

**PRESALES AGREEMENT
MADE AND ENTERED INTO BY AND BETWEEN**

THE MUNICIPAL COUNCIL OF WINDHOEK

herein represented **by SHERIDAN SIMPSON** as the **Manager: Property Management** acting on behalf of the Chief Executive Officer in terms of section 27(5) of Act 23 of 1992 and **ELIA TUHAFENI SHAPOPI** as the **Section Head: Property Sales and Acquisitions** acting on behalf of the chairperson of the Management Committee in terms of section 31A(a) of act 23 of 1992

of

Postal Address: PO Box 59, Windhoek

Residing/Office at: c/o Sam Nujoma Drive and Independence Avenue, Erf No. 5378

Contact Number: +264 61-290 3037

E-mail: sds@windhoekcc.org.na

(Hereinafter referred to as "**THE SELLER**")

and

SINCO INVESTMENTS SIXTY- ONE (PTY) LTD

Company Reg number: 2013/0874

Tax registration number: 6997310-01-1

Herein represented by **PAMENI HANGALA and/or DIINA SHITUULA**, being duly authorized thereto

of

Postal Address: PO Box 27911, Windhoek

Residing/Office at: 333 Sam Nujoma Avenue, Klein Windhoek

Contact Numbers: Tel: 061 410 700 / Fax: 061 400 155 / Cell: 081 144 2048

E-Mail: diina@hangala.com

(Hereinafter referred to as "**THE DEVELOPER**")

and

IDENTITY NUMBER _____

MARITAL STATUS _____

or

COMPANY / TRUST / CC _____

REGISTRATION NUMBER _____

REPRESENTED BY _____

of

PO BOX _____

NAMIBIA

Physical Address (*domicilia citandi et executandi*)

Contact Number: _____

E-mail: _____

(Hereinafter referred to as "**THE PURCHASER**")

RECORDAL

WHEREAS

- A The **Seller** is the registered owner of certain undeveloped erven situated in Auasblick in the Town of **WINDHOEK**, as listed on Annexure "A" hereto (hereinafter referred to as the "**DEVELOPMENT ERVEN**").
- B The **Developer** has entered into a Development Agreement in terms of which Development Agreement the Developer will provide municipal services to the erven at the costs of the Developer.
- C The **Purchaser** wishes to purchase an erf in the said development from the **Seller** and on the further terms and conditions set forth in this agreement.

- D The Seller and the Developer have agreed that the Developer can launch the project in order to secure presales and enter into this presales agreement.
- E The Developer and the Purchaser have reached agreement on the terms and conditions that will be given in this presale agreement.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

- 1.1 In this agreement and its annexures, the following words shall have the meaning as set out unless inconsistent with the context:
- 1.1.1 **"The Commencement Date"** shall mean the date upon which the construction of and the provision of the services commences which construction shall commence by March 2024;
- 1.1.2 **"Confirmation letter"** shall mean a letter directed to the Developer and Seller indicating that all suspensive conditions as set out in the term sheet of the financier have been fulfilled and that funds will be made available to the Developer for purposes of providing services;
- 1.1.3 **"the Conveyancers"** shall mean **FISHER, QUARMBY & PFEIFER** (Chris Gouws/Manuela Steenkamp), No. 43 Dr. Theo-Ben Gurirab Street, Windhoek, Tel: 061 – 233 171; Email: manuela@fqp.com.na or chris@fqp.com.na
- 1.1.4 **"the Deed of sale"** shall mean a comprehensive Deed of Sale to be entered into between the Municipality of Windhoek and the Purchaser following the reservation;
- 1.1.5 **"the Development loan"** shall mean a loan applied for by the Developer in order to finance the completion of the municipal services of the Development;
- 1.1.6 **"the Development"** shall mean the provision of municipal services to the Auasblick Extension 1 erven as set out on Annexure "A" hereto, in accordance with the approved layout thereof as it appears from the general plan by construction of municipal related infrastructural services;

- 1.1.7 **"the Developer"** shall mean **SINCO INVESTMENTS SIXTY- ONE (PROPRIETARY) LIMITED, COMPANY REGISTRATION NUMBER 2013/0874**
- 1.1.8 **"the Effective date"** shall mean the date of registration of transfer of the property in the name of the Purchaser;
- 1.1.9 **"Municipality"** shall mean the Municipality of Windhoek;
- 1.1.10 **"the Property"** means the following Erf, **which erf will be fully serviced of municipal services;**
- CERTAIN **ERF NO _____ AUASBLICK EXTENSION 1
SITUATED IN THE TOWN OF WINDHOEK
REGISTRATION DIVISION "K",
KHOMAS REGION
MEASURING _____ SQUARE METRES**
- HELD BY Certificate of Registered Title No. T3244/2023 with
General Plan SG No. A710/2018 relating thereto**
- 1.1.11 **"the Seller"** shall mean the Municipal Council of Windhoek;
- 1.1.12 **"the Services"** means the infrastructural bulk and other local authority related services the seller is obliged to construct and which comprise the following:
- 1.1.12.1 Water Reticulation;
 - 1.1.12.2 Sewer Reticulation;
 - 1.1.12.3 Electrical Reticulation;
 - 1.1.12.4 Roads and Stormwater infrastructure.

2. PRESALE AND METHODOLOGY

- 2.1 Subject to the provisions of this presales agreement, the Developer hereby offers to reserve the property to the Purchaser who accepts the presale offer.

- 2.2 Potential Purchasers shall have the right to enter into a presale agreement in respect of a maximum number of properties on the condition that a reservation fee for each property is paid into the Trust Account of Fisher, Quarmby & Pfeifer in terms of the provisions of sub clauses 2.3 and 3.1 hereof.
- 2.3 This presale offer shall only become valid and enforceable once a **minimum** reservation fee of N\$50,000.00 (Fifty Thousand Namibia Dollars) has been deposited into the Trust Account of Fisher, Quarmby & Pfeifer as more fully set out in sub clause 3.1 hereunder. The Purchaser shall have 7 (seven) calendar days, from date of signature hereof, to deposit the reservation fee. Purchasers shall be obliged to note the time and date on their proof of payment as properties will be sold on a first come first serve basis. Should any dispute arise on the time and date of payment of the reservation fee, the erf shall be allocated to the potential purchasers whose payment appears first on the Trust Account of FQP.
- 2.4 The presales agreement will only be signed after confirmation that the reservation fee has reached the account and there is proof of payment with the Developer and the preferred erf is allocated.
- 2.5 The presales agreement will be signed at the Developer's Offices and the following certified documentation must be supplied and included in the signature:
- 2.5.1 ID of Purchaser;
 - 2.5.2 Marriage certificate:
 - 2.5.3 Antenuptial Contract (ANC) if relevant;
 - 2.5.4 Proof of payment of the N\$50,000.00 into the account.
- 2.6 It is recorded that the Developer will be responsible for the completion of the municipal services on the property and that the Developer has applied for a loan in order to finance the provision of services. This development loan is subject to a condition that 60% of the properties, which equate to approximately 90.6 erven, be sold before the funds for the services will be released. Once the minimum sales have been achieved and all suspensive conditions as set out in the term sheet of the Financier have been fulfilled, the Financier will send a confirmation letter to the Developer and the Seller.

- 2.7 The Developer shall ensure that a comprehensive deed of sale be drafted / finalized between the Seller and the Purchaser once the presale agreement becomes binding and the confirmation letter from the Financier has been issued to the Developer and the Seller. This presale agreement shall on the conditions normally included in the standard Deed of Sale that the Municipal Council of Windhoek enters into with prospective Purchasers. A standard Municipal Deed of Sale is attached hereto marked Annexure "B".
- 2.8 Without limiting the generality hereof it is specifically agreed that the Municipality may include the following clauses:
- 2.8.1 That the Purchaser/s will have 45 (Forty Five) calendar days to secure the Purchase Price either in cash or by furnishing acceptable bank guarantees to the seller; and
- 2.8.2 Conditions precedent to the effect that transfer may only be effected once the municipal services have been installed to the satisfaction of the Municipality as strictly in terms of the Development Agreement between the Developer and the Municipality; and
- 2.8.3 An obligation on the Purchaser to develop the property within a specific time period (see clause 14 of the standard municipal Deed of Sale); or
- 2.8.4 A voetstoots clause; and
- 2.8.5 Special conditions pertaining to the Property (see clause 23 of the Municipal Deed of Sale); and
- 2.8.6 Restrictive clause on resale in the event of the property not being improved (see clause 27 of the standard Municipal Deed of Sale)

3. **PURCHASE PRICE AND PAYMENT:**

The Purchase Price for the property shall be **N\$**_____ (**_____ NAMIBIA DOLLARS**) (**excluding Value Added Tax**), payable as follows:

- 3.1 A **minimum** reservation fee of N\$50,000.00 (Fifty Thousand Namibia Dollars) shall be paid into the Trust Account of Fisher, Quarmby & Pfeifer within 7 (seven) days from date hereof, failing which this presales agreement will lapse automatically. The particulars of the Trust Account being as follows:

FISHER, QUARMBY & PFEIFER TRUST ACCOUNT

**1. FIRST NATIONAL BANK WINDHOEK
BUSINESS BRANCH
ACCOUNT NUMBER: 555 0203 9338
BRANCH CODE: 281872**

or

**2. NEDBANK NAMIBIA
MAERUA MALL BRANCH
ACCOUNT NUMBER: 1199 0023 516
BRANCH CODE: 461-041**

or

**3. STANDARD BANK NAMIBIA
WINDHOEK BRANCH
ACCOUNT NUMBER: 600 000 361 95
BRANCH CODE: 082-372**

REF: MS/Erf Number____, Auasblick Extension 1

- 3.2 The balance Purchase Price shall be payable on the date of registration. The Purchaser shall be obliged to secure the purchase price either in cash or by furnishing acceptable bank guarantees to the Seller or the Seller's Conveyancers within 45 (Forty Five) calendar days from date of Deed of Sale.
- 3.3 The reservation fee shall form part of the purchase price. It is specifically agreed that the reservation fee will only be deposited into an interest bearing account from N\$50,000.00 or more, it is agreed that such reservation fee be deposited into an interest bearing account for interest earned for the Purchaser and the parties authorize and instruct Fisher, Quarmby & Pfeifer to invest the reservation fee in an interest bearing account according to Section 26(3) of the Legal Practitioners Act.
- 3.4 The reservation fee will be refunded to the Purchaser in the event of the suspensive conditions not being fulfilled timeously, the Developer failing to provide the services timeously or should the Purchaser fail to provide guarantees for the balance Purchase Price, as more fully set out in sub clauses 14.2 and 14.3 hereof.

3.5 The reservation fee shall be non-refundable and be forfeited in favour of the Developer if the Developer finishes the services timeously and to Seller or the Purchaser is Breach of the conditions of this agreement and the sales agreement which results in the cancellation of the agreement by the Seller.

4. POSSESSION AND OCCUPATION:

Possession and occupation of the said property shall be given to the Purchaser on date of registration of transfer unless agreed to the contrary between the parties in writing.

5. TRANSFER AND COSTS:

It being the Seller's and the Developer's prerogative to do so, the Developer hereby appoints FISHER, QUARMBY & PFEIFER to effect all Conveyancing work in connection with the transfer of the property to the Purchaser. The Purchaser shall pay transfer duty, stamp duty on the transfer and all expenses of transfer, including conveyancer's charges. Transfer shall be effected as soon as possible after all required documents have been signed by the Purchaser.

6. VARIATION:

The Purchaser hereby acknowledges that there are no undertakings or agreements with the Developer, that no warranties have been given by or on behalf of the Developer and that no representations have been made by or on behalf of the Developer, either in writing or verbally, except as contained in this Presale Agreement, that the terms of this presale Agreement constitute the whole Agreement between the Developer and the Purchaser and that no variation, alteration, modification or suspension of any of the terms of this Presales Agreement shall be of any force or effect unless reduced to writing and signed by the Seller, the Developer and the Purchaser.

7. VOETSTOOTS:

7.1 The Developer and the Seller shall not be liable for any deficiency in extent which may be revealed on any re-survey, nor shall the Developer benefit by any possible surplus.

7.2 The property will be sold "voetstoots" and as it stands, the Developer giving no warranty in any regard.

7.3 The Developer shall not be required to indicate to the Purchaser the position of the beacons or pegs upon the property and/or boundaries thereof, nor shall the Developer be liable for the costs of locating same.

8. BREACH:

In the event of the Purchaser committing a breach of any of his obligations under this Agreement and failing to remedy such breach within 7 (seven) days after the date of posting of a registered letter calling upon him to do so, then in such event the Developer shall be entitled without prejudice to any other rights available to him in law to cancel the sale without further notice to the Purchaser and to obtain repossession of the said property.

9. WAIVER:

Notwithstanding any express or implied provisions of this Deed of Sale, any latitude or extension of time which may be allowed by the Seller and Developer to the Purchaser in respect of any payment provided herein or any matter or thing that the Purchaser is bound to perform or observe in terms hereof, shall not under any circumstances be deemed to be a waiver of the Developer's rights at any time, to require strict and punctual compliance with each and every provision or terms thereof.

10. DOMICILIA AND NOTICES:

10.1 The parties do hereby choose their Domicillium citandi et executandi (DOMICILLIUM) as set out above.

10.2 Any notice required to be given by either party to the other shall either be delivered at or be given by prepaid registered letter to the DOMICILLIUM.

10.3 Any notice given by either party to the other shall –

10.3.1 if delivered to the *domicillium citandi et executandi* of such person, be deemed to have been received upon such delivery;

10.3.2 if posted by letter, be deemed to have been received seven (7) days after delivery of such letter to the Post Office for posting.

11. BUILDING COMPLIANCE CERTIFICATE

The parties warrant that the Property is unimproved and as such in terms of Section 78(i)(bb) of the Local Authorities Amendment Act, 2018 no building compliance certificate is required.

12. AGENT'S COMMISSION

It is recorded that _____ of _____ was the effective cause of this transaction. The Developer shall be liable to pay the agents commission in the Amount of N\$_____ (_____ Namibia Dollar) and authorize the Conveyancing firm attending to the transfer to subtract the commission from the purchase price and deposit the amount on date of registration into the following account:

Estate Agents Tax Registration number: _____

Name of Account: _____

Bank: _____

Branch Name & Number: _____

Account number: _____

Reference: _____

13. SUSPENSIVE CONDITIONS:

This agreement is in its entirety subject to the following suspensive conditions, namely:-

- 13.1 That the **minimum** reservation fee of N\$50,000.00 be paid into the Trust Account of Fisher, Quarmby & Pfeifer within 7 (seven) days of signature of this Presales Agreement by the Developer and the Purchaser.
- 13.2 That the Purchaser obtains a loan for the balance purchase price within 30 (Thirty) days from the date of the Deed of Sale and furnishes guarantees to the satisfaction of the Seller and the Conveyancing Firm within 45 (forty-five) days from the Deed of Sale, alternatively deposits the full or balance purchase price into the Trust Account of Fisher, Quarmby & Pfeifer or secure the full purchase price to the satisfaction of the Seller within 45 (forty-five) days from the date of the Deed of Sale; or

13.3 That the Developer completes the services within 24 months calculated from the date of the confirmation letter.

13.4 That the Developer completes the services for the Property and obtains the necessary municipal completion certificate for the services within 24 (Twenty-Four) months of the Deed of Sale or 31 March 2026, whichever date is later.

13.5 That the Developer completes the services for the Property and obtains the necessary municipal completion certificate for the services by not later than 31 March 2026.

SIGNED AT WINDHOEK, THIS DAY OF 20__.

AS WITNESSES:

1.

DEVELOPER

2.

SIGNED AT , THIS DAY OF 20__.

AS WITNESSES:

1

PURCHASER 1

2.

PURCHASER 2
(if applicable)