

PROPOSED THE WORX ZONE DEVELOPMENT SHAREHOLDERS' AGREEMENT

1 PARTIES

1.1 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 1")

1.2 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 2")

1.3 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 3")

1.4 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 4")

1.5 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 5")

1.6 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 6")

1.7 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 7")

1.8 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 8")

1.9 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 9")

1.10 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 10")

1.11 _____
(Registration No. _____)
(hereinafter referred to as "SHAREHOLDER 11")

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1.12 _____
 (Registration No. _____)
 (hereinafter referred to as "SHAREHOLDER 12")

1.13 _____
 (Registration No. _____)
 (hereinafter referred to as "SHAREHOLDER 13")

1.14 _____
 (Registration No. _____)
 (hereinafter referred to as "SHAREHOLDER 14")

1.15 _____
 (Registration No. _____)
 (hereinafter referred to as the "COMPANY")

2 DEFINITIONS

2.1 "A LOAN ACCOUNTS" means all LOAN ACCOUNTS, excluding the B LOAN ACCOUNTS;

2.2 "ADDITIONAL SPECIFICATIONS" means those fixtures, fittings and finishes a SHAREHOLDER may require the COMPANY to install in the unit(s) that such SHAREHOLDER is required to purchase in terms of paragraph 18 hereof, in addition to those fixtures, fittings and finishes forming part of the SPECIFICATIONS;

2.3 "B LOAN ACCOUNTS" means the loans made by the SHAREHOLDERS to the COMPANY In respect of any ADDITIONAL SPECIFICATIONS required by any SHAREHOLDER in respect of the unit/s it is obliged to purchase (in terms of paragraph 18 hereof), which LOAN ACCOUNTS are more fully dealt with in paragraph 11;

2.4 "BOARD" means the Board of Directors of the COMPANY;

2.5 "BUSINESS DAY" means every day, excluding Saturday, Sunday and Public Holidays in the Republic of South Africa;

2.6 "COMPANY" means _____,
 Registration No. _____

2.7 "DATE SIGNATURE" means the date of signature hereof by the last signing of the parties;

2.8 "DEVELOPMENT" means the proposed office scheme, consisting of approximately _____ m², the COMPANY intends erecting on the PROPERTY, further details and the plans in respect of which, are attached hereto marked Annexure "1";

2.9 "DEVELOPMENT CO-ORDINATOR" means KRG Key Developments (Pty) Ltd, Registration Number 2001/002580/07, of Unit 1 Rydall Vale, La Lucia Office Park, La Lucia;

2.10 "EQUITY" means, in relation to any of the SHAREHOLDERS, such SHAREHOLDER'S

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SHARES and LOAN ACCOUNTS;

- 2.11 "LOAN ACCOUNTS" means all liquidated, acknowledged claims of whatsoever nature and howsoever arising which the SHAREHOLDERS may have against the COMPANY and LOAN ACCOUNT in relation to any of the SHAREHOLDERS means that SHAREHOLDER'S claims of whatsoever nature and howsoever arising against the COMPANY;
- 2.12 "PROPERTY" means the immovable property described as Portion 13 of Erf 2532 Umhlanga Rocks, KwaZulu-Natal Province, in extent 2943 square metres
- 2.13 "PURCHASE AND SALE AGREEMENT" means the Purchase of Sale Agreement entered into between the COMPANY and, Paramount Property Fund Limited for the purchase price of R _____ excluding Value Added Tax; and
- 2.14 "QUANTITY SURVEYOR" means _____
- 2.15 "SECRETARY" means the COMPANY secretary from time to time, which as at the DATE OF SIGNATURE is KRG Key Developments (Pty) Ltd;
- 2.16 "SERIOUS DEADLOCK" means any deadlock, disagreement or dispute, whether at shareholder or BOARD level, which relates to the core business activities of the COMPANY and which cannot be resolved within 10 (TEN) calendar days after such deadlock, disagreement or dispute shall have arisen, by the exercise of voting powers or by discussion and debate amongst the SHAREHOLDERS and/or the directors (as the case may be) of the COMPANY
- 2.17 "SHAREHOLDERS" means the parties listed in paragraph 1 hereof;
- 2.18 "SHARE RATIO" means the ratio in which the SHAREHOLDERS hold SHARES in the COMPANY;_ which is subject to adjustment based on the final PQ percentage as prepared by a registered Land.Surveyor once "tie development has been completed,
- 2.19 "SHARES" means the issued shares in the COM PANY;
- 2.20 "SPECIFICATIONS" means the internal specifications of the units as detailed in Annexure "6" hereto.

3. INTRODUCTION

- 3.1 Where the context so indicates, reference to the singular shall be deemed to include plural and vice versa and reference to one gender shall be deemed to include the other genders.
- 3.2 This agreement constitutes the sole memorandum of the agreement between the parties relating to the subject matter hereof and no variation or addition hereto or consensual cancellation hereof shall be of any force or effect unless reduced to writing and signed by the relevant parties.

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- 3.3 No indulgence granted by any party to the any of the others in regard to the enforcement of its rights under this agreement shall be construed as a waiver of such rights (unless expressed as such in a written document signed by the indulgent party) nor shall it serve to stop the indulgent party from strictly enforcing its rights in the event of a SHAREHOLDER'S breach thereof.
- 3.4 The clause headings in this Agreement are for guidance only and not relevant to the interpretation thereof.
- 3.5 Any reference to any statute, legislation or regulations in this Agreement shall be deemed to include any lawful amendments thereto, or re-enactments thereof.
- 3.6 Where a number of days are prescribed in terms of this Agreement the days shall consist only of business days i.e. not including Saturday, Sunday and public holidays and shall exclude the first day and include the last day.
- 3.7 Where an expression has been defined in paragraph 2 above and such definition contains a provision conferring rights or imposing obligations on any party, effect shall be given to that provision as if it were a substantive provision contained in the body of this Agreement.
- 3.8 If a number is referred to in numerals and words in this Agreement, the words shall prevail in the event of any conflict between the two.

4. **PREAMBLE**

It is recorded that –

- 4.1 the COMPANY has entered into the Purchase and Sale Agreement;
- 4.2 it is the intention of the COMPANY to purchase and take transfer of the PROPERTY, to construct the DEVELOPMENT thereon and to sell the sectional title units in the DEVELOPMENT to the various SHAREHOLDERS, once the DEVELOPMENT is complete, whereafter the COMPANY shall be deregistered;
- 4.3 this document sets out the terms of the Agreement between the SHAREHOLDERS governing their relationship as shareholders in the COMPANY.

5 **SHAREHOLDING**

- 5.1 It is recorded that the COMPANY was created with an authorised share capital of R_____, made up by way of _____ ordinary shares of R1 (One Rand) each. A total of _____ SHARES have, at the DATE OF SIGNATURE, been issued. The shareholding in the COMPANY is made up, as at the date of signature, as follows:

- | | | | |
|-------|---------------|---|--------|
| 5.1.1 | SHAREHOLDER 1 | - | SHARES |
| 5.1.2 | SHAREHOLDER 2 | - | SHARES |

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5.1.3	SHAREHOLDER 3	-	SHARES
5.1.4	SHAREHOLDER 4	-	SHARES
5.1.5	SHAREHOLDER 5	-	SHARES
5.1.6	SHAREHOLDER 6	-	SHARES
5.1.7	SHAREHOLDER 7	-	SHARES
5.1.8	SHAREHOLDER 8	-	SHARES
5.1.9	SHAREHOLDER 9	-	SHARES
5.1.10	SHAREHOLDER 10	-	SHARES
5.1.11	SHAREHOLDER 11	-	SHARES
5.1.12	SHAREHOLDER 12	-	SHARES
5.1.13	SHAREHOLDER 13	-	SHARES
5.1.14	SHAREHOLDER 14	-	SHARES

5.2 No subsequent issue or transfer of SHARES in the COMPANY shall take place otherwise than in accordance with this Agreement.

6. MAIN OBJECTIVE OF THE COMPANY

The main object of the COMPANY shall be to Complete the Development and to alienate units therein to the SHAREHOLDERS at a cost equal to that of constructing same.

7. BOARD OF DIRECTORS

7.1 Management of the COMPANY shall vest in the Board of Directors.

7.2 There shall be a maximum of _____ directors

7.3 SHAREHOLDER 1 shall be entitled to appoint _____ directors onto the BOARD,

7.4 Each of the directors (other than an alternate director) shall be entitled to appoint and remove any person (whether or not such a person is himself a director) as an alternate director to act in his place during his absence. A person may be appointed as alternate to represent more than one director and any person so appointed shall have a separate vote on behalf of each director he is representing In addition to his own vote (if any) as a director. An alternate director, whilst acting in the place of a director who appointed him, shall exercise and discharge all the duties and functions of the director he represents. The appointment of an alternate director shall cease on the happening of any event which, If he were a director, would cause him to cease to hold office as a director of the COMPANY or if the director who appointed him ceases to be a director, or gives notice to the COMPANY

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that the alternate director representing him shall have ceased to be his alternate director.

7.5 All appointments and removals of directors or alternate directors of the COMPANY shall be by written notice to the COMPANY.

8. **BOARD OF DIRECTORS MEETINGS**

8.1 The parties shall procure that BOARD meetings are held at least once every three months unless otherwise agreed: provided that any director shall have the right to convene a BOARD meeting at any time upon due notice in accordance with clause 8.2.

8.2 Unless otherwise agreed by the parties in any particular instance, 7 days' written notice (exclusive of the day of receipt) at least shall be given of each BOARD meeting. The SECRETARY shall send such notice together with an agenda for each meeting to all the directors and alternate directors. The agenda may be varied at any time prior to the meeting provided notice of the amendment is given to all directors and alternate directors at least one day prior to the meeting. The secretary shall also circulate minutes of each BOARD meeting to all the directors and alternate directors.

8.3 A quorum for all BOARD meetings shall be three (3) directors or their alternates, present in person.

8.4 If a quorum is not present at a meeting of the BOARD within 15 minutes after the time appointed for the meeting to commence, the meeting shall stand adjourned to a date 7 days later (or, if that day is not a BUSINESS DAY, the next BUSINESS DAY) at the same time and venue: provided that if a majority of the directors present agree that the matters to be considered at the meeting are urgent, the meeting shall be adjourned to the following day at the same time and venue. If at such adjourned meeting a quorum of directors is not present within 15 minutes after the time appointed for the meeting to commence, the directors present shall constitute a quorum. Notice of every such adjournment shall be given to all the directors by telefax or electronic mail as soon as reasonably possible. No business shall be transacted at such adjourned meeting of the BOARD which was not on the agenda for the original meeting.

8.5 Directors of the COMPANY may participate in and act at any BOARD meeting through the use of a conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute attendance and presence in person at the meetings by the person or persons so participating.

8.6 Decisions of the BOARD shall be taken by a simple majority.

8.7 A resolution in writing signed by directors sufficient to form a quorum shall be as valid as if passed at a BOARD meeting, provided that all directors have been given notice of the proposed resolution. Any such resolution may consist of several identical documents, each signed by one or more of the directors or alternates. A facsimile of a director's or alternate's signed resolution shall be acceptable evidence that such resolution has been signed by the director or alternate whose signature appears on the facsimile.

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9 SHAREHOLDERS' MEETINGS

- 9.1 The parties shall procure that SHAREHOLDERS meetings are held at least once every 12 months unless otherwise agreed by all the parties.
- 9.2 Subject to the provisions of the Companies Act in relation to special resolutions, a quorum for all the SHAREHOLDERS meetings shall be three (3) SHAREHOLDERS, present in person or by proxy, provided that a representative of SHAREHOLDER 1 is present in person or proxy, at the commencement of the meeting.
- 9.3 If a quorum is not present at a SHAREHOLDER'S meeting within 15 minutes after the time appointed for the meeting to commence, the meeting shall stand adjourned to a date 7 days later (or, if that day is not a BUSINESS DAY, the next BUSINESS DAY) at the same time and venue: provided that if the SHAREHOLDERS agree that the matters to be considered at the meeting are urgent, the meeting shall be adjourned to the following BUSINESS DAY at the same time and venue. If at such adjourned meeting a quorum is not present within 15 minutes after the time appointed for the meeting to commence, the SHAREHOLDERS present shall constitute a quorum. Notice of every such adjournment shall be given to all the SHAREHOLDERS by facsimile or electronic mail as soon as reasonably possible. No business shall be transacted at an adjourned SHAREHOLDERS meeting which was not on the agenda for the original meeting.
- 9.4 SHAREHOLDERS of the COMPANY may participate in and act at any shareholders' meeting through the use of a conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other. Participation in such manner shall constitute attendance and presence in person at the meeting by the person or persons so participating.
- 9.5 Every effort shall be made to reach consensus of any item raised at a meeting of SHAREHOLDERS. Where consensus cannot be reached and the matter is put the vote all decisions of the SHAREHOLDERS shall be taken by the majority of votes as if a poll had been demanded and each SHAREHOLDER shall have a vote for each SHARE it holds.

10 ACCOUNTING POLICY

The parties shall procure that the COMPANY shall adopt a policy in the preparation of its financial statements based on sound and generally accepted accounting principles and practice in South African accordance with the requirements of the Company Act.

11. FUNDING : LOAN ACCOUNTS

- 11.1 The SHAREHOLDERS shall be obliged to pay to the COMPANY:
- 11.1.1 the amounts reflected in the schedule which is Annexure "2" hereto on the dates reflected in that schedule or as may be amended from time to time by the BOARD; and
- 11.1.2 such additional amounts, as determined by the BOARD, that the COMPANY may require in order to complete the DEVELOPMENT (it being recorded that these additional contributions shall be paid in accordance with the SHARE RATIO), "These amounts shall constitute the SHAREHOLDERS' A LOAN ACCOUNTS."

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Should any SHAREHOLDER delay the payment of any amount it is obliged to pay to the COMPANY in terms of this paragraph 11.1, then in that event, the SHAREHOLDER in question shall be liable for payment of interest to the COMPANY, calculated from the date that such amount is due until the actual date of payment (both days inclusive) at a rate equal to the prime overdraft rate, from time to time, charged by the COMPANY'S bankers, plus two percentage points.

- 11.2 Further, unless the SHAREHOLDERS otherwise agree, no interest shall accrue on the A LOAN ACCOUNTS except to the extent that any SHAREHOLDERS' A LOAN ACCOUNT at any time exceeds the level for which it is required to keep it in the proportion of the SHARE RATIO, in which event, unless the parties agree otherwise, interest shall accrue on the "excess portion" of the relevant A LOAN ACCOUNT at a rate equal to 2 percentage points below the prime overdraft rate charged by the COMPANY'S bankers from time to time and from the date that the excess occurs until the date that the A LOAN ACCOUNTS are brought back into the proportion of the SHARE RATIO. (In this regard, it is the intention that where reasonably practical, the A LOAN ACCOUNTS shall be pro rata to the SHARE RATIO).
- 11.3 Should any SHAREHOLDER require the Installation of any ADDITIONAL SPECIFICATIONS in the unit(s) it is obliged to purchase (in terms of paragraph 18 hereof), and should the BOARD agree to the installation of such ADDITIONAL SPECIFICATIONS (which, it is recorded, the BOARD shall not be obliged to do), then in that event, all amounts payable by the SHAREHOLDER in question to the COMPANY in respect of such ADDITIONAL SPECIFICATIONS as prescribed by the BOARD (which shall include but is not necessarily limited to, the costs of procuring and installing the ADDITIONAL SPECIFICATIONS, as determined by the QUANTITY SURVEYOR, and any interest that may be payable to the COMPANY should the installation of such ADDITIONAL SPECIFICATIONS, in the BOARD'S opinion, be likely to cause a delay in the completion of the DEVELOPMENT or a delay in the transfer of any of the units) shall constitute the SHAREHOLDER'S B LOAN ACCOUNTS.
- 11.4 No interest shall accrue on the B LOAN ACCOUNTS.
- 11.5 Save to the contrary provided for herein, no SHAREHOLDER shall be entitled to claim repayment of its LOAN ACCOUNT unless:
- 11.5.1 The COMPANY is placed in liquidation (except for the purposes of amalgamation or reconstruction) or under judicial management, in either case whether provisionally or finally; or
- 11.5.2 the COMPANY submits a compromise or similar offer to its creditors generally; or
- 11.5.3 all of the SHAREHOLDERS agree to such repayment (it being recorded that, unless the SHAREHOLDERS agree to the contrary, LOAN ACCOUNTS shall be repaid to SHAREHOLDERS simultaneously and in proportion to the SHARE RATIO, insofar as possible.
- 11.6 It is recorded that it is the intention of the SHAREHOLDERS that the LOAN ACCOUNTS of each SHAREHOLDER shall be set off against the purchase price due by that

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SHAREHOLDER to the COMPANY in respect of the unit in the DEVELOPMENT such SHAREHOLDER is obliged to purchase (see paragraph 18 hereof).

12. FUNDING LOAN FROM FINANCIAL INSTITUTION

- 12.1 It is recorded that in order to purchase the PROPERTY and construct the DEVELOPMENT, as envisaged in this agreement, the COMPANY shall, in addition to funding received from SHAREHOLDERS (as contemplated in paragraph 11 above), be compelled to borrow funds from a financial institution. In this regard, the BOARD, in conjunction with the Development Coordinator, shall make application to a recognized financial institution(s) on behalf of the COMPANY, to borrow the amounts required in this regard, on such terms and conditions as the BOARD deems most favourable to the COMPANY.
- 12.2 Each of the SHAREHOLDERS undertakes, in favour of the other SHAREHOLDERS, to forthwith, when called upon, furnish to the financial institution[^]) referred to in paragraph 12.1 above all information and documentation in respect of their company, close corporation, trust and where applicable personal financial position, which, the aforesaid financial institution may require when assessing whether to grant the COMPANY the loan contemplated in paragraph 12.1 above.
- 12.3 It is recorded that the SHAREHOLDERS shall be required to stand surety, pro rata to the SHARE RATIO, for the obligations of the COMPANY to the aforesaid financial institution and undertake to sign such or suretyships when requested to do so by the BOARD and where the SHAREHOLDER'S owning entity or shareholder is a trust, the trustees of such trust shall be required to stand surety for the obligations of the SHAREHOLDER as may be required by the aforesaid financial institution.

13 MANAGEMENT OF THE DEVELOPMENT

- 13.1 The COMPANY shall appoint KRG Key Developments (Pty) Ltd as the Development Coordinator, which appointment has been secured by a separate agreement entered into between the COMPANY and KRG Key Developments (Pty) Ltd. KRG Key Developments (Pty) Ltd shall manage the day to day operations of the COMPANY, subject always to the direction and instruction that may be given from time to time, by the BOARD.
- 13.2 KRG Key Developments (Pty) Ltd shall ensure:
- 13.2.1 that the entire "Development" process, including, but not limited to, the purchase of the PROPERTY, the development and approval process, the procurement and construction process, transfer of the units in the DEVELOPMENT to the SHAREHOLDERS and the deregistration of the COMPANY is carried out in a good, proper and professional manner for the mutual benefit of the SHAREHOLDERS
- 13.2.2 that a detailed account of all expenditure incurred by the COMPANY, in the form and with the content from time to time required by the BOARD, is presented to the BOARD for consideration, at the BOARD meetings referred to in 8.1 that as soon as possible after the completion of construction of the DEVELOPMENT the units are transferred into the names of

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the respective SHAREHOLDERS, the Development Bond is cancelled and any surplus loan accounts in the COMPANY (after payment of all its debts) are refunded to SHAREHOLDERS in proportion to the SHARE RATIO; and

- 13.2.3 that within 90 days of the issue of the Certificate of Final Completion of the Works or as soon as possible thereafter and provided that the provisions of paragraph 13.2.2 have been complied with, a process be set in place to deregister the COMPANY;
- 13.2.4 that the audited consolidated financial statements of the COMPANY, signed without qualification by the COMPANY'S auditors, are presented to the BOARD for consideration within not more than 90 days after the completion of the project each financial year;
- 13.2.5 that the COMPANY is managed in a sound, lawful and businesslike way;
- 13.2.6 that the Body Corporate of the DEVELOPMENT is constituted and fully operational; and
- 13.2.7 that all other tasks normally carried out by a "Development Coordinator" in achieving a successful development are timeously initiated in order to ensure maximum mutual benefit to all of the SHAREHOLDERS. KRG Key Developments (Pty) Ltd shall only be responsible for all development function issues within its direct control and shall not be required to assume overall development risk which shall remain vested with the SHAREHOLDERS.
- 13.3 The COMPANY shall appoint _____ as AUDITORS, which appointment has been secured by a separate agreement entered into between the COMPANY and such auditors.
- 13.4 KRG Key Developments shall be entitled to set off all or part of its fee against any amounts owing by Shareholder 1 - _____ to the COMPANY in respect of its "A" or "B" Loan Accounts.

14 **COSTINGS OF THE DEVELOPMENT**

It is recorded that the anticipated costs of constructing the DEVELOPMENT have been calculated, in good faith and in a professional manner, having regard to the available information, by the Quantity Surveyor. However, should the anticipated costs of constructing the DEVELOPMENT prove to be in excess of R _____ (_____) (excluding Value Added Tax) per sectional title square metre, once tenders have been received from the various construction companies invited to tender on the construction of the DEVELOPMENT, then in that event, the SHAREHOLDERS shall meet to decide whether to proceed with the DEVELOPMENT, as currently designed and reflected in the various annexures hereto (which, it is anticipated, will entail inter alia, an increase in the contribution to A LOAN ACCOUNTS being required from each SHAREHOLDER) or whether to redesign the DEVELOPMENT to reduce the construction costs or to delay the construction of the DEVELOPMENT or to proceed on some other basis.

15 **TRANSFER OF SHARES**

- 15.1 A SHAREHOLDER shall not be entitled to sell, alienate, transfer or otherwise encumber its SHARES or LOAN ACCOUNTS, without the consent of the other SHAREHOLDERS (and if

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the SHAREHOLDERS do consent in this regard, subject to such conditions as the SHAREHOLDERS may impose).

15.2 The provisions of paragraph 15.1 above shall not apply to

15.2.1 the sale and transfer of shares allocated to SHAREHOLDER 1, in terms of paragraph 18 hereof, in respect of the purchase of unsold proposed units, of the DEVELOPMENT. It is recorded and agreed by all signatories hereto that SHAREHOLDER 1 may elect to purchase these unsold units in the event that they remain unsold as at the date of the last signature hereto, and SHAREHOLDER 1 shall be entitled on behalf of the company to sell these units as provided herein by completing paragraph 1 with the new shareholder details, paragraph 5 and 18 with the new shareholder shares whilst reducing its shareholding accordingly and paragraph 29 with the new shareholder's domicilia without requiring all remaining shareholders to initial such changes through the addition of additional shareholders to the Shareholders Agreement.

16. INVOLUNTARY TRANSFER

Subject to the provisions of paragraph 24 below, if any SHAREHOLDER should breach any material provision of this agreement and such breach is not capable of being remedied, or should the defaulting SHAREHOLDER fail to remedy the breach in terms of clause 23, if it is capable of being remedied, or if any SHAREHOLDER is liquidated or sequestered (as the case may be), whether provisionally or finally, then such SHAREHOLDER'S SHARES and LOAN ACCOUNTS shall *ipso facto* (but subject to what follows) be deemed to have been offered to the other SHAREHOLDERS in the proportions which their shareholdings bear to one another (or such other proportions as they may agree in writing), which offer shall be open for a period of 30 days from the date of breach or liquidation or sequestration, as the case may be. Should the non-defaulting SHAREHOLDERS not have accepted such offer in full, in writing, within such period, such SHAREHOLDER'S SHARES and LOAN ACCOUNTS remaining unsold shall be deemed to have been offered on the same basis (except the 30 day period shall be reduced to 10 days) to those of the SHAREHOLDERS who accepted the first offer, in the proportions which their shareholdings bear to one another (or such other proportion as they may agree in writing). Thereafter should the non-defaulting SHAREHOLDERS not have accepted such offer in full in writing within such period, the offer shall *ipso facto* lapse. The terms and conditions of any sale concluded in terms of this clause 16 shall be as follows if the offer is accepted:

- 16.1 the purchase price of the LOAN ACCOUNT shall be the face value thereof and the purchase price of the SHARES shall be the value thereof based on the value of the COMPANY as determined by the auditors of the COMPANY in terms of clause 17;
- 16.2 the purchase price referred to in clause 16.1 shall be paid within 60 days of the date upon which the purchase price is determined in accordance with clause 17 against transfer of the SHARES and cession of the LOAN ACCOUNT by the disposer in favour of the acquiring SHAREHOLDER;
- 16.3 any portion of the purchase price which is not paid within the aforesaid period of 60 days, shall bear interest at the prime bank overdraft rate prevailing from time to time at the COMPANY'S principal bankers plus 2%;

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- 16.4 the acquiring SHAREHOLDER shall be obliged to comply with all the obligations of the DEFAULTING SHAREHOLDER in terms of this agreement (including but in no way limited to the obligation to purchase the unit(s) as contemplated in paragraph 18 hereof).

17 DETERMINATION OF VALUE OF SHARES

- 17.1 The value of the COMPANY (and hence of each of the SHARES) which may fail to be determined in terms of clause 16 shall be determined by the auditors of the COMPANY based on such information pertinent to the COMPANY'S business as the auditors deem appropriate including, but not limited to, the value of the PROPERTY and the improvements thereon and any indebtedness of the COMPANY, which determination shall be undertaken unless the parties are able to agree between them the value for the relevant purposes. The auditors, in determining such value -

- 17.1.1 shall act as experts and not as arbitrators;
- 17.1.2 shall determine the liability for their charges;
- 17.1.3 shall not take into account whether the shareholding comprises a majority or minority interest;

The auditors shall notify the SHAREHOLDERS in writing of their determination.

- 17.2 Each of the SHAREHOLDERS shall be entitled to make written representations to the auditors prior to their furnishing their decision, which written representation shall be furnished to the other SHAREHOLDERS having an interest in the valuation, which other SHAREHOLDER shall be entitled to respond thereto within 10 days of receipt of such representations.
- 17.3 The parties shall procure that the auditors use their best endeavours to determine the value of the COMPANY (for the purposes of determining the value of the shares based on such value) within 30 days from the date upon which they were requested to do so.
- 17.4 The determination of the auditors as provided for in that clause shall, in the absence of manifest error, be final and binding on the parties and shall be capable of being made an order of any Court of competent jurisdiction.

18 SALE OF UNITS IN THE DEVELOPMENT TO THE SHAREHOLDERS

- 18.1 It is recorded that it is the intention of the SHAREHOLDERS that the following units of the total sectional title area of the building (being _____ square metres) shall be transferred as sectional title units to the SHAREHOLDERS, namely:

18.1.1 SHAREHOLDER 1 - SHARES PROPOSED SECTIONS

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18.1.2	SHAREHOLDER 2	-	SHARES	PROPOSED SECTIONS
18.1.3	SHAREHOLDER 3	-	SHARES	PROPOSED SECTIONS
18.1.4	SHAREHOLDER 4	-	SHARES	PROPOSED SECTIONS
18.1.5	SHAREHOLDER 5	-	SHARES	PROPOSED SECTIONS
18.1.6	SHAREHOLDER 6	-	SHARES	PROPOSED SECTIONS
18.1.7	SHAREHOLDER 7	-	SHARES	PROPOSED SECTIONS
18.1.8	SHAREHOLDER 8	-	SHARES	PROPOSED SECTIONS
18.1.9	SHAREHOLDER 9	-	SHARES	PROPOSED SECTIONS
18.1.10	SHAREHOLDER 10	-	SHARES	PROPOSED SECTIONS
18.1.11	SHAREHOLDER 11	-	SHARES	PROPOSED SECTIONS
18.1.12	SHAREHOLDER 12	-	SHARES	PROPOSED SECTIONS
18.1.13	SHAREHOLDER 13	-	SHARES	PROPOSED SECTIONS
18.1.14	SHAREHOLDER 14	-	SHARES	PROPOSED SECTIONS

18.2 In respect of the sale of the units to the SHAREHOLDERS as envisaged in paragraph 18.1 above, it is recorded that:

18.2.1 the purchase prices, at which it is proposed that each of the units are sold to the SHAREHOLDERS, are listed in annexure "4" hereto;

18.2.2 further details of the units, including the plan of each of the units, the layout plan of the DEVELOPMENT and the SPECIFICATIONS, are attached hereto marked annexures "1", "5" and "6" respectively.

18.3 The SHAREHOLDERS shall be obliged to sign the Purchase and Sale Agreement attached hereto marked annexure "3", duly completed by the COMPANY'S appointed attorneys, immediately after the signature of this Shareholders Agreement or such later date as the BOARD may determine. (It is recorded that in the unlikely event of any of the aforesaid sale agreements lapsing as a consequence of the suspensive conditions referred to in paragraph 6 of the purchase and sale agreement not being met timeously, then in that event, the SHAREHOLDER in question shall still be obliged to purchase the unit(s) In question, on the terms and conditions as the SHAREHOLDERS may agree to).

18.4 In the event of any SHAREHOLDER requiring the installation of any ADDITIONAL SPECIFICATIONS In the unit(s) he is obliged to purchase in terms hereof, and the BOARD agreeing to the installation of such ADDITIONAL SPECIFICATIONS, then in that event, an addendum to the aforesaid purchase and sale agreement Shall be entered into between the

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COMPANY and the SHAREHOLDER in question, which addendum shall record the ADDITIONAL SPECIFICATIONS to be installed and the resulting adjustment in the purchase price of the unit (see also paragraph 11.3 in this regard).

19. RESTRICTED MATTERS

The parties shall procure that the COMPANY shall not directly or indirectly undertake or enter into any of the following transactions or matters without the prior written consent of all of the SHAREHOLDERS, which consent may be specific to the transaction or matter concerned or may be in general terms:

- 19.1 the conduct of any business undertaking other than that set out in clause 6;
- 19.2 the establishment of any new business undertaking or activity or the acquisition of any existing business undertaking or activity, whether by the acquisition of the assets of the undertaking or indirectly by the purchase of equity in any company or otherwise;
- 19.3 the disposal of the whole or the major portion of its assets or undertaking except as specifically provided for elsewhere in this Agreement;
- 19.4 the acquisition or disposal of any assets other than in the ordinary course of developing the site;
- 19.5 the provision of any suretyship, undertaking, indemnity or other form of intercession for the obligations of any third party;
- 19.6 the provision of any cession, pledge, mortgage, hypothecation or encumbrance of any of its assets;
- 19.7 the purchase or sale of any immovable property (other than the purchase of PROPERTY and the sale of sectional title units in the DEVELOPMENTS to the SHAREHOLDERS as envisaged in paragraph 18 hereof);
- 19.8 the obtaining of any credit facilities, or the borrowing of any money, other than in the form of a development loan (referred to in paragraph 12 hereof);
- 19.9 the making of and the terms and conditions of any loan to any person;
- 19.10 the dissolution, discontinuance or winding up of its business or any material part thereof except as specifically provided for in this Agreement;
- 19.11 the issue of shares, share options or debentures, whether convertible or otherwise, or any share buy-back;
- 19.12 the instituting or continuance of any legal proceedings of any nature other than for the uncontested collection of debts;
- 19.13 the employment of any staff by the COMPANY;
- 19.14 the payment of any remuneration, of any nature whatsoever, to any director or SHAREHOLDER by the COMPANY (excluding any amount that may be paid to a SHAREHOLDER or director for the provision of professional services to the COMPANY,

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which arrangement shall be dealt with under a separate written agreement, entered into by the COMPANY and the professional in question);

- 19.15 entering into any material contract which is not in the ordinary course of its business;
- 19.16 any change in the financial year end;
- 19.17 any change in auditors;
- 19.18 any change in the accounting and/or dividend policies or practices;
- 19.19 the determination of business strategy;
- 19.20 the determination of any bank overdraft limits;
- 19.21 the conclusion or alteration of any business arrangement, including any contract, or the waiver of any rights in connection with such arrangement, with any shareholder of the COMPANY or any company, close corporation, partnership or similar entity controlled by any such person or in which any such person has a direct or indirect interest;
- 19.22 any matter which requires to be passed by special resolution in terms of the Companies Act.

20. **RIGHTS OF SHAREHOLDERS TO INSPECT BOOKS**

Any SHAREHOLDER shall be entitled at any time, on reasonable notice to the COMPANY:

- 20.1 to inspect all of the books and records of the COMPANY; and/or
- 20.2 to have auditors selected by it investigate any aspect of the affairs of the COMPANY (at such SHAREHOLDER'S cost).

21 **SURETYSHIPS**

21.1 As referred to in paragraph 12.3 hereof, the SHAREHOLDERS as well as their owning entities shall be required to stand surety, in proportion to the SHARE RATIO, for the obligations of the COMPANY to the financial institution referred to in 12.1 hereof.

21.2 if a SHAREHOLDER makes any payment pursuant to the suretyship referred to in 21.1:

- 21.2.1 such payment shall constitute part of the SHAREHOLDERS' A LOAN ACCOUNTS;
- 21.2.2 it shall not be open to the other SHAREHOLDERS to challenge whether the payment ought to have been made in that amount or at all.

22 **RESOLUTION OF DISPUTES**

22.1 Should any SERIOUS DEADLOCK arise between the parties at any time, whether in their capacities as SHAREHOLDERS or directors of the COMPANY, this dispute shall be submitted to and decided by in arbitration as provided for in this clause 22.

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22.2 Such arbitration shall be held:

22.2.1 at Durban;

22.2.2 under the provisions of the Arbitration Act No. 42 of 1965 of the Republic of South Africa as amended from time to time and the Association of Arbitrators Rules for the Conduct of Arbitrations (latest Edition).

22.3 The arbitrator shall be, if the question in issue is:

22.3.1 primarily an accounting matter, a practicing auditor of not less than ten (10) years standing appointed by the President for the time being of the Institute of Chartered Accountants; primarily a legal matter, a practicing attorney of not less than ten (10) years standing appointed by the President for the time being of the KwaZulu-Natal Law Society at the request of either Party;

22.3.2 any other matter, an independent person agreed upon between the Parties and failing agreement as may be appointed by the President for the time being of the said Law Society at the request of either party.

22.4 If agreement cannot be reached within seven (7) days after a dispute has been declared and an arbitration has been demanded as to whether the question in issue falls under clause 22.3.1, 22.3.2 or 22.3.3 above, then a practising attorney as agreed upon the parties and failing agreement then appointed at the request of either Party by the President for the time being of the said Society as soon as possible thereafter, shall determine whether the question in issue falls under clause 22.3.1, 22.3.2 or 22.3.3 above so that an arbitrator can be appointed in terms of clause 22 and the arbitration can be held and concluded as soon as possible.

22.5 The Parties **irrevocably** agree that the decision of those arbitration proceedings:

22.5.1 shall be binding on them;

22.5.2 shall be carried into effect;

22.5.3 may be made an order of court of competent jurisdiction.

The foregoing arbitration provisions of this agreement shall continue to subsist notwithstanding any cancellation or termination of this agreement.

23 **BREACHES**

23.1 If any SHAREHOLDER materially breaches any of its obligations under this agreement then, without prejudice to any claim the COMPANY may have against such SHAREHOLDER:

23.1.1 if such breach is not capable of being remedied, the provisions of clauses 16 and 17 shall apply and, in the absence of the other SHAREHOLDERS exercising their rights in terms

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thereof, the defaulting SHAREHOLDER shall be liable in damages to the aggrieved SHAREHOLDERS to the extent that any such damages can be proved and quantified;

23.1.2 if such breach is capable of being remedied and the defaulting SHAREHOLDER fails to remedy such breach within a period of 14 days from receipt of written notice from the other SHAREHOLDERS calling upon It to do so, the provisions of clause 23.1.1 above (as read with clauses 16 and 17) shall apply, *mutatis mutandis*, alternatively the other SHAREHOLDERS shall be entitled to sue for specific performance if such is a competent remedy in the circumstances.

23.2 The insolvency of any SHAREHOLDER shall be deemed to constitute a material breach which is not capable of being remedied.

24 SHAREHOLDERS SPECIAL REMEDY

In no way detracting from the SHAREHOLDER'S rights in terms of paragraph 23 above or at law, it is recorded that in the event of:

24.1 any SHAREHOLDER (hereinafter in this paragraph 24, referred to as the "DEFAULTING SHAREHOLDER") failing:

24.1.1 to make any payment to the COMPANY as contemplated in paragraph 11 hereof;

24.1.2 to furnish the financial institution in question with the required information (as contemplated in paragraph 12.2 hereof); or

24.1.3 to sign the suretyship (as contemplated in paragraphs 12.3 and 21 hereof) timeously after the expiry of a 7 (SEVEN) day period from receipt of a written notice by the BOARD, calling upon the DEFAULTING SHAREHOLDER to so perform; or

24.2 the DEFAULTING SHAREHOLDER not performing any of its obligations in terms of the purchase and sale agreement of sale to be entered into between the COMPANY and the DEFAULTING SHAREHOLDER in respect of the purchase of the designated unit(s) in the DEVELOPMENT (as more fully envisaged in paragraph 18 hereof) and as a consequence, the COMPANY cancelling such agreement of sale; or

24.3 the financial institution to whom the BOARD may make an application for a loan, on behalf of the COMPANY (as envisaged in paragraph 12 hereof) refusing such a loan for, inter alia, any reason attributable to the DEFAULTING SHAREHOLDER, including but in no way limited to, the DEFAULTING SHAREHOLDER'S personal financial circumstances being insufficient to provide the aforesaid financial institution with the required security from a surety, or

24.4 the DEFAULTING SHAREHOLDER not timeously registering the purchasing entity for VAT or timeously procuring end bond finance or providing any other information or document that may be reasonably be required to satisfy the requirements of the financial institution providing the development loan to the COMPANY or alternatively where such end bond finance secured by the DEFAULTING SHAREHOLDER is subsequently withdrawn by the financial institution providing such end bond finance for whatever reason and where the DEFAULTING SHAREHOLDER is unable to timeously provide alternative financial arrangements acceptable

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to the financial institution providing the development loan to the COMPANY.

then, in the events described in 24.1, 24.2, 24.3 and 24.4, at the election of the balance of the SHAREHOLDERS (hereinafter referred to as the "NON-DEFAULTING SHAREHOLDERS), the DEFAULTING SHAREHOLDER shall be obliged to sell its SHARES to the NON-DEFAULTING SHAREHOLDERS on the following terms and conditions, namely:

- 24.4.1 the purchase price of the SHARES shall be the par value of same;
- 24.4.2 the COMPANY shall within a period of 120 (ONE HUNDRED AND TWENTY) days of the sale and transfer of the DEFAULTING SHAREHOLDER'S SHARES to the NON-DEFAULTING SHAREHOLDERS (as contemplated above) pay to the DEFAULTING SHAREHOLDER:
 - 24.4.2.1 in the instance referred to in paragraph 24.3 above, 40% of the DEFAULTING SHAREHOLDER'S A LOAN ACCOUNT (it being agreed between the parties that the 60% of the DEFAULTING SHAREHOLDER'S A LOAN ACCOUNT and the DEFAULTING SHAREHOLDER'S entire B LOAN ACCOUNT, which Shall not be repaid by the COMPANY in these circumstances, shall be forfeited to the COMPANY as a pre-estimate of damages the COMPANY has suffered as a consequence of the SHAREHOLDERS failure to comply with its obligations in terms hereof)
 - 24.4.2.2 in the instances referred to in paragraphs 24.1, 24.2 and 24.4 above 10% of, the DEFAULTING SHAREHOLDER'S entire A LOAN ACCOUNT (it being agreed between the parties that 90% of the DEFAULTING SHAREHOLDERS "A" LOAN ACCOUNT and the DEFAULTING SHAREHOLDER'S entire B LOAN ACCOUNT, which shall not be repaid by the COMPANY in these circumstances, shall be forfeited to the COMPANY as a pre-estimate of damages the COMPANY will suffer in these circumstances); and
- 24.4.3 the DEFAULTING SHAREHOLDER'S SHARES shall be transferred to the NON-DEFAULTING SHAREHOLDERS, which they shall hold jointly in proportion to their SHARE RATIO (unless the BOARD decides otherwise).
- 24.4 Notwithstanding the provisions of paragraph 24.4.2.1 and 24.4.2.2 above, the BOARD may, decide to refund to the DEFAULTING SHAREHOLDER a further portion of the DEFAULTING SHAREHOLDER'S A LOAN ACCOUNT, should they, in their sole and absolute discretion, deem such a refund fair and reasonable in the circumstances.
- 24.5 The provisions of this paragraph 24 shall prevail over the provisions of clause 16 hereof.

25 NO PUBLICATION

No party shall, without the prior written consent of the BOARD, issue or make any public announcement or statement or otherwise disclose to any person any information regarding this agreement or its Implementation: provided that this clause shall not apply to disclosures:

- 25.1 which the disclosing party is obliged to make in terms of any law;

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- 25.2 which the disclosing party is obliged to make in terms of generally accepted accounting practices in South Africa; or
- 25.3 necessary for the enforcement of this agreement.

26 **MEMORANDUM OF INCORPORATION**

In the case of any conflict or inconsistency between the provisions of this agreement and the memorandum or articles of association of the COMPANY for the time being in force, the provisions of the Companies Act this agreement shall prevail and the SHAREHOLDERS shall take whatever steps may be necessary in the circumstances to amend the memorandum or articles of association in order to remove the conflict or inconsistency.

27 **MISCELLANEOUS LEGAL PROVISIONS**

- 27.1 This agreement contains all of the express provisions agreed on by the parties with regard to the subject matter hereof and the parties waive the right to rely on any alleged express provision not contained herein.
- 27.3 No party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded herein. No agreement varying, adding to, deleting from or cancelling this agreement and no waiver of any right under this agreement shall be effective unless reduced to writing and signed by or on behalf of the parties.
- 27.4 Except as set out in this agreement, no party may cede any of its rights or delegate or assign any of its obligations in terms of this agreement without the prior written consent of the other parties.
- 27.5 This agreement shall be governed by and construed according to the law of South Africa.
- 27.6 Since the provisions of this agreement have been settled by negotiation, the rule of construction that clauses shall be interpreted against the interests of the party principally responsible for drafting shall not apply.
- 27.7 The intention of the parties is that, for this agreement to be valid, it must be in writing and signed by the parties.
- 27.8 Headings of clauses are inserted for the purpose of convenience only and shall be ignored in the interpretation of this agreement.
- 27.9 Unless inconsistent with the context, words signifying any one gender shall include the others, words signifying the singular shall include the plural and vice versa and words signifying natural persons shall include artificial persons and vice versa.

28. **SPECIAL CONDITIONS**

It is agreed that the name of the Development shall be The Worx Zone

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29. NOTICES AND DOMICILIA

29.1 All notices to be given in terms of this agreement shall be in writing and shall be delivered to:

Shareholder 1 at:

Shareholder 2 at:

Shareholder 3 at:

Shareholder 4 at:

Shareholder 5 at:

Shareholder 6 at:

Shareholder 7 at:

Shareholder 8 at:

Shareholder 9 at:

Shareholder 10 at:

Shareholder 11 at:

Shareholder 12 at:

Shareholder 13 at:

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Shareholder 14 at:

which physical addresses the parties select as their *domicilium citandi et executandi*.

28.2 Each party shall be entitled at any time to change its *domicilium* to any other physical address within the Republic of South Africa provided that such change shall take effect only upon delivery of notice thereof to the other parties.

28.3 Notwithstanding the above any notice actually received by the party to whom it is addressed shall be adequate notice to it, even if not delivered at the chosen *domicilium citandi et executandi*.

SIGNED at this day of 20-

AS WITNESSES :

- 1.
- 2.

SIGNED at this day of 20-

AS WITNESSES :

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- 2.

SIGNED at this day of 20-

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LIST OF ANNEXURES

ANNEXURE "1"	DETAILS OF THE DEVELOPMENT (INCLUDING THE LAY OUT PLAN)
ANNEXURE "2"	PAYMENT OBLIGATIONS OF THE SHAREHOLDERS TO THE COMPANY IN RESPECT OF THE "A" LOAN ACCOUNTS
ANNEXURE "3"	PURCHASE AND SALE AGREEMENT
ANNEXURE "4"	PRICE OF EACH OF THE UNITS
ANNEXURE "5"	PLANS OF THE UNITS
ANNEXURE "6"	SPECIFICATIONS