OWNER AND DEVELOPER AGREEMENT

Made and entered into by and between

_____ **ID:**_____
(Hereinafter referred to as "the Owner" of the other part)

_____ **ID:**_____
(Hereinafter referred to as the "Developer" on the other part)

WHEREAS:

The Owner has been allocated a certain piece of land being a residential plot at _____ measuring ____ X ____ X ____ X ____ X ____m, in terms of Certificate of Customary Land Grant dated _____ (hereinafter referred to as "the property") and which conditions the parties hereby agree to be bound by;

_____

_____

The deed will be subject to a condition that the Owner shall erect on the property a building (hereinafter referred to as the building) to the satisfaction of the relevant regulations regulating the issue of the certificate of compliance referred to in paragraph 2, below, within a stipulated time;_____

The Owner desires that the building be erected on the property and the Developer, by mutual agreement between the parties is to finance, execute and oversee such development.

NOW THEREFORE IT IS HEREBY AGREED AND RECORDED AS FOLLOWS:

1. DEVELOPMENT OF THE PROPERTY

The Developer undertakes to erect the building on the property before the expiration of the development covenant aforementioned. The building shall be erected in accordance with plans and specifications that shall comply with all laws and regulations applicable and pursuant to the requisite approvals stipulated in terms of all such laws and regulations.

The Developer shall provide all the necessary finance for the development of the property, insure the building during the course of construction at his own expenses, and shall undertake, execute and complete the construction in accordance with provisions of the development covenant to be specified in the conditions that shall be prescribed in the deed, and in accordance, further, with such plans as shall have been approved in terms of paragraph 1 above.

2. CONSENT OF THE LANDS DEPARTMENT FOR AN EXTENSION OF PERIOD TO DEVELOP

This agreement of Sale is subject to the Consent of the Department of Lands to grant the application submitted by the Seller to extend the period within which to effect developments in the plot.

3. OPTION TO PURCHASE

The Owner hereby grants to the Developer an irrevocable and exclusive option to purchase the property upon compliance with the development covenant for a consideration of **_____ (_____)** being the agreed value of the property following completion of the building less the value added by the Developer to the property by way of development. The option hereby granted to the Developer shall be deemed to have been exercised within thirty days following the issuance of a certificate of compliance by the _____ Land Board in confirmation that the development has been fulfilled. The exercise of this option shall consist in the Developer causing documents to be lodged at _____ to transfer the property from the Owner in favour of the Developer, and in the payment of the sum of **_____** by the Developer in favour of the Owner.

4. ADVANCES BY THE DEVELOPER TO THE OWNER

4.1. In addition to providing all resources necessary to comply with the development covenant on the Owner's behalf, the Developer shall also advance to the Owner the sum of_____ uses to be determined at the Owner's discretion. The sum of **_____** shall be paid upon signature of this agreement by both parties. The remaining balance of **_____** shall be paid after transfer of property to purchaser.

4.2. For purposes of the Developer's option to purchase the property in terms of paragraph 4.1 above the advances to be made by the Developer in favour of the Owner in terms of paragraph 3 hereof shall be deemed and accounted by the parties as a pre-payment of the purchase price and the Developers shall be indemnified of any obligation to pay the said purchase price to the Owner upon fulfilment of the development covenant.

5. VACANT POSSESSION

The Owner shall deliver vacant possession of the property and developments thereon to the Develope r upon signing of this agreement and also assume all risk in respect of the property. The Developer shall become liable in the Owner's stead in respect of all rates, taxes or other imposts lawfully levied by the Government or the municipality upon the Owner or occupier of the property as of the date of signature hereof.

6. EXERCISE OF THE DEVELOPER'S OPTION

It is hereby specifically provided that should the purchase consideration be reflected in transfer documents differ from that prescribed in the preceding paragraphs for the sole purpose of complying with the requirements of the deeds registry such difference shall in no way whatsoever affect the terms and conditions agreed to by and between the parties or the sums payable as between them.

7. TENDER OF TRANSFER DOCUMENTS

The Owner shall tender all documents of transfer and/or Original Certificate or Agreement of lease to the Developer upon signature of this agreement.

8. WARRANTIES

The Owner warrant to the Developer and it is a material condition of sale that:

8.1. The Developer or its successors-in-title shall not be evicted from the premises by any person or body claiming the exercise of any greater right than the one conferred on the Developer by the Owner. The Owner specifically warrants that she has not entered into a similar agreement with any third party in respect of the property.

8.2. The Developer or its agents, invitees will enjoy quiet and undisturbed possession of the property.

8.3. Neither the Owner nor her heirs shall lay a claim of right over and in respect of the property notwithstanding that the property may remain registered in the names of the Original Owner.

9. OBLIGATION OF THE OWNER

9.1. The Owner shall render all such assistance as may be required by the Developer to have the property registered in the names of the Developer and shall do or cause to be done all such matters as to render the agreement effectual and/or effective.

9.2. The parties agrees that if after a reasonable attempt to change the names to that of the Developer fails the Owner would return the purchase price and reimburse the Developer for any reasonable expenses incurred.

10. RATES, SERVICES AND CHARGES

The owner shall be obliged to pay all rates and levies and charges or services rendered to the prope rty up to and including the date of signature of this agreement and thereafter all such rates, levies and services to the property shall be the responsibility of the Developer.

11. WHOLE AGREEMENT

This agreement constitutes the sole agreement between the parties and no term or condition of this agreement may be varied and/or changed materially unless such variation and/or change has first been agreed to, reduced to writing and signed by the parties or their lawful representatives.
Any such variation or change not in accordance with this clause shall be of no force and/or effect.

12. INDULGENCES

Any indulgences or relaxations given by one party to the other shall not be a waiver in favour of the party in breach and the innocent party shall be entitled to enforce its rights in terms of the agreement.

13. BINDING EFFECT

This agreement of sale shall be binding on the parties to it upon signature hereof if signed simultaneously, in any day, month and year.

14. BREACH

Should either party default in the due performance of any of the terms and conditions of this agreement and fail to remedy the same within 10 working days following receipt of written notice to do so the other party shall have the right:

14.1. to claim specific performance; and

14.2. to cancel this agreement and claim the repayment of all monies then due to him/her; and/or

14.3. to sue for such damages as such party may have sustained; and/or

15. COSTS

The costs of and incidental to the drawing up of this agreement shall be borne and paid for by the Developer.

16. DOMICILIUM

Each of the parties to the agreement hereby chooses as its/his *domicilium citandi et executandi* as follows:

_____

THE OWNER

_____

Or otherwise at

_____

THE DEVELOPER

17. NOTICES

Provided that either party shall be entitled to change its above mentioned address to any other address in Botswana by giving the other party written notice of the change to that effect.

17.1. All notices in terms of this lease shall be in writing.

17.2. Shall either be delivered by hand or sent by prepared registered post to the addresses in 15 above.

17.3. Shall be deemed to have been served on the date of delivery if delivered by hand or on the fifth day after posting if sent by prepaid registered post.

18. GOVERNING LAW

This agreement shall be governed by and construed in accordance with the Laws of Botswana.

THUS DONE AND SIGNED AT_____ON THIS _____ DAY OF _____

_____

OWNER

AS WITNESSES:

1. _____

I.D _____

THUS DONE AND SIGNED AT_____ON THIS _____ DAY OF _____

_____

DEVELOPER

AS WITNESSES:

1. _____

I.D _____