

SECTIONAL TITLE OFF-PLAN AGREEMENT OF SALE

between

Siyalanda Property Development Pty Ltd

(Registration Number:
1999/001490/07)

Herein represented by _____ in his capacity as
representative of the Company and duly authorised hereto by resolution

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

And

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

In respect of Unit _____ in the proposed scheme to be known as **Bella Mare**.

RECORDAL

- A. The Seller is the registered owner of Erf 3783 Summerstrand, Port Elizabeth in extent 4,7290 (Four Comma Seven Two Nine Nought) hectares ("the Property").
- B. The Seller intends to establish the proposed residential sectional title scheme to be known as Bella Mare on the Property.
- C. The Seller intends establishing the sectional title scheme substantially in accordance with the Site Plan, Unit Layout and Specification and Finishes as set out on the plans annexed hereto marked Annexure "A", "B", "C" respectively.
- D. The sectional title register has not been opened and the sectional title plans will be approved only after approval of the building plans and completion of the building comprising the sectional title scheme. The Section will be transferred to the Purchaser as close as possible to the estimated Transfer Date and as soon as possible after the approval of the sectional title plans simultaneously with the opening of the sectional title register of the scheme.
- E. The Seller has agreed to sell to the Purchaser who has agreed to purchase a sectional title Unit in the Scheme comprising a Unit, together with the rights to the exclusive use of Exclusive Use Area/s, as described in the Schedule of Particulars ("the Subject Matter"), together with an undivided share in the Common Property, subject to the Schedule of Particulars and upon the terms and conditions contained in this Agreement.

SCHEDULE OF PARTICULARS

1. PARTIES

1.1	SELLER NAME :	Siyalanda Property Development Pty Ltd	
	Business Address:	7 de Havilland Road Walmer Industria Port Elizabeth, 6070	
	Telephone number:	079 247 0518	
	Email Address:	sales@bellamare.co.za	
1.2	PURCHASERS NAME/2nd PURCHASER OR SPOUSE:		
	Registration Number/ID No/Date of Birth:		
	Marital Status:		
	Income tax no:		
	Physical/Registered Address:		
	Telephone No: (Home)		
	(Work)		
	(Cell)		
	E-mail Address:		
	Contact Person (in the event that the Purchaser is a Juristic Person):		

2. SECTION AND EXCLUSIVE USE AREA/S ("THE SUBJECT MATTER")

Development	Bella Mare
Section	Section Number _____ more fully described in the plans annexed hereto measuring approximately _____ m ² together with an undivided share in the common property apportioned to the section in accordance with the participation quota as determined in terms of S11 of the STSMA.
Exclusive Use Area's	Means those parts of the common property to which the Purchaser shall be entitled to the exclusive use of as listed below and as indicated on Annexure " A" hereto.
Parking Bay(s)	Parking bay no/s.: To be confirmed

3. FINANCIAL ARRANGEMENTS

3.1 Total Purchase Price (Inclusive of VAT at 15%) due on transfer to be secured by way of a bank guarantee or cash payment to the Attorneys Trust Account 30 days from date of signature of this agreement.	_____
3.7. Initial Estimated Levies (excluding Rates)	R TBA

4. ESTIMATED OCCUPATION AND TRANSFER DATE

4.1 Estimated Occupation Date:	30 June 2020
4.2 Estimated Transfer Date:	30 June 2020

5. SELLER 'S ATTORNEYS/CONVEYANCERS

5.1 Name of Firm:	RUSHMERE NOACH INCORPORATED
5.2 Address:	5 Ascot Office Park Conyngham Road PORT ELIZABETH 6001
5.3 Contact Number	(041) 399 6700
5.4 Email Address	jamesp@rushmere.co.za
5.5 Contact Person	JAMES PARKER

6. ESTATE AGENT

Name:

7. OCCUPATIONAL RENTAL PAYABLE TO SELLER

The Purchaser shall pay occupational rental to the Seller in the amount of 1.25% of the total purchase price per month

8. SPECIAL CONDITIONS

1. The Seller will be entitled to accept multiple offers on this property subject to the Purchaser who is first able to submit written proof of fulfilment of his/her suspensive conditions contained in his/her offer being the Purchaser that the Seller will proceed with and all other offers will be null and void
2. An environmental levy of up to R10 per unit per month (escalated by CPI inflation annually) shall be payable for the conservation of Happy Valley area which forms part of the CBA network identified in the NMBM Bioregional Plan
3. It is recorded that the scheme which may be opened is on a subdivided erf (a portion of Erf 3783 Summerstrand). If the local authority requires that a Homeowners' Association be formed, this scheme will fall under the said Association's Constitution.

9. BOND CLAUSE

9.1 Bond amount required by the Purchaser:	_____
9.2 Date by which quotation must be obtained by Purchaser, as set out in clause 22.1 hereof:	30 days of signature of this agreement

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Annexures

Annexure A: Site Plan Annexure

B: Unit Layout Plan

Annexure C: Specifications and Finishes

1 Interpretation

STANDARD TERMS AND CONDITIONS

1.1 For the purpose of this Agreement, unless the context indicates otherwise

- (1) **Annexures** means the annexures annexed to this agreement;
- (2) **Act** means the Sectional Titles Act No. 95 of 1986 or any amendments thereof, and Regulations promulgated in terms thereof;
- (3) **Agreement** or **Agreement of Sale** means the Schedule of Particulars and, the Standard Terms and Conditions signed by and entered into by the Seller and Purchaser which contains the essentialia, each separate section thereof forming an integral part;
- (4) **Architect** means the architect of the Scheme appointed by the Seller, namely **LYT ARCHITECTURE, PORT ELIZABETH**
- (5) **Attorneys/Conveyancers** means the firm of attorneys specified in clause 5 of the Schedule of Particulars;
- (6) **Body Corporate** means the controlling body of the Land and Buildings as contemplated in terms of Section 2 of the STSMA;
- (7) **Building** means the building erected or to be erected on the Property;
- (8) **Certificate of Practical Completion** means certificate issued by the Architect certifying that the completion of the Unit is up to such a point that renders it capable of effectively being used for the purposes for which it is intended (it being specifically recorded that Practical Completion may occur prior to the finalization of rectification of any patent defects);
- (9) **Common Property** means those portions of Property not forming part of any Section (and/or Exclusive Use Area);
- (10) **Schedule of Particulars** means the Schedule of Particulars to this Agreement;
- (11) **Developer** means the Seller or its successors-in-title or assigns;
- (12) **Development** means the proposed sectional title development to be known as Bella Mare, to be established on the Property;
- (13) **Estimated Occupation Date** means the estimated date of occupation of the Subject Matter being the date referred to in clause 4 of the Schedule of Particulars;
- (14) **Estimated Transfer Date** means the estimated date of transfer of the Subject Matter being the date referred to in clause 4 of the Schedule of Particulars;
- (15) **Exclusive Use Area** or **Exclusive Use Areas** means such part or parts of the Common Property reserved for the exclusive use and enjoyment of the registered owner for the time being of the Unit, either in terms of Section 27(1) of the Act, or Section 10 (7) of the STSMA as the Seller may in its sole discretion decide, including:
 - (a) the parking bay/s; and
 - (b) garden areas, if applicable.
- (16) **Floor Area** in relation to a Section, means the floor area to the median line of the boundary walls of the Section;
- (17) **Land Surveyor** means the land surveyor appointed by the Seller, being JOHAN MEIRING AND ASSOCIATES or such other land surveyor appointed by the Seller to act as such from time to time in respect of the Development or a member of a firm so appointed;
- (18) **Occupation Date** means the date, as close as possible to the date referred to in clause 4 of the

Schedule of Particulars, provided that the date shall not be prior to the date of issue of the Practical Completion Certificate and the date of issue of an occupancy certificate by the Nelson Mandela Bay Municipality;

- (19) **Participation Quota** means in relation to a Section, the decimal fraction allocated thereto in the Sectional Plan and which is calculated in terms of Section 32(1) of the Act;
- (20) **Plans** means the Architect's plans;
- (21) **Prime Rate** means a rate of interest per annum which is equal to STANDARD BANK'S published minimum lending rate of interest per annum, compounded monthly in arrears, charged by the said bank on the unsecured overdrawn current accounts of its most favoured corporate clients in the private sector from time to time;
- (22) **Property** means the immovable property on which the Development will take place, being Erf 3783 Summerstrand, Port Elizabeth in extent 4,7290 (Four comma Seven Two Nine Nought) hectares;
- (23) **Purchaser** means the purchaser of the Subject Matter, its successors-in-title, heirs, executors, administrators or assigns, described in clause 1.2 of the Schedule of Particulars;
- (24) **Regulations** means the regulations promulgated from time to time under Section 55 of the Act or Section 19 of the STSMA as the context may indicate;
- (25) **Rules** means jointly the Conduct Rules and Management Rules which may be viewed at the offices of the Seller and may be amended by the Developer prior to registration of the Sectional Plan and transfer of the first Unit;
- (26) **Scheme** means the Land and Buildings forming the Sectional Title Scheme to be established on the Property, which is to be known as Bella Mare;
- (27) **Section** or **Unit** means the meanings defined in the Act, and with particular reference to this Agreement shall mean that Section forming part of that Unit (which Unit includes an undivided share in the Common Property) which is hereby sold and is to be transferred in terms of this Agreement;
- (28) **Sectional Plan** means the Sectional Plan of the scheme approved by the Surveyor- General;
- (29) **Seller** means the Seller described in clause 1.1 of the Schedule of Particulars, its successor-in-title, administrators or assigns;
- (30) **Signature Date** means the date on which the Agreement was signed by the last party in time;
- (31) **"Subject Matter"** means:
- (a) the Section; and
 - (b) the right of exclusive use of the Exclusive Use Areas, as described in clause 2 of the Schedule of Particulars and depicted on the Sectional Plan, it being recorded that the exclusive right of use of the parking bay/s shall be conferred upon the registered owner for the time being of the Unit either in terms of Section 27(1) of the Act, or in terms of Section 10(7) of the STSMA as the Seller may in its sole discretion determine;
- (32) **STSMA** means the Sectional Titles Schemes Management Act, 34367 of 2011 or any amendments thereof, and Regulations promulgated in terms thereof;
- (33) **Total Floor Area** means the total floor area of all units within the Development;
- (34) **Transfer Date** means the date of the registration of transfer of the Unit and cession and allocation of the rights to the Exclusive Use Areas into the name of the Purchaser which date shall be as close as possible to the Estimated Transfer Date and after fulfilment of the conditions precedent, if applicable.

1.2 Words and expressions defined in the Act shall have the meanings therein defined and pending the registration of the Sectional Plan in respect of the Seller's property, shall apply mutatis mutandis to the areas of which the Unit comprises.

- 1.3 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other two, and words importing the singular shall include the plural and *vice versa*.
- 1.4 The headings to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.5 The Purchaser confirms that English has been chosen as the preferred language of this Agreement.
- 1.6 If any provision of this Agreement is in conflict or inconsistent with law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.7 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 1.8 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day will be the next succeeding day which is not a Saturday, Sunday or public holiday. Unless the context indicates otherwise, wherever a number of days is indicated, this shall be calendar days.

2 Sale

- 2.1 The Seller hereby sells and the Purchaser purchases the Subject Matter in accordance with the terms and conditions set out in the Schedule of Particulars and the Standard Terms and Conditions as read with the Annexures to the Agreement.

3 Viability and Approval

- 3.1 This Agreement is subject to the following resolute conditions:
 - (1) The Purchaser acknowledges that the economic viability of the proposed Development depends *inter alia* on the response by the purchasing public and accordingly, it is agreed that this Agreement is subject to and conditional upon the Seller resolving to proceed with the Scheme. In the event that the Seller or its agent fails to notify the Purchaser in writing by 15 January 2020 of its decision not to proceed with the Scheme, the Seller shall be deemed to have committed itself to this Agreement of Sale and this suspensive condition shall accordingly be deemed to have been fulfilled. If the Seller elects not to proceed with the Scheme and informs the Purchaser accordingly within the period as stipulated, then and upon refund to the Purchaser of the deposit paid in terms this Agreement together with interest accrued thereon and the Parties acknowledge that they shall have no further claim against each other arising from this agreement, and;
 - (2) This Agreement is further subject to the resolute condition that the Seller obtains from all competent authorities such approvals as may be required for the implementation of the Scheme on or before 15 June 2020. In the event of the required approvals not being obtained this agreement shall lapse and be of no further force or effect. Should this agreement lapse for reasons as aforesaid, the Seller shall refund to the Purchaser any amounts paid on account of the purchase price together with interest accrued.

4 Purchase price and payment

- 4.1 The purchase price for the Subject Matter shall be the amount specified in clause 3 of the Schedule of Particulars inclusive of VAT.
- 4.2. The Purchaser undertakes to pay a deposit of 10% (TEN PERCENT) of the purchase price within 48 hours of signature of this agreement to the Conveyancer's Trust account at FNB, number 53414291484, code 261050, reference Purchaser's surname. The Purchaser hereby instructs the Conveyancer to invest same in an interest bearing investment account on their behalf. In the event of non-fulfilment of any of the suspensive conditions, the deposit as well as the interest thereon will be payable to the Purchaser.
 - a. All monies paid by the Purchaser shall be held in trust by the Attorneys and invested in the name of the Purchaser in terms of section 86(4) of the Legal Practice Act, 2014 (Act 28 of 2014), with interest to accrue to the Purchaser until the Transfer Date.

- b. The Purchaser shall pay the full purchase price to the Attorneys in cash against registration of transfer of the Subject Matter into the name of the Purchaser in the deeds office.
- c. The Purchaser shall furnish the Attorneys with either:
 - i. an irrevocable guarantee issued by a recognised commercial bank in a form that is acceptable to the Attorneys;
 - ii. a cash payment into the trust account of the Attorneys; or
 - iii. bond approval from a recognised commercial bank, the terms and conditions whereof are to be acceptable to the Seller.

To secure the full purchase price within 30 calendar days after the Signature Date or such extended period as the Seller in its sole discretion may determine;

- d. All amounts payable by the Purchaser in terms of this Agreement shall be paid to the Attorneys free of exchange or bank commission at Port Elizabeth and without deduction or set off by means of a cheque drawn by a recognised commercial bank or a bank guaranteed cheque.
- e. In the event of the rate at which VAT is chargeable being amended after the date of signature hereof by the Purchaser and in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

5 Transfer and allocation of the subject matter

- 5.1 Transfer shall not be passed to the Purchaser, notwithstanding anything to the contrary herein contained, until such time as the total purchase price and all other amounts for which the Purchaser may be liable in terms hereof to the date of transfer have been paid, and/or payment thereof has been secured as herein provided.
- 5.2 Transfer of the Unit, and cession or allocation of the exclusive use areas (as the case may be) shall be effected by the Attorneys and shall be given and taken as soon as possible and as close as possible to the Estimated Transfer Date. All risk and benefit in the Subject Matter shall pass to the Purchaser on the Transfer Date.
- 5.3 Within five working days of being requested to do so by the Attorneys, the Purchaser shall sign all such documents and furnish the Attorneys with all such documents as may be necessary or requisite for the purposes of the registration of transfer of the Subject Matter.
- 5.4 It is recorded that the Purchase Price includes the costs of passing transfer of the subject matter to the Purchaser. The Purchaser shall however pay all Bond Registration costs and any costs associated therewith, as well as all costs necessary to obtain rates and levy clearances in respect of the subject matter, to the Conveyancers on demand.
- 5.5 The Purchaser acknowledges and accepts that the Purchaser has purchased property in a development, where transfer to the Purchaser may take place simultaneously with transfer to other purchasers in the development, as a result of which transfer and cession of the Subject Matter to the Purchaser may be delayed. The Purchaser shall, despite a delay in transfer, be obliged to pay occupational rental provided for in clause 7 of the Schedule of Particulars.

6 Occupation and occupational rental

- 6.1. Vacant occupation of the UNIT shall be given to the Purchaser on the OCCUPATION DATE provided, however, that should the Seller be unable for any reason to give occupation of the UNIT on the aforesaid date, then it shall advise the Purchaser of this fact in writing at least 7 DAYS prior to the said date. In such event the Purchaser shall accept occupation on the earliest date thereafter on which the Seller is able to give it and the Purchaser shall not be entitled to any claim against the Seller in respect of damages or otherwise.
- 6.2 In the event of any dispute as to when occupation of the Section is capable of being given, a certificate by the Seller's architect or engineer or land surveyor, acting as an expert and not as an arbitrator, that the Section is ready for beneficial occupation, notwithstanding that the Section as a whole may not have been completed, shall be binding on the parties. The OCCUPATION DATE shall under no circumstances be deemed to be postponed by reason of any improvements, additions or alterations to be effected to the Section by the

Purchaser. Should the Purchaser refuse to take occupation when due, the Purchaser shall still be liable for the agreed occupational rent.

- 6.3 The Purchaser acknowledges that on the OCCUPATION DATE the common property and other sections may be incomplete and that the Purchaser and other occupiers may necessarily suffer inconvenience from the noise and dust resulting from building operations and that the Purchaser shall have no claim whatsoever against the Seller by reason of any such inconvenience or any damages caused to person or property.
- 6.4 **The Purchaser warrants that the Property shall be maintained in the same condition from the Occupation Date to the Transfer Date.**
- 6.5 Occupation of the Section and/or Exclusive Use Areas by the Purchaser or anybody through the Purchaser shall not create a tenancy, and in the event of this Agreement being cancelled all rights to the occupation of the Subject Matter shall lapse and the Subject Matter shall be vacated forthwith.
- 6.6 From the Occupation Date until the Transfer Date and pro rata in respect of any portion of a month, the Purchaser shall be liable for:
- (1) occupational rental payable to the Seller in the amount set out in clause 7 of the Schedule of Particulars, which occupational rental shall be paid monthly in advance to the Attorneys;
 - (2) all electricity and water consumed in or on the Unit and levies in terms of clause 11.
- 6.7 The Seller and/or the Seller's duly authorised agent shall be entitled to inspect the Unit at all reasonable times during the currency of the Agreement.
- 6.8 Should the Purchaser be in occupation of the Unit and/or the Exclusive Use Areas prior to the date of transfer and should the Purchaser:
- 6.8.1.** fail to pay any amount in terms of this Agreement or sign any documents which the Purchaser is required to sign in terms of this agreement; or
 - 6.8.2.** commit any other breach of the provisions of this agreement;
 - 6.8.3.** cause a delay to the transfer and cession of the Subject Matter;
 - 6.8.4.** and fail to remedy such failure and/or breach within seven days after receipt from the Attorneys to do so, then in addition to the occupational rental amount payable interest shall be payable by the Purchaser calculated on the occupational rental amount due in terms of clause 7 of the Schedule of Particulars above at the rate of 4% above the Prime Rate for as long as such failure and/or breach continues.

7. Sectional title/exclusive use areas

- 7.1. The Purchaser acknowledges that this agreement is governed by the Act and the STSMA and that the Purchaser is aware of and shall be bound by the Rules, Regulations, conditions and servitudes of whatever nature pertaining to the sale, ownership and use of the Subject Matter.
- 7.2. The Purchaser acknowledges that the Sectional Plan has not yet been approved and the extent of the Unit on the final Sectional Plan will be measured by the Land Surveyor in terms of the Sectional Title Act.
- 7.3. **The Purchaser shall not be entitled to claim cancellation of this Agreement or any reduction in the purchase price by reason of a decrease in the extent of the Unit of not greater than 5% of the extent reflected in clause 2 of the Schedule of Particulars. The Purchaser undertakes to accept transfer of the Unit as may be re-defined and re-numbered in the Sectional Plan approved by the relevant local authority and the Surveyor General.**
- 7.4. The Purchaser shall, subject to the Rules of the Scheme, be entitled to the exclusive use and enjoyment of the Exclusive Use Areas.

8. Variation of specifications

- 8.1. **The Subject Matter shall be built substantially in accordance with the Specifications and Finishes attached hereto (marked "C") provided that the Seller shall be entitled to:**
- 8.1.1. substitute any specified item with items of a similar standard and quality and provided these are aesthetically similar to the items which they are replacing, and**

- 8.1.2. vary the elevations and building floor plans contained in the Site Plan annexed hereto (marked "A") and the Sectional Plan of the building should the Seller consider same reasonably necessary for technical or aesthetic reasons provided that the Seller shall be obliged to give the Purchaser reasonable notice of any material variations; and
- 8.1.3. determine the exact location of the exclusive use areas, it being recorded that their position will be approximately as indicated on the Scheme Plans.
- 8.2. The Seller may vary the apartment and electrical layout contained in the Unit Layout Plan (marked "B"), should the Architect consider same necessary for technical or aesthetic reasons provided that the Seller shall be obliged to give the Purchaser reasonable notice of any material variations.

9. Development not completed

- 9.1. The Development has not been completed and the Seller shall construct the Development substantially as depicted in the Annexures.
- 9.2. **The Seller shall be entitled to vary the details set out in the annexures to such extent as may be reasonably necessary to:**
 - 9.2.1. meet any requirements of any competent authority;
 - 9.2.2. meet any special features of the Subject Matter;
 - 9.2.3. add additional parking and storerooms to the building;
 - 9.2.4. meet any special impediments such as water, sewer or electrical lines either above or underground;
 - 9.2.5. obtain the approval of the Scheme and/or the opening of the Sectional Title Register.
- 9.3. The Seller shall not be required to indicate the position of the beacons or pegs on the Property.

10. Body corporate rules

- 10.1. By virtue of its ownership of the Unit the Purchaser shall automatically become and remain a member of the Body Corporate for the Development and as such shall be bound by the Management and Conduct rules of the Body Corporate as formulated from time to time in terms of the STSMA;
- 10.2. **The Purchaser shall not be entitled to sell, donate, grant an option or pre-emptive right in respect of, or alienate or transfer or in any other way or deal with the Unit without first obtaining a Levy Clearance Certificate from the Body Corporate;**
- 10.3. For the purposes of this Agreement, alienate, sell, donate, grant and/or transfer shall, when the Unit is owned by a Trust, Close Corporation, Company or entity other than a natural person, mean the alienation, sale, donation, grant and/or transfer of any of the shares and/or interest in the Company or Close Corporation or where the beneficiaries and/or Trustees are changed.

11. Levies and other charges

- 11.1. The Purchaser shall be liable from the Occupation Date for:
 - 11.1.1. levies payable in terms of Section 3 of the STSMA calculated in accordance with the Rules; and
 - 11.1.2. all electricity and water, if applicable, consumed in the Unit;
- 11.2. Pending the determination of the actual amount of such levies, the Purchaser shall from the Occupation Date pay on account of such levies an amount as shall be certified by the Seller as being its *bona fide* estimate of such monthly levies. Upon the determination of the actual monthly levies so payable any amount unpaid or overpaid shall forthwith be paid or reimbursed by one Party to the other.
- 11.3. Such levies shall be paid to the Seller or its appointed agent until registration of transfer and thereafter to the Body Corporate, monthly in advance on the first day of each and every calendar month commencing from the Occupation Date provided that if the Occupation Date falls on any day other than the first day of a

calendar month, then the Purchaser shall be obliged on the Occupation Date to pay a pro rata share of the levies due for the calendar month on which the Occupation Date occurs.

12. Conditions applicable pending transfer

- 12.1. With effect from the Occupation Date of the Unit and pending registration of transfer of the Unit and cession and allocation of the exclusive use rights forming part of the Subject Matter, the following conditions shall apply:
 - 12.1.1. save insofar as may be inconsistent with the provisions of this Agreement, the provisions of Section 13 of the STSMA shall apply;
 - 12.1.2. the provisions of the Rules insofar as they cast any duty upon the owner or occupier of a Unit, shall bind the Purchaser and be enforceable by the Seller;
 - 12.1.3. the Purchaser may not make any alterations or additions to the Unit and/or the Exclusive Use Areas;
 - 12.1.4. the Purchaser shall maintain the Unit and the Exclusive Use Areas in good order and condition;
 - 12.1.5. the Purchaser shall not be entitled to sell, transfer and/or cede the Unit and/or any rights in respect of the Exclusive Use Areas (including, but not limited to, the Purchaser's rights of occupation thereof) except with the prior written consent of the Seller.
- 12.2. Pending the establishment of the Body Corporate:
 - 12.2.1. the Seller shall insure the building and all improvements, fixtures and fittings in or upon the Property for the full replacement value thereof against such risks as the Seller may decide;
 - 12.2.2. the Seller shall maintain the Common Property, excluding the Exclusive Use Areas, and keep same in a state of good and serviceable repair and in a neat, tidy and sanitary condition;
 - 12.2.3. the Seller shall administer the Property and make all payments in respect of rates, taxes and other imposts, electricity and water consumed upon the Common Property and all other charges in connection with the Common Property.

13. Rectification of defects

- 13.1. The Seller shall only be obliged to make one visit to undertake the said maintenance referred to herein and the Purchaser shall prepare a list(s) of items requiring attention at expiry of the sixty (60) day period which will be repaired at the discretion of the Seller within a reasonable period of being advised of such defects. Where the list of items requiring alterations is not delivered to the Seller within sixty (60) days of the OCCUPATION DATE, the Seller shall have no obligation to rectify such items. The Purchaser shall not be entitled to use their own contractors to attend to any repairs and if they do, the Seller's obligation to effect any repairs shall lapse
- 13.2. **The Seller shall only be responsible to repair defects specified in the Patent Defect List which defects are caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim.**
- 13.3. In relation to the Patent Defect List, a certificate issued by the Architect to the effect that any defects have been rectified shall be final and binding on both Parties and shall relieve the Seller from any further obligation in respect of such defect.
- 13.4. The Purchaser acknowledges and agrees that the Purchaser shall have no claim against the Seller in respect of defects, whether latent, patent or otherwise in the Common Property or the Unit/s save for defects of which the Purchaser shall have notified the Seller pursuant to clauses 13.1 and 13.2.
- 13.5. The Seller warrants that in respect of Buildings to be erected at the instance of the Seller only that:
 - 13.5.1. The building contractor engaged to construct and erect the buildings, is registered as a home builder;
 - 13.5.2. The Buildings will be enrolled with the National Home Builders Registration Council.
- 13.6. The Seller shall carry out such works and repairs that may be necessary to honour the terms and conditions of the warranty provided by the National Home Builders Registration Council in respect of the Unit as well as the buildings, and other structures to be erected upon the Property.

- 13.7. The Common Property shall on the establishment of the Body Corporate, be inspected by the Architect and when approved by the Architect the Seller shall be deemed to have fulfilled the Seller's obligations to the owners and the Body Corporate and neither the owners nor the Body Corporate shall have any claim against the Seller in respect of the Common Property.
- 13.8. Notwithstanding the provisions of this clause 13, the Seller shall not be liable for any defects of the Property and / or the Subject Matter beyond the Occupation Date in respect of the following:**
- 13.8.1. hairline cracks in the plaster work;**
- 13.8.2. any minor shrinkages/movement in expansion cracks between the different components but as materials used for cracking that might appear in the control movements of joints; and**
- 13.8.3. any mould growth caused by lack of ventilation and/or condensation.**
- 13.9. In addition, the Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, his agents and/or invitees may directly or indirectly suffer by reason of any latent or patent defects in the Unit or any part thereof being in a defective condition or state of disrepair or arising out of *vis major* or *casus fortuitus* or any other cause either wholly or partly beyond the Seller's control or arising out of any act or omission by any other Purchaser of a Unit in the Development.
- 13.10. The Seller will not be responsible for any defects arising from work / variations done to the Subject Matter by the Purchaser or the Purchaser's representatives.
- 13.11. All warranties and undertakings hereby given to the Purchaser in terms of this Agreement are personal to the Purchaser and cannot be alienated or disposed of by the Purchaser in any way.
- 13.12. The Purchaser shall not be entitled to withhold, set-off or retain any amounts owing by the Purchaser to the Seller nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of the Agreement, regardless of whether any defects as identified herein have not yet been rectified.
- 13.13. Any dispute between the Purchaser and the Seller regarding rectification of defects in terms of this clause 13 will be determined by the Architect acting as an expert, whose decision in this regard shall be final and binding on both parties.**

14. Title conditions

- 14.1. The Seller shall not be answerable for any deficiency in the declared extent of the Unit, the Exclusive Use Areas and/or the land, and no warranties are given in respect of the boundaries of the Unit, the Exclusive Use Areas and/or the Land.
- 14.2. The Purchaser shall accept transfer of the Unit and cession and allocation of the exclusive use rights forming part of the Subject Matter subject to the Rules and all title conditions and servitudes benefiting or burdening same and the Property whether existing or hereinafter imposed by any competent authority or by the Seller.
- 14.3. The Purchaser acknowledges and agrees that it has acquainted itself with the Rules of the Scheme, which are available at the offices of the Seller.**

15. Breach

- 15.1. Should the Seller or the Purchaser, as the case may be ("the defaulting Party"):
- 15.1.1. fail to pay any amount due by the defaulting Party in terms of this Agreement on due date and remain in default for more than seven days after being notified in writing to do so by the other Party ("the aggrieved Party"); or
- 15.1.2. commit any other breach of any of the provisions of this Agreement and fail to remedy that breach within a period of seven days after the receipt of written notice to that effect by the other Party ("the aggrieved Party") and complete the remedying of such breach within a reasonable time; or
- 15.1.3. commit a breach of any of the provisions of this Agreement at a time critical to the registration procedure and fail to remedy that breach within 48 hours after receipt of written notice to that effect by the other party ("the aggrieved Party");

then and in these events, the aggrieved Party shall forthwith be entitled (but not obliged) without prejudice to any other rights or remedies which the aggrieved Party may have in law, including the right to claim damages:

- 15.1.4. to cancel this Agreement without any further notice and in the event of the Purchaser being the defaulting Party, the Seller shall be entitled to retain all monies paid by the Purchaser pending determination of its damages; or
- 15.1.5. to claim immediate performance and/or payment of all the obligations of the defaulting Party in terms of this Agreement, including immediate payment of the balance of the purchase price of the Subject Matter in the event of the Purchaser being the defaulting Party.
- 15.2. Should the Purchaser dispute the right of the Seller to cancel this Agreement, then pending the determination of that dispute, the Purchaser shall be obliged to continue payment of all amounts payable by it in terms of this Agreement on the due dates thereof and the Seller shall be entitled to recover and accept those payments without prejudice to the Seller's claim for cancellation of this Agreement or any other rights of the Seller whatsoever.
- 15.3. Upon cancellation of this Agreement for any reason whatsoever, the Purchaser hereby undertakes to vacate forthwith the Unit and all Exclusive Use Areas and shall cease to have any rights under this Agreement and the Seller shall immediately be entitled to resell the Subject Matter.
- 15.4. If transfer of the Unit is delayed by the Purchaser for whatever reason, then the Purchaser shall pay the Seller penalty interest on the purchase price at 4% (four per centum) above the Prime Rate calculated from the date on which transfer ought to have been registered but for such delay (as certified by the Attorneys acting as experts) until the date of registration of transfer thereof, both dates inclusive.**

16. Notices and domicilia

- 16.1. Each of the Parties chooses *domicilium citandi et executandi* ("domicilium") for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement at their respective addresses set forth in clause 1 of the Schedule of Particulars.
- 16.2. Each of the Parties shall be entitled to change its domicilium in writing to any other address within the Republic of South Africa and provided that it consists of or includes a physical address at which process can be served or any notice given.
- 16.3. Any notice given and any payment made by a Party to any of the others ("the addressee") which:
 - 16.3.1. is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
 - 16.3.2. is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be deemed to have been received by the addressee on the fourth day after the date of posting.
 - 16.3.3. Is emailed to the chosen email address to have been received by the addressee at the time the email was sent.
- 16.4. Where, in terms of this Agreement communication of any nature is required the term "notice" and/or the term "writing" shall include communications by fax or e-mail and shall be deemed to have been received by the addressee 1 (one) hour after the time of transmission of such communication.
- 16.5. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium.

17. Estate agent's commission

- 17.1. The Seller shall pay the commission of the estate agent(s) named in clause 6 of the Schedule of Particulars ("the Estate Agent"). The commission shall be an amount of R_____ plus VAT thereon.
- 17.2. The Purchaser warrants that the Purchaser was not introduced to the Unit by any agent other than the Estate**

Agent. The Purchaser indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be incurred, made against or suffered by the Seller arising out of any breach of the foregoing warranty.

- 17.3. **In the event of this Agreement being cancelled as a consequence of a breach on the part of the Purchaser, the Purchaser will be liable for payment of the commission due to the Estate Agent in terms of clause 17.1.**
- 17.4. The Estate Agent acknowledges that in the event of this Agreement not being proceeded with, for any reason, by the Seller or the Purchaser, then and in such event the Seller shall not be liable to the Estate Agent for any sales commission.
- 17.5. The provisions of this clause 17 are intended as a contract for the benefit of the Estate Agent and may be enforced by the Estate Agent who accepts the benefits conferred on it and agrees to the terms hereof.

18. Jurisdiction/costs

- 18.1. For the purpose of all or any proceedings hereunder the Parties hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction over the person of the Defendant in terms of section 28 of the Magistrates' Court Act of 1944, as amended, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the court pursuant to that provision, provided nevertheless that the Seller shall have the right at its sole option and discretion to institute proceedings in any other court of competent jurisdiction.
- 18.2. The Purchaser agrees that, in the event of the Seller instructing its attorneys and/or taking legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfil any of its obligations in terms hereof, then the Purchaser shall pay all legal costs plus VAT incurred by the Seller in connection therewith as between attorney and own client, including collection commission laid down at the tariff rate applicable.

19. Joint and several liability

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

20. Company/close corporation/trust

If this Agreement is signed as Purchaser by a person purporting to act for and on behalf of a company or a company to be formed, a close corporation or trust, the Purchaser shall be deemed to warrant that the Purchaser is duly authorised to sign this Agreement and shall by his or her signature hereto be bound in favour of the Seller as surety and co-principal debtor in solidum with such company, company to be formed, close corporation or trust under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company, close corporation or trust in terms of or arising out of this Agreement or any cancellation hereof.

21. Sole contractual relationship

- 21.1. **The Parties hereto acknowledge that this Agreement represents the entire agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever whether express or implied have been made by either Party or their agents other than as set forth in this Agreement.**
- 21.2. No variation or cancellation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.
- 21.3. No extension of time or indulgence granted by either Party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such Party in respect of this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.

22. Mortgage bond

- 22.1. This entire agreement is conditional upon the Purchaser or the Agent on behalf of the Purchaser being issued with a quotation (as referred to in the National Credit Act 34 of 2005) by a Financial Institute for a loan in the amount set out in clause 9 of the schedule, on page 4 hereof or such lesser amount as the Purchaser agrees to in writing, by the date set out in clause 9 of the schedule, on page 4 hereof or such extended time as the seller in his sole discretion shall allow. Such loan is to be secured by a mortgage bond to be registered over the

PROPERTY simultaneously with transfer. This condition shall be deemed to be fulfilled upon notification by the Financial Institution of the Purchaser or his Agent of a quotation having being issued upon normal banking conditions. The Purchaser hereby authorises the agent to make the necessary application/s for such loan on his behalf.

- 22.2 For the purpose of this clause the Purchaser undertakes to furnish all information necessary for the completion of such application.

23. Offer and acceptance

Inasmuch as this Agreement, signed by the Purchaser and delivered to the Seller, shall constitute an offer to purchase the Unit and the exclusive use rights, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller within fourteen business days after the date of signature thereof by the Purchaser.

24. Direct Marketing

- 24.1. The Purchaser confirms that the Purchaser did / did not enter into this Agreement as a result of direct marketing.
- 24.2. The Purchaser, in the event of having concluded this Agreement as a result of direct marketing, confirms that the Purchaser has been informed of his "cooling off" rights as provided for in section 16 read with section 20(2)(a) of the Consumer Protection Act, to rescind a transaction, without reason or penalty, within 5 (five) business days of the date specified in the Consumer Protection Act as read with the regulations of the Consumer Protection Act.

25. Extension of the Scheme and Phasing of the Development

25.1 The Seller shall be entitled to carry out the development in such phases as the Seller may decide from time to time.

25.2 The Seller intends in its application for registration of the sectional plan to reserve the right in terms of [section 25\(1\)](#) of the Sectional Titles Act to erect and complete from time to time, within a period of 25 years after the opening of the register, the building or buildings shown on the plans annexed to this agreement, on the common property, and to divide such building or buildings into 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 sections.

25.3 The Seller confirms that it will construct a clubhouse, gym and swimming pool for the communal use of all Purchasers, in the positions as indicated on Annexure A hereto, as soon as this is financially viable. The Purchaser acknowledges that he or she may only have the use and enjoyment of these communal facilities some time after registration, and accepts this.

25.4 The Purchaser agrees to allow the Seller to exercise its right to proceed with the development / extension in the manner envisaged herein and shall not be entitled to interfere with or obstruct the Seller from erecting on the common property or any portion thereof, the common areas and communal amenities until such time as the aforesaid amenities or additional buildings have been completed.

25.5 The Purchaser undertakes to sign upon request by the Seller or its authorised agent all such documents as may be necessary to enable the Seller to proceed with the aforesaid phases and / or extension of the development.

25.6 Should the Purchaser fail or refuse to sign any such document, then the Purchaser hereby appoints the Seller as his attorney and agent to sign the same on the Purchaser's behalf.

26. Consumer Protection Act

26.1. The Purchaser acknowledges that this Agreement contains certain provisions which:

- 26.1.1. limit the risk or liability of the Seller;
- 26.1.2. constitute an assumption of risk or liability on the part of the Purchaser;
- 26.1.3. impose an obligation on the Purchaser to indemnify the Seller; and/or
- 26.1.4. constitute an acknowledgement of facts by the Purchaser.

26.2. The Purchaser's attention is specifically drawn to these provisions, which are highlighted in bold text in the agreement.

26.3. By signing at the end of this clause, the Purchaser acknowledges that the Seller has provided sufficient time and opportunity for the Purchaser to receive and comprehend the nature and effect of the provisions of this Agreement and to obtain independent legal advice.

Signed by the Purchaser: _____

Signed at _____ on the _____ day of _____ 20__.

For and on behalf of
the Seller

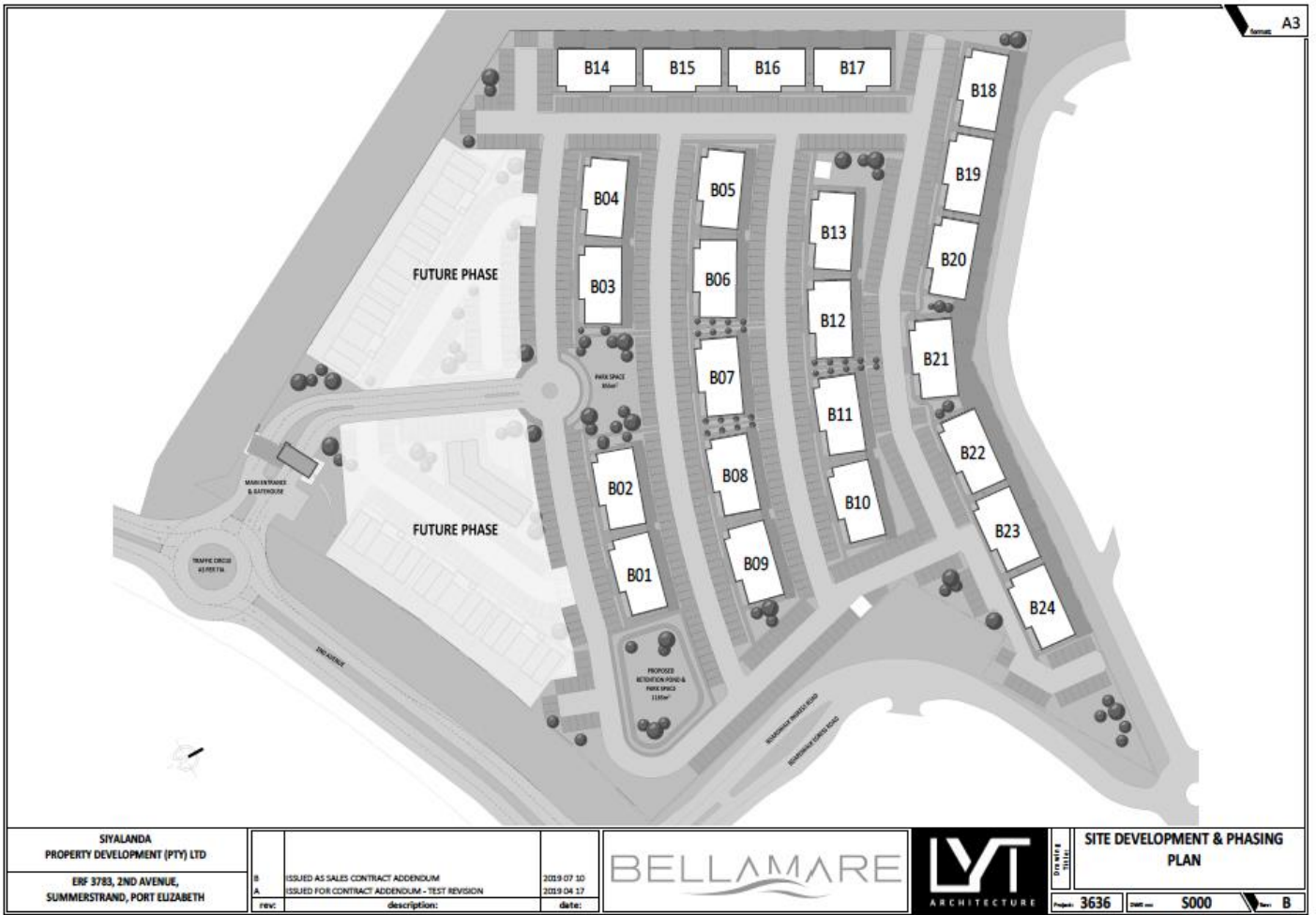
Name:
Capacity:
Who warrants authority

Signed at _____ on the _____ day of _____ 20__.

For and on behalf of
The Purchaser

Name:
Capacity:
Who warrants authority

Annexure A: Site Plan



Annexure B: Unit Layout Plan

Annexure C: Specifications and Finishes

GENERAL INTERNAL FINISHES	
FLOORS	LIVING AREAS, KITCHEN, PASSAGES & BEDROOMS: TILES (REFER TO BUYER SELECTION)
	BEDROOMS (OPTIONAL): CARPETS (REFER TO BUYER SELECTION)
	BATHROOMS: NON-SLIP PORCELAIN TILES & ALUMINIUM EDGE TRIM (REFER TO BUYER SELECTION)
	BATHROOMS (OPTIONAL): MOSAIC TILES TO SHOWER FLOORS (REFER TO BUYER SELECTION)
	SKIRTING (GENERAL): PRIMED & PAINTED SUPAWOOD PROFILE (REFER TO BUYER SELECTION)
	SKIRTING (BATHROOMS): POLISHED PORCELAIN TILES & ALUMINIUM EDGE TRIM (REFER TO BUYER SELECTION)
WALLS	LIVING AREAS, KITCHEN, PASSAGES & BEDROOMS: PLASTER & PAINT (REFER TO BUYER COLOUR THEME SELECTION, INCLUDING ACCENT PANELS)
	KITCHEN SPLASHBACKS: PAINTED GLASS ABOVE COUNTERTOPS (REFER TO BUYER SELECTION)
	BATHROOMS: PLASTER & PAINT & TILES (REFER TO BUYER SELECTION ON INTERIOR ELEVATIONS)
	BATHROOMS (OPTIONAL): MOSAIC TILES TO SHOWER WALLS (REFER TO BUYER SELECTION)
	WINDOW CILLS: PLASTER & PAINT
CEILINGS	CONCRETE SOFFITS (GROUND FLOOR - SECOND FLOOR): PLASTER & PAINT (REFER TO BUYER COLOUR THEME SELECTION)
	SUSPENDED CEILINGS (THIRD FLOOR): SKIMMED & PAINTED GYPSUM PLASTER BOARD (REFER TO BUYER COLOUR THEME SELECTION)
	CORNICES (GENERAL): PRIMED & PAINTED SUPAWOOD PROFILE (REFER TO BUYER SELECTION)
BUILT-IN CUPBOARDS	
INTERNAL CARCASSE & SHELVING	MOISTURE-RESISTANT DOUBLE-FACED MELAMINE WITH 1mm IMPACT EDGING AND WHITE MASONITE BACKING PANELS
VISIBLE PANELS, DOORS, DRAWERS & SHELVES	MOISTURE-RESISTANT DOUBLE-FACED MELAMINE WITH 1mm IMPACT EDGING (REFER TO BUYER SELECTION)
COUNTERTOPS & VANITIES	NATURAL OR ENGINEERED STONE (REFER TO BUYER SELECTION)
HINGES, RUNNERS & STAYS	BLUM 'RANGE' (OR SIMILAR)
HANDLES	BRUSHED STAINLESS STEEL FINISH (REFER TO BUYER SELECTION)
ACCESSORIES (OPTIONAL)	(REFER TO BUYER SELECTION)
SANWARE	
BATH	BUILT-IN ACRYLIC BATH (COLOUR: WHITE) WITH NIKKI SPOUT AND POP-UP WASTE
	WALL-MOUNTED SINGLE LEVER BATH MIXER (REFER TO BUYER SELECTION)
SHOWERS	TOUGHENED CLEAR GLASS DOORS AND PANELS IN ALUMINIUM FRAMES

	CHROME FINISHED SHOWER ROSE & ARM (REFER TO BUYER SELECTION)
	WALL-MOUNTED SINGLE LEVER SHOWER MIXER (REFER TO BUYER SELECTION)
	STAINLESS STEEL SHOWER TRAP
WC	CONCEALED CISTERN FLOOR-BASED TOILET PAN WITH SOFT-CLOSE ACRYLIC SEAT (REFER TO BUYER SELECTION)
	CHROME FINISHED ACTUATOR PLATE
BASINS	VANITY TOP-MOUNTED PORCELAIN BASIN (REFER TO BUYER SELECTION)
	BASIN-MOUNTED SINGLE LEVER BASIN MIXER (REFER TO BUYER SELECTION)
BATHROOM ACCESSORIES	STAINLESS STEEL TOILET ROLL HOLDER, WALL MOUNTED SOAP RACK (BATH & SHOWER), SINGLE TOWEL RAIL & ROBE HOOK (REFER TO BUYER SELECTION FOR OPTIONAL EXTRAS)
GENERAL SPECIFICATIONS	
KITCHEN BUILT-IN APPLIANCES	SMEG 'RANGE' (OR SIMILAR) OVEN, HOB & EXTRACTOR
KITCHEN SINK & MIXER	SMEG 'RANGE' STAINLESS STEEL DROP-IN SINK WITH STAINLESS STEEL SINGLE-LEVER SWIVEL MIXER (REFER TO BUYER SELECTION)
FRONT DOOR	PAINTED SOLID HARDWOOD TIMBER DOOR & FRAME WITH STAINLESS STEEL IRONMONGERY (DEVELOPMENT STANDARD) - NO ARCHITRAVES
INTERIOR DOORS	PAINTED SEMI-SOLID TIMBER DOOR & FRAME WITH INTERIOR IRONMONGERY (REFER TO BUYERS SELECTION) - NO ARCHITRAVES
MIRRORS	FLOAT-FITTED FRAMELESS 2mm POLISHED BEVEL MIRRORS (REFER TO INTERIOR ELEVATIONS)
WINDOWS & SLIDING DOORS	SINGLE-CLEAR GLASS IN CHARCOAL POWDER-COATED ALUMINIUM FRAMES & MANUFACTURERS STANDARD IRONMONGERY TO MATCH
SECURITY BARS (OPTIONAL)	CLEAR POLYCARBONATE SECURITY BARS FITTED TO WINDOW OPENINGS (DEVELOPMENT STANDARD)
LIGHTING	ENERGY EFFICIENT FITTINGS PER LIGHTING LAYOUT (REFER TO BUYERS SELECTION)
ELECTRICAL	FITTINGS & SWITCHES PER ELECTRICAL LAYOUT (REFER TO BUYERS SELECTION)
BALCONY EXTERIOR FINISHES & FITTINGS	
FLOOR	NON-SLIP TILES & ALUMINIUM EDGE TRIM (DEVELOPMENT STANDARD)
WALLS	PLASTER & PAINT (DEVELOPMENT STANDARD)
	COMPOSITE TIMBER WALL CLADDING TO FEATURE FACADES (END-UNIT APARTMENTS ONLY)
CEILINGS	CONCRETE SOFFITS (GROUND FLOOR - SECOND FLOOR): PLASTER & PAINT (DEVELOPMENT STANDARD)
	SUSPENDED CEILINGS (THIRD FLOOR): SKIMMED & PAINTED EXTERIOR GYPSUM PLASTER BOARD (DEVELOPMENT STANDARD)
BALUSTRADES	(FIRST FLOOR) COMBINATION PLASTERED & PAINTED BRICK WALLS & STAINLESS STEEL BALUSTRADES WITH GLASS PANELS (DEVELOPMENT STANDARD)
	(SECOND - THIRD FLOORS) STAINLESS STEEL BALUSTRADES WITH GLASS PANELS (DEVELOPMENT STANDARD)
BARBEQUE FIREPLACE	CAST IRON FIREPLACES (UNIT DEPENDENT)