

AGREEMENT TO EXTEND BUILD-BY PERIOD: 5 YEARS

between

.....
Identity No./ Registration No.
and his or her successors in title

("the owner")

and

THE GARLINGTON HOMEOWNER'S ASSOCIATION
Reg. No. 2006/038584/08

("the Homeowner's Association")

and

THE TRUSTEES OF THE GARLINGTON DEVELOPMENT TRUST
IT No. 705/2004/PMB

("the Developer")

1 Introduction

- 1.1 The owner owns Erf Garlington ("**the erf**").
- 1.2 The erf was transferred to the first person to acquire the erf from the developer on ("**the original date of transfer**") at a price of R ("**the original purchase price**").
- 1.3 The sale agreement between the developer and the owner or, if the owner bought the erf from a previous owner, then the relevant resale agreement (both of which are referred to as "**the sale agreement**") provides as follows:

- 1.3.1 The owner must begin construction of a house on the erf within 5 years of the original date of transfer, namely by ("**the original build-by period**");
- 1.3.2 The owner must finish construction within 12 months of starting;
- 1.3.3 The owner is entitled to apply to the developer for a 2-year extension to the original build-by period, subject to payment of a penalty equal to 5% of the original purchase price;
- 1.3.4 If the owner fails to comply with these obligations within the extended build-by period, then the developer has the choice of either –
 - 1.3.4.1 Re-purchasing the erf at the original purchase price less 10%; or
 - 1.3.4.2 Selling the erf by public auction, with the proceeds going first to defraying expenses; and
- 1.3.5 The developer is entitled to extend the build-by period subject to approval by a majority of the members of the Homeowners' Association.
- 1.4 The developer has agreed to allow owners to elect to extend the build-by period on the basis set out in this agreement. A majority of the members of the Homeowners' Association approved this arrangement at an extraordinary general meeting held on 3 August 2011.
- 1.5 This introduction forms part of this agreement. Any substantive provisions contained in the introduction or the definitions shall be binding between the parties.

2 **Extension of build-by period**

- 2.1 The original build-by period shall be extended by a further period of 5 years, terminating on ("**the extended build-by period**"), subject to the owner complying with the obligations set out in this agreement.
- 2.2 The owner and any successor in title shall be obliged to commence construction of a house on the erf within the extended build-by period so

as to complete construction within 12 months of commencement. If the owner or any successor in title fails to comply with this obligation then –

- 2.2.1 The developer shall be entitled, by written notice to the owner within 30 days of the end of the extended build-by period, to buy back the erf at the original purchase price less 10%; and
- 2.2.2 If the developer elects not to buy back the erf, then the owner shall be entitled to build a home on the erf without any build-by period or any other time constraint (except the obligation to complete construction of a house within 12 months of commencement), but the owner shall be obliged to pay a levy equivalent to 125% of the levy ordinarily payable in respect of the erf until a house has been built on the erf and the relevant certificate of occupation has been issued.

3 Penalty

- 3.1 The owner shall pay a penalty equivalent to 10% of the original purchase price, namely R The penalty shall be split between the developer and the Homeowner's Association on the basis set out in the sale agreement.
- 3.2 The owner undertakes to make payment of the penalty into the Homeowners' Association's bank account so that payment is reflected in that account on or before the date on which the original build-by period ends.
- 3.3 The Homeowners' Association's bank account details are as follows:

Name: Garlington HOA
Bank: First National Bank
Account no.: 62137531043
Branch: 220825

4 Acceptance

- 4.1 By signing this agreement, the owner is making an offer to the developer and the Homeowner's Association. The offer shall be accepted only when

both the developer and the Homeowner's Association have signed this agreement.

4.2 If payment is not made strictly in accordance with clause 3, then the owner shall not be eligible for any further extension of the build-by period and the provisions of the sale agreement regarding the build-by period and the developer's rights as set out in clause 1.3.4 shall remain binding.

5 The other terms of the sale agreement

The other terms of the sale agreement shall continue to apply between the parties concerned.

6 Successors in title

6.1 This agreement binds the owner's successors in title.

6.2 The owner undertakes to make any disposal of the erf expressly subject to the terms of this agreement.

7 Registration against title deeds

The owner shall be entitled to register the extended build-by period against the title deeds of the property at his or her own costs.

Signed by the owner at on
2011.

As witness:

THE OWNER

Signed on behalf of the Homeowner's Association at on.....
2011.

As witness:

for: **THE GARLINGTON
HOMEOWNER'S ASSOCIATION**

Signed on behalf of the trustees of the Garlington Development Trust
..... on.....
2011.

As witness:

for: **THE TRUSTEES OF THE
GARLINGTON DEVELOPMENT TRUST**