHURST MANAGEMENT ASSOCIATION
CONDUCT RULES****1 Safety and Security**

- 1.1 Security is an important consideration at Kingshurst, and occupants may not do anything that may compromise the integrity of our safety and security.
- 1.2 Security guards are employed to man the front door access for 24 hours per day. Occupants may not distract them from their main duty by asking them to do errands such as to carry parcels to units. They may however assist residents in serious need of assistance.
- 1.3 All visitors, servants, temporary caregivers and tradesmen who enter the building must first sign the visitors book and, if applicable, also the special register for overnight visitors. See Rule 14.3 & 14.4 below. No exceptions will be allowed, even for very regular visitors well known by everybody.
- 1.4 Visitors who arrive unaccompanied at the front door, will not be allowed to proceed to the unit of destination (a) before the guard has phoned that occupant and received confirmation that the visitor is expected and should be allowed in or, (b) the occupant has pre-arranged for this specific visit with the guard on duty, or (c) that person is a frequent visitor well-known to the guard on duty.
- 1.5 Electrically operated garage doors are provided at the entrance and exit doors of the parking garage, and occupants and their visitors must wait for the door to properly close behind them before driving off. Omissions will be regarded in a very serious light.
- 1.6 Any visitor entering the building through the garage, must first report at the security desk to sign the register before proceeding into the building.
- 1.7 Access from the garage is controlled by a tag-operated electrical entrance door. Each occupant will be provided with one free tag. If further tags are required (e.g. for a full-time caregiver), this can be applied for at the Nursing Sister/General Manager at the prescribed fee. A register will be kept of all tags issued, and occupants must sign for each tag.
- 1.8 Additional tags will not be supplied for domestic staff, but two tags are available at the security desk for temporary use by servants, etc who are known to the guard. The

tag must be signed for, and any tag not returned will be de-activated, and the cost be debited to the levy account of the relevant occupant.

- 1.9 Any tag that is lost or abused (e.g. by a visitor of the occupant who enters the building without first reporting at the security desk) will be deactivated and the cost recovered from the occupant.

2 Motor vehicles

- 2.1 Motor vehicles of occupants and their visitors may only be parked in the parking bays in the parking garage allocated to their unit, or outside the building. (Or in terms of an agreement with the owner of the unit to which that parking bay is allocated.)
- 2.2 Repairs to and reconditioning of vehicles on the property are not permitted.
- 2.3 Vehicles may not travel at any speed other than dead slow on any portion of the property.
- 2.4 Motor vehicles of occupants should be garaged at all times so as to leave manoeuvring space for access to neighbouring parking bays.

3 Cycles and other forms of transport.

- 3.1 Motorcycles and bicycles may not be left on the property in any place where they may obstruct or endanger pedestrians and motor-vehicles on the property.
- 3.2 Roller skates, skateboards and box carts are not allowed to be used on the common property.
- 3.3 Caravans, trailers, boats and commercial vehicles will not be allowed on the property.

4 Use of Card Room on 1st floor and lounge & kitchen on 7th floor.

- 4.1 The cardroom on the Ground floor, and the lounge on the seventh floor is available for use by all residents at all times.
- 4.2 Residents may invite other residents and visitors to join him/her and as a small group use a part of the facility, but not to the extent that it inconveniences other residents who also want to use it.
- 4.3 The lounge and the kitchen may be booked by residents for a private function, and residents and non-residents may be invited to such function. This will include the full use of all the facilities of the kitchen.

- 4.4 The hire of the lounge and kitchen will be for the fee determined by the Management Committee from time to time. No fee will be payable if the event is for a birthday or wedding anniversary of the resident, or if it is an invitation to all residents.
- 4.5 Any breakages or damage or soiling that occur during any such function shall be for the account of the resident who made the booking.
- 4.6 The kitchen and its facilities are not for the general use of residents but shall remain locked and only be used for Kingshurst functions, or when booked in conjunction with the lounge.

5 Laundry

- 5.1 Washing may be hung out to dry only in the areas specifically set aside for that purpose, i.e. in such designated area as the management association may decide from time to time.
- 5.2 Washing hung out to dry is at the sole risk of the person so doing.
- 5.3 Washing may not be hung out to dry in any part of a unit where it is visible to other residents and/or the public.
- 5.4 Occupants and their domestic staff may use the laundry and the drying area on the 7th floor at their own convenience and at their own risk.
- 5.5 Use of the laundry and drying area are subject to rules and procedures laid down by the management association from time to time, e.g. measures to conserve water and electricity. It is the duty of every occupant to make sure that their staff are aware of such rules and abide by them.
- 5.6 The washing machines must be cleaned, and filters emptied after every use. The laundry and drying area must be kept clean and tidy and no puddles may be left on the floor. Occupants and their staff must ensure that the laundry is clean and ready for other users before leaving the area.

6 Sanitary services

- 6.1 Rubbish must be handled as prescribed in the regulations of the local authority responsible for Kingshurst, e.g. broken glass must be wrapped in a double layer of newspaper.
- 6.2 No rubbish or refuse may be left on any portion of the property, except in the area set

aside for the rubbish bins, and then only if the rubbish is properly bagged in a plastic bag and deposited in the municipal containers provided.

- 6.3 Occupants and their domestic staff are advised and urged to partake in the rubbish recycling project by sorting those items of rubbish that can be recycled, by placing the sorted items in the different containers provided in the rubbish bins area. Residents must acquaint themselves with the prescripts for this recycling project and must adhere thereto and inform their staff accordingly.

7 Silence

- 7.1 All occupants are to abide by the Environmental Conservation Act No. 73 of 1989, regarding Noise Nuisance, which is defined as “any sound which disturbs or impairs the convenience of any person”.
- 7.2 In accordance with Rule 7.1 an occupant shall not cause or allow any disturbing noises, either from pets, radios, hi-fis, television, musical instruments, loud talking, hooting and revving of engines and the like.
- 7.3 Silence shall be maintained after 10 o’clock at night, where after nothing may be audible in other units.
- 7.4 Noise as the result of renovations shall be confined to normal business hours, which are 07.30 to 17.00 on weekdays (public holidays excluded) and on Saturdays from 07.30 to 13.00.
- 7.5 The hammering on or the drilling into walls and the use of any power tool are considered to fall into the category of renovations.
- 7.6 On special written permission from the Management Committee an owner may undertake renovations outside of the times mentioned in Rule 7.2, but only during the times specified in the written permission.

8 Gardening and plants

- 8.1 Occupants will be permitted to plant shrubs, flowers and trees on common property or place potted plants on common property provided the consent of the management committee has first been obtained, which consent shall not be unreasonably withheld. All gardening shall be done by the persons authorised by the management committee, unless specifically otherwise agreed.

9 Residents other than occupants

- 9.1 Unless a person fulfils the requirements of clause 10 of the contract to which these rules relate, such person shall not, without obtaining the written approval by all the members of the management association, be permitted to permanently reside in any of the units.
- 9.2 If a unit is expected to remain vacant for two months or longer during the temporary absence or the demise of the occupant, it may be sub-let to another person who is over the age of 60 years, but only with the prior written permission of the Management Committee and Developer (in terms of clause 13 of the contract to which these rules relate) having been obtained, and never for periods of less than two months.
- 9.3 The sub-tenant must confirm in writing that he/she/they are aware of these rules and must undertake to abide by these rules. It shall remain the responsibility of the occupant that tenants abide by these rules. If the sub-tenant, directly or indirectly, causes any damage or loss, the occupant shall remain responsible for the due payment thereof.
- 9.4 The Management Committee may make further policies and conditions for such permission either in general or for a specific case.

10 Activities on common property

- 10.1 No hobbies or other activities may be conducted on the common property if they would cause a nuisance to other occupants.
- 10.2 Hobbies and other activities which in the sole and absolute opinion of the management committee cause undue noise will not be permitted at all.
- 10.3 No ball games are permitted in the building.
- 10.4 Nothing shall be done in Kingshurst which, in the reasonable opinion of the Management Committee is noisome, injurious, objectionable or detrimental, or constitutes a public or private nuisance, or a source of damage or disturbance.

11 Domestic staff and caregivers

- 11.1 Domestic staff of occupants will be allowed into Kingshurst but may not reside in Kingshurst.

- 11.2 Before employing a domestic worker, the occupant must provide the nursing sister/office manager with his/her full particulars, including a copy of her/his identity document.
- 11.3 Occupants must ensure that their domestic staff do not loiter on the common property and do not cause undue noise on the common property.
- 11.4 Occupants must ensure that their domestic staff is fully conversant with these rules, and other prescripts or procedures laid down by the Management Committee or the Manager as applicable to staff. Occupants will be held accountable for the actions and omissions of their domestic staff.
- 11.5 Occupants may employ a full-time caregiver to live in the unit or contract an agency to provide a 24 hours sleep-in caregiver service, or employ a daytime only caregiver, but only after consultation with the nursing Sister/ Manager.
- 11.6 The Sister must interview the prospective carer/agency and may exercise such control and supervision over any carer as she may consider prudent from time to time, but she is not obliged to do so. Occupants and their families must understand the conditions involved in independent living and cannot expect Kingshurst to care for occupants as might be expected in an old age home or keep constant control over caregivers
- 11.7 Kingshurst is an “Independent living” housing scheme for retired persons and cannot and do not offer assisted living or nursing care to occupants. The limited nursing care rendered by the Sister during her clinic hours are additional to its offer of independent retired living and is not intended to bring Kingshurst into the category of assisted living.

12 Sundry provisions

- 12.1 No objects may be thrown from windows, balconies and patios or deposited on any part of the common property.
- 12.2 Smoking of cigarettes, cigars, or pipes are strictly prohibited in all parts of the building including private units and including all balconies and patios. Residents may not allow any guest to smoke in the building.
- 12.3 Common and garden areas must be kept neat at all times.
- 12.4 Inflammable or other dangerous material or articles may not be brought into or stored in Kingshurst except with the prior written consent of the management committee.

- 12.5 The gardeners and cleaners employed by the management association may not be employed to do any private work for occupants, unless specifically authorised by the management committee.
- 12.6 No firearms or air guns may be discharged in Kingshurst.
- 12.7 No stones or other solid objects may be thrown in Kingshurst.
- 12.8 Should any damage of whatsoever nature be caused to any portion of Kingshurst by the occupant, his/her contractors whilst renovating or moving, his/her family, his/her tenants, his/her visitors or his/her pets or those pets of his/her family, his/her tenants or his/her visitors, the occupant shall be liable to reimburse the management association for the cost of repairing such damage.
- 12.9 No structural alteration, or to the exterior colour scheme or appearance of the building shall be made without prior written consent of the management committee, and of the owner of the building.
- 12.10 No external radio, television aerial satellite dish or radio mast shall be erected anywhere on the land or buildings.
- 12.11 No advertisement or signage shall be displayed anywhere in KINGSHURST or on the land without prior written consent of the management committee, except signage advertising a unit for sale, but not more than three boards at the same time.
- 12.12 No renovation project expected to take longer than 2 days may be undertaken without the prior permission of the Management Committee applied for in writing.
- 12.13 The application for such permission must detail the extent and nature of the proposed renovations, the expected time frame, the maximum number of workers expected to be working in the unit at any time, the name of the contractor, and the name and contact number of the manager/ supervisor.
- 12.14 The management committee may set conditions aimed at limiting or mitigating the noise and inconvenience caused by the renovations, and these must be strictly adhered to.
- 12.15 Any damage done, or unreasonable or excessive wear and tear, or defacing or dirtying of any part of the common property caused by the contractor, or his servants or sub-contractors, shall be repaired and cleaned by the occupant concerned, and if this is not done, the management committee may have such repair and cleaning work done, and recover the costs thereof from the occupant by raising a debit to the levy account of the occupant.
- 12.16 Any conditions imposed on the land by a local authority shall be adhered to.

- 12.17 Residents who are subscribers to the Kingshurst intranet network, or their visitors, may not try to connect a new device (e.g. Wi-Fi router, computer, TV decoder with internet capability, laptop, tablet or cell phone) to the network, before making sure with the Management Committee that the device is fully compatible with our intranet.
- 12.18 No resident or any other person may enter the server room, unless authorised by the Management Committee.

13 Pets

- 13.1 Occupants shall, with the written permission of the management committee, be entitled to keep one suitable dog or one suitable cat on the premises. All such dogs shall be leashed, and all such dogs and cats shall be properly controlled when on the common property. Should there be any dispute as to what constitutes a suitable dog or cat, such decision shall be referred to the management association whose finding shall be final and binding.
- 13.2 No accommodation for any pets kept by an occupant can be sited at any place where it may be in view from any portion of the common property, as defined in the contract to which this annexure is annexed, or the adjoining units.
- 13.3 The immediate removal of any excrement left on the common property and the outside entrance, parking area, surrounding lawns and pavements, by a pet of an occupant or visitor shall be the responsibility of the aforesaid occupant concerned.
- 13.4 No pets are allowed in any of the following common property areas: 7th Floor Lounge and Kitchen, Card Room, Sick Bay, sister's office and library.
- 13.5 Residents may not allow a guest to bring any pet into the building (short-term or long-term) without the prior permission of the Management Committee.
- 13.6 Pets other than a dog or a cat may be kept or brought into the building with the special permission of the management committee applied for in writing, with the full details of the intended pet. If the pet subsequently proves to cause a nuisance to others, that permission may be withdrawn, and the pet must then be removed from the building.
- 13.7 Nothing in these Rules shall be construed as having the effect of barring a guide dog necessary to lead a blind person who may otherwise be in Kingshurst, or to bar a "care pet" and its handler who is registered or accredited as such, Kingshurst, or to in Kingshurst for some therapeutic purpose to a resident.

14 Visitors

- 14.1 Each occupant is responsible for the conduct of his/her visitors and must ensure that these rules contained within this annexure are adhered to.
- 14.2 All visitors must sign the visitors book at security. No exceptions will be allowed, even for regular visitors well known to everybody.
- 14.3 Occupants may have overnight visitors only with the permission of the Management Committee. For visitors staying less than three weeks, the special register kept at the security desk must be completed. Any member of the Management Committee may then sign the register as approval on behalf of the Management Committee or may refer the matter to the full Management Committee.
- 14.4 The visitor must then sign in upon arrival, and sign out at the end of the visit, but need not sign in and out every time upon entering or leaving the building.
- 14.5 For visitors longer than three weeks, a letter requesting permission must be written to the Management Committee, setting out full details. Visits of longer than two months may not be approved, unless special circumstances exist. The special register kept at the security desk must be completed and signed by the host and the visitor.
- 14.6 Occupants must supervise their children and the children of their visitors so that no damage or nuisance is caused to the common property, or the units of other occupants. In particular, children may not interfere with the post boxes, plants, decorations, name plates, fire hose reels, exterior lights, etc, but not restricted thereto.
- 14.7 Children may use the facilities in the seventh-floor lounge and Card Room only under supervision of an adult.

15 Enforcement of these rules

- 15.1 Each occupant is responsible for the conduct of his/her visitors and must ensure that these rules contained within this annexure are adhered to.
- 15.2 If the Management Committee is informed of, or becomes aware of a possible breach or infringement of these rules, it may direct a letter to that resident informing him/her of the allegation, asking for a response.

- 15.3 The Management Committee shall then consider the allegation/information and the response received, which may include hearing the informant and/or the resident concerned and/or other witnesses.
- 15.4 If the Management Committee finds that the resident did breach the rules, the Management Committee may impose a sanction on that resident, which may include:
 - 15.5 A written warning for a first infringement, except in cases of serious infringements.
 - 15.6 A monetary penalty of R100 for a second infringement, unless the infringement was of a very serious nature.
 - 15.7 A monetary penalty of a percentage of the current levy applicable to his/her/their unit, in cases of subsequent or very serious infringements.
 - 15.8 Such penalty will be added to the monthly levy account and will constitute a debt payable by that resident.
 - 15.9 The Management Committee may make and publish a list of infringements and guidelines for penalties for such infringements, which may provide for escalating penalties for second or subsequent infringements.
 - 15.10 If the infringement necessitates remedial work costing money, the Management Committee may approve such expenses, also to be charged to the levy account of the resident.

16 Amendment of These Rule

- 16.1 These House Rules may only be amended by a decision of an Annual or Special General Meeting, with the approval of at least 75% of the members present, by proxy or in person; provided that the full text of the proposed amendment shall accompany the notice convening such a meeting.
- 16.2 Any such amendment shall only enter into full force and effect upon the assent of the owner of the building as the grantor of Life Right Occupation, which assent may not be unreasonably withheld.

17 Definitions and meanings

- 17.1 Words and phrases used in these rules carry the same meaning as in the Housing Development Schemes for Retired Persons Act 65 of 1988, the Regulations made thereunder in Government Gazette 1351 of 30 June 1989, the Life Right

Occupation Agreement in terms of which residents were granted a life right of occupation, and the Constitution of the Kingshurst Management Association.

INSTRUCTION TO INVEST TRUST MONEYS

*(In respect of a conveyancing transaction)
Section 86(4) of the Legal Practice Act, 28 of 2014*

TO: LEXICON ATTORNEYS

CESSION OF A LIFE RIGHT FROM:

TO:

.....

Identity Number

OF: UNIT

I, the undersigned,

being the Purchaser in the abovementioned transaction, hereby confirm my instructions to Lexicon Attorneys to invest with all funds paid to Lexicon Attorneys by me on account of the purchase price, on the basis that:

1. the amount is invested in a trust savings account or other interest-bearing account;
2. the account contains a reference to Section 86(4) of the Legal Practice Act, 28 of 2014
3. the interest which accrues on such investment is to be for the company/close corporation/my benefit and is to be paid to me/us/it, after deducting your professional fee and costs for administering the investment, as soon as possible after the date of registration of the above-mentioned transaction;
4. the capital amount invested is to be paid in accordance with the transferor's instructions on the date of registration of transfer.
5. I am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.

PURCHASER

DATE

PERSONAL INFORMATION

Full name: _____

Identity no/Registration no: _____

Income tax no: _____

South African resident (yes/no): _____

Physical address: _____

Postal address: _____

Tel no (incl. area code): _____

Fax no (incl. area code): _____

AUTHORITY BY PURCHASER

I, the undersigned,

hereby authorise **Lexicon Attorneys** to refund any monies due to me in respect of overpayment of costs or otherwise for credit to the following account:

Account Name: _____

Account Number: _____

Bank: _____

Branch Code: _____

Branch: _____

Type of Account: _____

SIGNED at _____ on _____

As Witnesses

1. _____

2. _____