

AGREEMENT OF SALE

SECTIONAL TITLE: MOQUINI BREAKERS

CONTRACT REFERENCE NO: _____

memorandum of agreement entered into by and between

MOQUINI BEACH HOTEL (PTY) LTD

Registration Number: 2003/012732/07

(herein represented by Neil Kidger Tucker in his capacity as director duly authorised thereto)

(hereinafter referred to as "the Seller")

and

Registration/Identity Number: _____

(herein after referred to as "the Purchaser")

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PREAMBLE

WHEREAS the Seller is the registered owner of Erf 14796 Mossel Bay, in the Municipality and Division of Mossel Bay, Province of the Western Cape (hereinafter referred to as the "Land");

AND WHEREAS the Seller proposes opening a Sectional Title Register on the Land, and the Purchaser and Seller ("the parties") acknowledge that, pending the registration of the Sectional Plan/s, and the opening of the Sectional Title register as aforementioned, and registration of the Sectional Plan in the Cape Town Deeds Office, this Agreement will not enable the Purchaser to procure transfer of the Property hereby sold;

NOW THEREFORE THE PART/ES AGREE AS FOLLOWS:

1 DEFINITIONS

In this Agreement, unless inconsistent with the context, the following words shall have the following meanings:

- | | | |
|------|--------------------------|---|
| 1.1 | "Act" | means the Sectional Titles Act, No 95 of 1986 (as amended); |
| 1.2 | "Agreement" | means this Agreement of Sale duly signed by the Seller and the Purchaser or their duly authorized representatives, and any Annexures hereto; |
| 1.3 | "CPA" | means the Consumer Protection Act, No 68 of 2008; |
| 1.4 | "Garage" | means an exclusive use area described as Garage No _____, measuring ____ square metres, being as such part of the common property comprising the land in the Scheme known as Moquini Breakers in respect of the land and building or buildings situate at Erf 14796 Mossel Bay, in the area of the Mossel Bay Municipality; |
| 1.5 | "Land" | means Erf 14796 Mossel Bay, in the Municipality and Division of Mossel Bay, Province of the Western Cape; |
| 1.6 | "Management Act" | means the Sectional Title Schemes Management Act, No 8 of 2011; |
| 1.7 | "NCA" | means the National Credit Act, No 34 of 2005; |
| 1.8 | "occupation date" | means the date as set out in clause 6.1; |
| 1.9 | "Property" | means jointly and indivisibly the Unit and the Garage; |
| 1.10 | "project manager" | means the entity described in clause 5.2; |

- 1.11 "**registration**" means registration of transfer of ownership of the Property in the name of the Purchaser;
- 1.12 "**Scheme**" means the Sectional Title Scheme in respect of the Land, to be registered in the Cape Town Deeds Registry;
- 1.13 "**signature date**" means the date on which this Agreement is signed by the party hereto signing last;
- 1.14 "**Sectional Plan**" means the Sectional Plan in respect of the Land, as defined in the Act, which will be prepared in accordance with the provisions of the Act, by a Land Surveyor appointed by the Seller, and registered in the Cape Town Deeds Office in respect of the Scheme;
- 1.15 "**transferring attorneys**" means Millers Inc, Beacon House, 123 Meade Street, George, 6529; Tel No:044 874 1140; E-mail: fanie@millers.co.za / trudie@millers.co.za; Contact: Fanie Botes / Trudie du Plessis;
- 1.16 "**Undivided Share**" means as defined in the Act and as is applicable to the Scheme; in the common property;
- 1.17 "**Unit**" means the proposed Section no. _____, (Flat No _____, in extent approximately _____ square meters in the building or buildings known as The Breakers to be completed, and an Undivided Share in the Common Property of the building or buildings and the Land which share is allocated to the section in accordance with the participation quota as defined in the Act;
- 1.18 All other words or terms used in this Agreement which also appear in the Act shall have meanings to them in the Act,
- 1.19 A calendar month means a month of the calendar, i.e. one of the 12 (twelve) months of the calendar, which calendar month shall be calculated from the first calendar day to the last calendar day of such calendar month;
- 1.20 The preamble is hereby explicitly incorporated in this Agreement;
- 1.21 Unless the context indicates a contrary intention a reference to any gender shall include the other gender, a reference to the singular shall include the plural and conversely and reference to a natural person shall include a juristic/corporate entity, whether incorporated or unincorporated and conversely;
- 1.22 The terms of this Agreement shall be deemed to be, In respect of each part, entire, separate,

severable and separately enforceable in the widest sense from the rest of the Agreement;

- 1.23 Should any provision of this Agreement be found by any competent court to be defective or unenforceable for any reason, or in conflict with the CPA or the NCA or any other legislation or regulations, the remaining provisions of this Agreement shall continue to be of full force and effect;
- 1.24 For purposes of the CPA, the Purchaser's attention is specifically directed to the clauses and sub clauses printed in bold.

2 PURCHASE AND SALE

2.1 The Seller hereby sells to the Purchaser who hereby purchases;

2.1.1 The Unit, to be completed; consisting of:

2.1.1.1 the proposed Section No _____ (being Flat No _____) as shown and more fully described on the Sectional Plan in the Scheme known as Moquini Breakers in respect of the land and building situate on the Land as shown on the Sectional Title Plan; and

2.1.1.2 an Undivided Share in the Common Property in the Scheme apportioned to the said section in accordance with the Participation Quota as endorsed on the draft Sectional Plan;

2.1.1.3 together with all fixtures or fittings therein; and

2.1.2 Garage No _____ in the process of completion, to be registered as an Exclusive Use Area, and indicated on the Sectional Plan, subject to clause 5.4.

(hereinafter collectively referred to as "the Property")

3 PURCHASE PRICE:

3.1 The purchase price of the Property shall be the sum of R _____ (_____ Rand) (VAT included), ("the Purchase Price"), payable as follows:

3.1.1 An amount of R_____ (_____ Rand) ("the initial payment"), shall be paid by the Purchaser to the Transferring Attorneys within ____ (_____) days from date of signature hereof; and which amounts shall be invested in terms of Section 78(2A) of the Attorneys Act, No. 53 of 1979 and shall be paid to the Seller, and the interest earned to the Purchaser, on registration or as soon thereafter as possible. The Purchaser authorises the transferring attorneys to invest the funds as provided for herein, with any banking institution, in their sole discretion.

This initial payment is non-refundable in the event of the Purchaser's breach.

The Initial payment is payable to Millers Inc, Nedbank Trust, Branch Number 198765, Account Number 1009730010

- 3.1.2 The balance of the Purchase Price shall be payable by the Purchaser as follows:
- 3.1.2.1 With regards to a Purchaser, resident in the Republic of South Africa, who will pay the Purchase Price by way of a mortgage bond, by way of a formal confirmation that finance has been approved by a financial institution, in the form of a letter of grant or facility letter, subject only to the provision of a mortgage bond valid for a period of time acceptable to the Seller;
- 3.1.2.2 With regards to a Purchaser who is a non-resident of the Republic of South Africa, by way of an irrevocable guarantee in a form acceptable to the Seller, from a financial institution to be issued on or before the transfer date, subject only to the condition of transfer and registration of a mortgage bond, and which guarantee may be in the form of a SWIFT message;
- 3.1.2.3 With regards to a cash Purchaser; by way of an irrevocable guarantee, in a form acceptable to the Seller, from a financial institution approved by the Seller, subject only to the condition of transfer, and which guarantee may be in the form of a SWIFT message, alternatively by way of a cash payment into the trust account of the transferring attorneys;
- and which guarantees must be delivered within 30 (thirty) days after signing of the Agreement;
- 3.1.3 In the event that the Purchaser is obtaining financing in respect of the Purchase Price from a bank or other financial institution and it is a condition, imposed by the bank or such other financial institution for the purpose of finalisation of the approval of the loan or issuing the guarantees that the bank or financial institution is placed in receipt of a copy of the approved Sectional Plan, the said guarantee(s) to be delivered in terms of clause 3.1.3 above shall be delivered within 14 (fourteen) days from date of delivery by the transferring attorneys to the Purchaser, his bankers or financial institution a copy of such approved Sectional Plan;
- 3.1.4 The Purchaser undertakes to immediately furnish the transferring attorneys, upon the expiry of the period as set out in clause 3.1.3 above, with a letter from the relevant bank or other financial institution, confirming that the mortgage bond has been granted in principal / finally granted, or alternatively has been declined, failing which the terms and conditions as set out in clause 17 will take effect.

4 WARRANTIES AND REPRESENTATIONS

- 4.1 The Seller hereby sells to the Purchaser who hereby purchases the Property, subject to the provisions of the Act and this Agreement (particularly the provisions of clause 5 and clause 8

hereof), the conditions of title, the provisions of the applicable town planning scheme, the rules of the Scheme and any conditions imposed by the local authority and/or the Seller (Developer) on registration of the Scheme;

- 4.2 The Property is sold as is and, the Purchaser acknowledges that no warranties or representations of whatsoever nature, except such warranties or representation expressly contained in this Agreement, or contemplated in the CPA, if the CPA is applicable hereto, have been made by or on behalf of the Seller save as herein contained;
- 4.3 It is hereby recorded that the above does not exempt the Seller from any defects within his knowledge or that he reasonably should have known about, which defects include the use of defective materials;
- 4.4 The Seller records that the appointed contractor has been registered with the National Home Builders Registration Council (NHBRC) and that the Unit sold shall be registered in terms of a residential unit enrolment certificate.

5 COMPLETION:

- 5.1 The Property hereby purchased by the Purchaser shall be constructed by, or on behalf of, the Seller in accordance with the floor layout plan, unit floor plan, garage floor plan and finishing schedule which have been made available to the Purchaser, with which the Purchaser acknowledges him/herself to be fully acquainted and satisfied;
- 5.2 It is hereby recorded that Costa Zervas Projects CC, Registration No 1991/25257123 will be the project manager and will be responsible to appoint a contractor, registered with the National Home Builders Registration Council (NHBRC), who undertakes to comply with the relevant and applicable legislation and regulations of the Act;
- 5.3 Notwithstanding the intention of the Seller to construct the Property as contemplated in clause 5.1, the Seller in its sole discretion shall be entitled to deviate from the building plans if, during the course of construction of the Property, it appears that any such deviations would result in the meaningful, practical, expedient and/or more economical completion of the Property without materially deviating from the building plans so as to adversely affect the Property or the quality of finishes. All material deviations from the building plans shall require prior notice of such deviations to the Purchaser.

6 OCCUPATION

- 6.1 Occupation of the Property shall be granted to the Purchaser on completion of construction or on a date to be advised to the Purchaser in writing, which notice shall be sent to the Purchaser not less than 70 (seventy) days prior to the said date. Consequently, if occupation is not possible as contemplated above, the Purchaser shall be notified of the occupation date in

writing on 35 (thirty five) days' notice prior to the date. It is expressly recorded herein that the Purchaser acknowledges and agrees that the Seiler shall not be bound to the original occupation date referred to above, and that delivery of the Property and/or granting of occupation, may take place at a later date should the circumstances so require;

- 6.2 With effect from the occupation date, the Purchaser shall be responsible for payment of the electricity and gas consumption in/on the Property. The electricity shall be supplied by way of pre-paid meters;
- 6.3 Should occupation as indicated in clause 6.1 above, be granted prior to registration, the Purchaser shall, subject to clause 6.4.2, pay to the Seller occupational rental in the amount of R_____ (_____ Rand) per month ("the occupational rental") 2 (two) months in advance, on or before the 7th (seventh) day of each month, as from the occupation date to the date of registration, which amount is to be deposited in the following account of transferring attorneys:

Millers Incorporated Trust Account, Nedbank Bank, branch Number 198765, account number 1009730010;

- 6.4 It is specifically recorded that
- 6.4.1 the payment of the occupational rental is in lieu of the right to occupy the property, and is not payable only on actual occupation;
- 6.4.2 Free occupation is granted to the Purchaser for the 1st calendar month (or part thereof) from date of issue of occupational certificate, and occupational rental is payable from the first day of the second calendar month after occupation or from the first day of the second calendar month from the date the occupational certificate is issued, whichever is the earlier. Occupational rental shall be paid 2 (two) months in advance and will be obtained from the accrued interest, if any. If there are not sufficient accrued interest available, the occupational rental or the balance thereof will be payable by the Purchaser on request. The Purchaser shall settle any arrear occupational rental prior to transfer;
- 6.4.3 Should registration take place prior to the month in respect of which occupational rental has been paid for in advance, the amount in credit in respect of occupational rental received, will be transferred to the levy account of the Purchaser with the body corporate of the Scheme;
- 6.4.4 Should the Property not be ready for occupation on the date as determined in clause 6.1, the Seller shall upon 70 (seventy) days prior notice to the occupation date be entitled to extend the occupation date;
- 6.4.5 In the event that the Property is not completed, and the Seller is unable to grant the Purchaser occupation on the occupation date for whatever reason, the Seller shall not incur

any liability whatsoever by giving notice of postponement of the occupation date.

- 6.5 Subsequent to occupation of the Property by the Purchaser and prior to registration, the following conditions shall apply:
- 6.5.1 The Purchaser shall not be entitled to make any alterations or additions to the Property;
- 6.5.2 The Purchaser shall not be entitled to subdivide the Unit, or to dispose of, or alienate his/her rights of occupation of the Property or any part thereof to any other person;
- 6.5.3 The Unit may be utilized for residential purposes only;
- 6.5.4 The Purchaser may not refuse to take occupation of the Property, not withhold payment of occupational rental, nor claim any rebate in respect of occupational rental as a result of any defects which would not otherwise prevent the Purchaser from taking occupation, nor as a result of any aspects listed in the faults list signed by the Purchaser prior to occupation or on occupation which have as on the occupation date not yet been finalised;
- 6.5.5 The Purchaser shall be obliged to provide the Seller access to the Unit to effect any necessary repairs in terms of the faults list within 30 (thirty) days after having being requested thereto by the Seller. Should the Purchaser fail to comply with such request, then the Purchaser will be responsible for such repairs which will be for the account of the Purchaser;
- 6.6 In the event that the Purchaser fails to effect timeous payment of the occupational rental by the 7th (seventh) day of each month in terms of clause 6.3, the Seller shall be entitled to charge/levy payment of interest at 15,5% (fifteen comma five percent) per annum from the 1st (first) day of the month that such payment became due to date of payment thereof, both days inclusive;
- 6.7 It is specifically recorded that the issuing of a temporary or final occupation certificate by the local authority, shall be final proof that the Unit is suitable for occupation. In the event of the local authority delaying issue of the occupational certificate on completion of the building, the project architect shall at his own discretion issue a temporary occupation certificate, which certificate shall serve as satisfactory proof that the building is suitable for occupation.

7 RISK AND POSSESSION

Possession of the Property shall be given to the Purchaser on registration and all risk, profit and loss in respect of the Property shall pass to the Purchaser upon registration.

8 CONDITION OF THE PROPERTY

- 8.1 Subject to completion of the Property in accordance with the building plans, the Property is sold as stipulated herein, provided that the Seller shall not be responsible for normal wear and tear

between the occupation date and registration;

- 8.2 Occupation of the Property shall be construed as acceptance by the Purchaser that the Property and all fixtures, fittings and finishing therein are in all respects in a proper and acceptable condition, subject to the provisions of clause 8.3 below;
- 8.3 Where possible the Seller will complete the property before the occupation date. The Purchaser will be requested to inspect the Property and any defects must be noted on a prescribed form. The Seller will endeavour to rectify the defects before occupation date otherwise clause 8.4 will apply;
- 8.4 The Purchaser shall notify the Seller in writing within 7 (seven) days from the occupation date of any defects in the Property, failing which, the Seller shall have no further obligations pertaining to the condition of the Property. A certificate by the project manager that all such defects have been duly repaired/restored, shall be binding on the Parties, and shall release the Seller of any further liability or claim's in connection with such further defects, and the condition of the Property and all fixtures and fittings in the Property;

If any dispute shall arise in connection with the proper fulfilment of the Seller's obligation in terms of this clause, the decision of the project architect shall be final and binding on the Parties;

- 8.5 The Purchaser shall not be entitled to withhold payment of occupational rental, the purchase price, or any portion thereof, or refuse to sign any documents which may be required by any Bank or financial institution for purposes of the upliftment of any retention of monies on the grounds of any defects in the property;
- 8.6 The Seller will rectify or make good of any defects, whether latent or patent, that may arise within a period of 90 (ninety) days from date of occupation.

9 APPLICATION OF THE CONSUMER PROTECTION ACT, 2008

The parties to this agreement confirm that, in as far as the provisions of the Consumer Protection Act, No 68 of 2008 are applicable:

- 9.1 The Seller does not, as a condition of offering to sell the Property hereby sold, or as a condition of entering into this Agreement, require from the Purchaser to:
- 9.1.1 purchase any other particular property or service from the Seller;
- 9.1.2 enter into an additional agreement or transaction with the Seller or a designated third party;
- 9.1.3 agree to purchase any particular property or services from a designated third party.

- 9.2 Provided this Agreement resulted from direct marketing:
- 9.2.1 the Purchaser may, in addition to and without excluding any other right agreed upon herein or which might exist in law, rescind this Agreement without reason or penalty by written notice or another recorded manner and form within 5 (five) days after the date of conclusion of this Agreement or registration of the Property (whichever is the later);
- 9.2.2 If the Purchaser elects to rescind this Agreement, the Seller must return any payment received from the Purchaser within 15 (fifteen) days:
- 9.2.2.1 If registration of the Property has not taken place, after receiving such notice of rescission;
or
- 9.2.2.2 after registration of the Property from the Purchaser;
- 9.3 The Purchaser shall bear the risk of and reasonable costs and expenses pertaining to the transfer of the Property to the Seller, should the Purchaser elect to rescind this Agreement in terms of the provisions of this clause.
- 9.4 The Seller confirms that a reasonable opportunity will be afforded to the Purchaser to examine the Property, to ensure that the Property is of the type and quality reasonably contemplated in this Agreement and that the Property does in all material respects and characteristics correspond to what the Purchaser is entitled to expect after such examination.
- 9.5 The Purchaser confirms that;
- 9.5.1 He / she understands the content, significance and import of this Agreement.
- 9.5.2 the price payable to the Seller in terms of this Agreement is fair, reasonable and just;
- 9.5.3 the terms of this Agreement are not unfair, unreasonable or unjust;
- 9.5.4 he / she was not required by the Seller or anybody on behalf of the Seller, to waive any rights, assume any obligations or waive any liability of the Seller in this Agreement on terms that are unfair, unreasonable or unjust;
- 9.5.5 no unfair, unreasonable or unjust terms were imposed upon him / her as a condition of entering into this Agreement.
- 9.6 The Purchaser confirms that his / her attention was specifically drawn to the provisions in this Agreement and in particular clauses in terms of which:
- 9.6.1 the risk and in particular the fact, nature and potential effect of such risk or liability of the Seller or any other person is limited in any way;

- 9.6.2 an assumption of risk or liability by him / her is constituted;
- 9.6.3 an obligation is imposed upon him / her to indemnify the Seller or any other person for any cause;
- 9.6.4 he / she acknowledges any fact.
- 9.7 He / she is entitled to an adequate opportunity to receive and comprehend the provisions envisaged in clauses 9.6.1 - 9.6.4 above and was in fact afforded such opportunity.

10 EXTENT

If, on approval of the Sectional Plan, it appears that the extent of the Property is incorrectly reflected herein, the extent shall be regarded as duly rectified herein in accordance with the extent as reflected on the Sectional Plan, and neither the Seller or the Purchaser shall benefit by any excess, or be liable for any deficit in the extent of the property, provided however that should such excess or deficit amount to more than 5% (five percent), then and in that event, either party shall be entitled to resolve from this Agreement.

11 OPENING OF SECTIONAL TITLE REGISTER

- 11.1 It is expressly recorded that the Scheme has not yet been registered in the Cape Town Deeds Registry;
- 11.2 The Sectional Plan can only be finalised when the building work is completed and must be submitted to the Surveyor General for his approval;
- 11.3 The Seller shall provide the Purchaser with a copy of the approved Sectional Plan, on request, and the cost of which copy/ies shall be payable by the Purchaser;
- 11.4 With effect from the date of signature hereof and notwithstanding the fact that the Body Corporate has not been established, the rules prescribed in terms of Section 10 of the Management Act and regulations thereto shall be applicable to the Purchaser insofar as the same impose obligations on the Purchaser which shall be enforceable by the Seller, his Agent or Body Corporate.

12 COSTS

The Purchaser shall be liable for the payment of all transfer costs, and if applicable, all bond costs as well as any other incidental cost to the transferring attorneys, within 7 (seven) days after receipt of a statement of account from the transferring attorneys;

13 TRANSFER

- 13.1 Registration shall be attended to by the transferring attorneys as soon as the purchase price

shall have been guaranteed and all costs referred to in clause 12 above have been paid;

- 13.2 The Purchaser acknowledges that registration can only be effected after the Sectional Title Register has been opened in the Cape Town Deeds Registry.

14 BODY CORPORATE AND LEVIES

- 14.1 The Purchaser acknowledges that as soon as he/she becomes the registered owner of the Property, he/she will automatically become a member of the Body Corporate, which shall be administered in accordance with the provisions of the Act and the Management Act and in particular the approved management rules and conduct rules applicable to the Scheme in terms of Section 10 read with regulation 6 of the Management Act.
- 14.2 From date of registration of the property into the name of the Purchaser, the Purchaser shall be liable for payment of the levy and communication infrastructure as determined by the Body Corporate and any other amounts payable and levied in respect of the Property to the local or any other competent authority or the Body Corporate. The monthly levy is to be determined by the Body Corporate.

15 PURCHASER LOAN

- 15.1 This Agreement is subject to the Purchaser obtaining approval of a loan for R_____ (_____ Rand) from a bank or other financial institution, payable against registration of a first mortgage bond over the Property, within 30 (thirty) days from date of signature of this Agreement, provided that in the event of:
- 15.1.1 The bank or other financial institution imposing the provision of a copy of the approved Sectional Plan as a condition for the final grant of a loan to the Purchaser, the Purchaser shall obtain final approval of such loan within 14 (fourteen) days from date of receipt by the Purchaser or his bankers of a copy of the approved Sectional Plan from the transferring attorneys; and
- 15.1.2 The loan being approved for a lesser amount than the loan amount, the Purchaser shall be entitled to waive the condition and declare, in writing, the condition fulfilled, which waiver and declaration shall be of no force and effect unless the Purchaser deposits the shortfall (for the avoidance of doubt, the difference between the loan amount and the loan actually approved) with the transferring attorneys by no later than 30 (thirty) days of the date on which the Purchaser was informed that the loan has only been partially approved, The shortfall shall be paid to the transferring attorneys who shall invest the shortfall substantially in accordance with the provisions of clause 3.1.1 above.
- 15.2 The Purchaser must apply for the loan referred to in clause 15.1 above within 10 (ten) days from date of signature of this Agreement, and provide proof of such application to the Seller or

the transferring attorneys if requested to do so, on demand;

- 15.3 If the Purchaser falls to make application timeously, or to provide proof of such application when requested to do so, this Agreement may, at the election of the Seller, be cancelled by written notice to the Purchaser to that effect;
- 15.4 The date referred to in clause 15.1 above, for obtaining approval of the loan, is capable of being extended by the Seller at its sole discretion by way of written notice to the Purchaser to that effect, and the Purchaser may waive fulfilment of the suspensive condition contained in clause 15.1 above by giving written notice to the Seller to that effect;
- 15.5 In the event of the Purchaser being a legal person, the signatory hereto undertakes to bind him/herself as surety and co-principal debtor in favour of the relevant bank or other financial institution from which the loan is obtained, if required by such bank or institution to do so;
- 15.6 In the event that the approved loan as referred to in clause 15.1 above, is not obtained timeously (or within any extended period), this Agreement shall become null and void and of no further force and effect, and no further obligations shall lie between the parties reciprocally, save that the Purchaser shall remain liable for the costs referred to in clause 12, and all wasted costs incurred as between Attorney and own client including, but not limited to the costs of any documents drawn and all incidental attendances.

16 JURISDICTION

- 16.1 For purpose of all or any legal proceedings which may emanate from this Agreement, the parties hereby consent to the jurisdiction of the magistrates court which has jurisdiction in terms of Section 28 of the Magistrates Court Act No 32 of 1944 (as amended) and notwithstanding the fact that such legal process might be outside the jurisdiction of the said court, this clause would be regarded to be the necessary written consent to confirm jurisdiction in terms of Section 45 of the Magistrates Court Act, 1944 (as amended);
- 16.2 The parties do however agree that it shall be entirely within the discretion of any party hereto as to whether to proceed in the High Court of South Africa;
- 16.3 Should legal costs accrue, or be occasioned, as a result of any act or omission by a defaulting party, in terms whereof the non-defaulting party might or will have to institute legal action against the defaulting party, then the successful party shall be entitled to recover all legal costs, from the other party, on a scale as between attorney and own client.

17 BREACH OF CONTRACT:

- 17.1 Should either party fail to comply with any of the provisions of this Agreement, the aggrieved party shall be entitled to give the defaulting party written notification to rectify such default.

Should the defaulting party fail to rectify such default within 7 (seven) days from the date of such notice, the aggrieved party shall be entitled without further notice, and without prejudice to any other rights of remedies which it may have in law:

- 17.1.1 to institute legal action against the defaulting party for specific performance in terms of this Agreement, without limitation of such aggrieved party's rights to claim damages; or
- 17.1.2 to cancel this Agreement and to immediately return, or obtain occupation of the property as the case may be;
- 17.1.3 to claim such damages as may be proven to have been suffered by the aggrieved party;
- 17.2 in the event that this Agreement is cancelled by the Seller as a result of the Purchaser's breach thereof:
 - 17.2.1 the Seller shall be entitled to retain any moneys paid in terms of this Agreement whether to the Seller or its Attorneys,, as being a pre-estimate of reasonable liquidated damages, or the Seller may claim its actual damages and set-off any amounts retained against the amount claimed; and
 - 17.2.2 the Purchaser shall be liable for payment to the transferring attorneys of all costs incurred to date of cancellation, and all costs in connection with the cancellation of this Agreement, as between attorney and own client and agents commission; and
 - 17.2.3 in the event that the Purchaser has taken occupation of the Property, the Purchaser, his tenant or any other occupier must immediately vacate the Property and return free and vacant occupation to the Seller.

18 ADDRESS FOR SERVICE OF ALL DOCUMENTS AND NOTICES

18.1 The parties hereby choose as their respective address for the service of all documents, and notices for the purposes of this Agreement at the following address:

18.1.1 The Seller:

902 Pretorius Street, Arcadia, Pretoria, 0001

Contact information:

Telephone Number (012) 342-5479 and 044 – 874 1140

Fax Number (012) 342-2715 and 086 517 8780

E.-mail address czp@czp.co.za and fanie@millers.co.za

18.1.2 The Purchaser:

Physical Address _____

Contact Information:

Work Number _____

Home Number _____

Cell phone Number _____

Fax Number _____

E-mail address _____

Postal address _____

18.2 Any notice and/or document which does not require personal and/or physical service, by the sheriff of a court of otherwise, may be forwarded to the Purchaser's facsimile number and/or postal and/or e-mail addresses;

18.3 Any notice sent by prepaid registered post to a party at its/his/her chosen postal address, shall be deemed to have been received by such party and the contents thereof to have come to his knowledge on the 4th (fourth) day after the posting thereof. However, should such notice be delivered by hand to a party, such notice shall be deemed to have been received on the date of such delivery, and notice by facsimile, or e-mail, shall constitute good notice;

18.4 The parties shall be entitled to change their above addresses upon written notification to one another.

19 GENERAL

19.1 This Agreement is the entire agreement between the parties. No amendment, variation or consensual cancellation of this Agreement and no extension of time waiver or relaxation or suspension of any of the provisions or terms shall be binding unless recorded in a written document signed by the parties;

19.2 No extension of time or waiver or relaxation of any of the provisions of terms of this Agreement shall preclude any party thereafter from exercising its rights strictly in accordance with this Agreement;

19.3 No party shall be bound by any express or implied term, representation, warranty, promise or the like not specifically recorded herein or the CPA, if applicable, and no party shall claim the existence of an oral contract prior or subsequent to signature hereof;

- 19.4 The parties undertake to expedite completion of the subject matter of this Agreement and the Purchaser undertakes that he/she will timeously and in any event by no later than 7 (seven) days after requested to do so, pay the transfer costs and sign all documents as may be required on demand;
- 19.5 The determination of any dispute of matter to be made in terms hereof, shall be made by such architect or builder as the Seller shall appoint and in making any such determination, the said architect or builder shall act as expert and not as arbitrator and his decision shall be final and binding on the parties;
- 19.6 The Purchaser undertakes to sign the relevant documentation as prescribed and required by the National Home Builders Registration Council in accordance with its rules, with which council the Seller is registered;
- 19.7 The Purchaser hereby consents to the Seller ceding its rights in terms of this Agreement.

20 INCORPORATION

- 20.1 In the event of the Purchaser being a company to be registered:
- 20.1.1 such purchaser company shall be registered and incorporated within 60 (sixty) days of signature of this Agreement. In the event that the Purchaser requires an extension of time from the Seller for whatever reason, for the aforesaid purposes, the Seller shall be entitled to claim interest from the Purchaser at 15,5% (fifteen comma five percent) per annum calculated on the purchase price as from the 61st (sixty first) day after date of signature of this Agreement, to date of receipt of registration and/or incorporation of the Company, and which interest shall be payable prior to registration;
- 20.1.2 Within 3 (three) days of incorporation, the Purchaser shall deliver to the Seller a certified copy of a resolution by the company confirming, adopting and ratifying the terms of this Agreement and confirming the signatory's authority; and
- 20.1.3 In the event of the purchaser company not being incorporated within the said period of 60 (sixty) days (or any mutually agree written extension thereof) and/or failing to produce a copy of the certified resolution within the period stated (or any mutually agreed written extension thereof), the signatory binds himself as the Purchaser and shall be deemed to be the Purchaser in his/her personal capacity.
- 20.2 In the event of the Purchaser being a company already registered:
- 20.2.1 the signatory, by his/her signature hereto, binds him/ herself as surety and co-principal debtor jointly in total for and behalf of the said company to the Seller for payment of all amounts due by the company and for the fulfilment of all obligations under this Agreement;

20.2.2 the surety, by his/her signature, renounces all legal benefits and exceptions which would normally avail a surety in law, and declares him/herself to be fully acquainted with the nature, meaning and extent of the benefits and exceptions so renounced. The surety chooses his/her address for the service of court processes and notices for all purposes the address which the Purchaser has reflected above in this Agreement.

20.3 The signatory hereto on behalf of the company is referred to for ease of reference as the Purchaser in this Agreement, and any reference to the Purchaser in this Agreement specifically includes the reference to the Purchaser's representative and signatory hereto where relevant.

21 COMPLIANCE CERTIFICATES

21.1 Electrical installation:

The Seller will obtain the required certificate in respect of the electrical installation in respect of the building on the Land in which the Unit is situated, in terms of the Electrical Installation Regulations, 1992 issued in terms of the Occupational Health and Safety Act, No, 85 of 1993 and shall make a copy of same available to the Purchaser on request.

21.2 Gas installation:

The Seller will obtain a certificate of conformity in respect of all L P gas installations on the Property, by an authorised person or an approved inspection authority registered with the L P Gas Safety Association of South Africa and issued in terms of Regulation 17(3) of the Pressure Equipment Regulations promulgated in terms of the Occupational Health and Safety Act, 1993;

22 AGENTS COMMISSION

The Seller shall be liable for the payment of the agents commission, subject thereto that the Purchaser shall be liable for such commission if this Agreement is cancelled as a consequence of the Purchaser's breach of any of the terms and conditions of this Agreement.

Selling Agency: _____

Selling Agent: _____

23 DELAYS

In the event that registration cannot be effected within 60 (sixty) days from date of occupation as a result of any delay or omission of whatsoever nature on the part of the Purchaser, specifically if the deposit and/or purchase price is not paid and/or secured timeously in terms of clause 3 hereof, then the occupational rental shall escalate monthly by 20% (twenty percent) per month, calculated as from the 61st (sixty first) day after date of occupation to registration. The foregoing shall apply with such revisions as the context may require in the event that

guarantees are not delivered timeously in respect of the purchase price or balance purchase price as a result of any delay occasioned by the bank or other financial institution from which the Purchaser obtained a loan (bond), or the bank's attorneys.

Annexures: (All annexures must be attached and signed by the Purchaser)

Floor Layout Plan Annexure A

Unit Floor Plan Annexure B

Garage Floor Plan Annexure C

Finishing Schedule Annexure D

Management Rules Annexure E

Conduct Rules Annexure F

SIGNED at _____ on this _____ day of _____

WITNESSES:

SELLER

SIGNED at _____ on this _____ day of _____

WITNESSES:

PURCHASER

SURETYSHIP

I, _____ with ID number _____
 ("the Surety") do hereby bind myself as surety and co-principal debtor, jointly and severally, in its entirety, for the strict and proper payment of any amounts due, and/or the strict and proper compliance with any other obligations, in terms of the written Agreement of sale of Unit _____ in the Scheme to be known as Moquini Breakers, to be completed, in respect of the land and building or buildings situate at Erf 14796 Mossel Bay, in the Municipality and Division of Mossel Bay, Province of the Western Cape

by,

Registration No _____

(hereinafter referred to as the Debtor)

to:

MOQUINI BEACH HOTEL (PTY) LTD

Registration Number: 2003/012732/07

its orders or assigns,

(Hereinafter referred to as the Creditor)

Terms:

1. I renounce, and waive my rights to, the benefits and/or legal exceptions of excussion, cession of action, the benefit of simultaneous citation and division of debt, the right to be liable only for my pro-rata share of the principal debt, the legal exceptions of error of calculation and revision of accounts, no value received, non-receipt of goods and/or monies pursuant to our agreement for the payment of money or delivery of goods and no cause of debt, if applicable hereto,

unless specifically prohibited from being waived and/or renounced by any law applicable hereto, the meaning and effect of which I declare myself to be fully acquainted

- 2. I confirm that I shall be liable for all charges and expenses of whatsoever nature incurred by the Creditor in securing the implementation of the obligations of the surety hereunder including but not limited to all legal costs, including attorney and own client costs, collection commission, VAT and tracing agents fees.
- 3. I shall further be liable for interest charged at a rate equal to that which the Debtor is liable in terms of the written Agreement of sale, on any amounts owing and from date of first demand.
- 4. I hereby choose the following address as my chosen address for service of any notices and/or documents (*my domicilium citandi et executandi*) which may result from this suretyship:

SIGNED at _____ on this _____ day of _____

WITNESSES:

	SURETY