



KENNERSLEY PARK

Leisure Homes for Senior Citizens

LIFE OCCUPATION RIGHTS AGREEMENT

MEMORANDUM OF AN AGREEMENT
made and entered into by and between

LEISURE HOMES FOR SENIOR CITIZENS

(an Incorporated Association not for Gain)
Registration No. 1992/03613/08
Welfare and Fundraising Organisation No. 09 900445 000 7

Business address:
Kennersley Park Old Age Home
104 Bonza Bay Road
Beacon Bay
EAST LONDON
5241

herein represented by LAURETTE ANN SCHAFER in her capacity as General Manger duly
authorised hereto by a Resolution of the Board of Directors on 26 April 2016

(hereinafter styled "LEISURE HOMES")

and

XXX XXXXXX

(Identity No. XXXXXX XXXX XX X)

XXX XXXXXX

(Identity No. XXXXXX XXXX XX X)

Residential address:
XX XXXXXX XXX
XXXXXX
XXXX XXXXXX
XXXX

(hereinafter styled "the OCCUPANT")

- * ~~Married to each other IN community of property.~~
- * Married to each other OUT of community of property.
- * ~~Not married / Widowed~~
- * Delete and initial items not applicable.

Both the names and identity numbers of the OCCUPANTS must be included and both must sign this Agreement.

WHEREAS LEISURE HOMES own Erf No. 5620, Beacon Bay by Deed of Transfer No. T 90404 / 1999 and Erf No. 1473 Beacon Bay by Deed of Transfer No. T 6307/2005 on which lands no amount is payable as endowment, enhancement levy, development contribution or any similar imposition nor any amount in terms of any Mortgage Bond thereover as will appear from certified copies of the Deeds of Transfer that may be inspected during normal business hours at Kennersley Park, 104 Bonza Bay Road, Beacon Bay, East London.

AND WHEREAS LEISURE HOMES conducts business as KENNERSLEY PARK COMPLEX FOR SENIOR CITIZENS (hereinafter styled "the COMPLEX") on such land, which business includes a block for the care of the frail aged and a block for board and lodging for the aged and through its Housing Division offers to senior citizens aged sixty years and older life occupation rights in and to residential units on such land, subject to the conditions hereinafter set out;

AND WHEREAS one hundred per cent of the housing interests as referred to in the Housing Development Schemes for Retired Persons Act No. 65 of 1988 are reserved for alienation to retired persons only;

AND WHEREAS the OCCUPANT wishes to acquire life occupation rights in and to a residential unit **No. 00X** (hereinafter styled "the UNIT") erected or to be erected by LEISURE HOMES in the COMPLEX.

AND WHEREAS LEISURE HOMES and the OCCUPANT acknowledge and agree that the aforesaid life occupation rights do not confer the power to claim transfer of ownership of the unit.

In this agreement, unless a contrary intention clearly appears:

"OCCUPANT" means the first signatory/ies to this agreement who is/are in occupation of the UNIT, and includes a co-signatory to this agreement, whether lawfully married or not.

"SPOUSE" means someone who at the date of signature of this Life Occupation Rights Agreement was not married to the OCCUPANT, but who marries the OCCUPANT during his/her occupation and who has permission from LEISURE Homes to occupy the UNIT;

"SURVIVING SPOUSE" means the SPOUSE of the OCCUPANT who exercises the Option available to them to purchase the Life Occupation Right in terms of this Agreement.

NOW THEREFORE THESE PRESENTS WITNESS THAT:

1. SALE, PAYMENT AND OCCUPATION

- 1.1. LEISURE HOMES hereby sells and the OCCUPANT hereby purchases the life occupation right in and to residential Unit **No. 00X** for the sum of **RX, XXX, XXX.XX (XXX Million, XXX Thousand, XXX Hundred and XXX Rand)** (only) (hereinafter styled "the PURCHASE PRICE").
- 1.2. The OCCUPANT shall pay the PURCHASE PRICE as follows:

The sum of **RX, XXX, XXX.XX** on occupation which in the case of newly erected Unit alienated for the first time shall not be given until a certificate has been issued by LEISURE HOMES' Architect or Quantity Surveyor that the scheme has been erected substantially in accordance with the applicable approved building plans, zoning scheme and applicable Local Authority By Laws and the unit purchased is sufficiently completed for the purposes of utilisation thereof. LEISURE HOMES may on signature hereof require the purchase price to be secured by a Guarantee to its satisfaction or to be deposited to the Trust Account of its Attorneys, Derek Puchert Attorney, of Vincent, East London in Trust for the purchaser the interest thereon to be for the benefit of the purchaser until the amount is paid over to LEISURE HOMES.
- 1.3. No Further consideration of any kind shall be payable by the OCCUPANT to LEISURE HOMES except as otherwise provided herein. The Title Deeds of the land over which the life occupation rights exist have been endorsed in terms of Section 4C of Act 65 of 1988 as the first right of occupation in the scheme was alienated by the Purchaser before the commencement of the Housing Development Schemes for Retired Persons Amendment Act of 1990.
- 1.4. The finishes and completion of the UNIT shall be to LEISURE HOMES' satisfaction. The estimated date of completion is **XDAY XMONTH 20XX**, but LEISURE HOMES shall not in any way be liable to the OCCUPANT, nor shall the OCCUPANT be entitled to cancel or withdraw from this Agreement should such completion date be exceeded for any reason whatsoever. LEISURE HOMES undertakes to do everything possible to complete the UNIT by the estimated date.
- 1.5. The date of occupation of the completed UNIT shall be fixed by LEISURE HOMES after consultation with the OCCUPANT, who may then take occupation provided that all amounts payable in terms hereof have been paid in full. Notwithstanding anything aforesaid, LEISURE HOMES has the sole and absolute discretion to allow occupation prior to payment in full.
- 1.6. The OCCUPANT shall pay an occupational rental on the purchase price or balance thereof from time to time from date of occupation to date of payment (both inclusive) at market rate charged by LEISURE HOMES, from time to time.

2. LIFE OCCUPATION

The OCCUPANT shall be entitled to vacant and exclusive occupation of the aforesaid UNIT free of rent during his/her lifetime, subject to the terms and conditions of this Agreement.

3. SERVANTS

The OCCUPANT may employ full-time or part-time servants. The OCCUPANT shall be responsible for the payment of wages to such servants, and shall be responsible for their behaviour as well as for any damage caused by them to the UNIT or the COMPLEX. LEISURE HOMES shall not be obliged to provide any live-in quarters for such servants.

4. GUESTS

While LEISURE HOMES wishes to allow the OCCUPANT as much freedom as possible in the enjoyment of his rights of occupancy of the UNIT, in the event of the OCCUPANT wishing to accommodate a guest in the UNIT for a period longer than two weeks, he/she shall obtain the written approval of LEISURE HOMES, which approval shall not unreasonably be withheld. This provision is included to promote the security of the COMPLEX and to ensure that the rights of other occupants are not affected. Notwithstanding the above, the policy of LEISURE HOMES is that only the OCCUPANT and his/her SPOUSE or SURVIVING SPOUSE in terms of the provisions of Clause 22 below, may occupy the UNIT.

5. ASSIGNMENT AND CESSION

The OCCUPANT shall not be entitled to lease, cede, assign or alienate his/her rights to occupy the UNIT or any part thereof.

6. FACILITIES

6.1. The COMPLEX presently provides the following facilities:

- 6.1.1. A wholesome midday meal at reasonable cost
- 6.1.2. A library free of charge
- 6.1.3. A chapel free of charge
- 6.1.4. A hairdressing salon subject to prevailing charges.

6.2. Frail Care for Debilitated Persons:

The OCCUPANT together with other residents in the COMPLEX will have preference for admission to the existing facilities provided vacant beds are available, at the rates set out in the tariff fixed by LEISURE HOMES from time to time.

7. MAINTENANCE

7.1. LEISURE HOMES shall maintain the exterior of the UNIT as well as the surrounding grounds in good order and condition. The OCCUPANT shall at his/her expense maintain, repair or replace appliances/fitting, electric light bulbs and the interior of the UNIT, including the wear and tear of the geyser (covered between two units if the geyser is shared), failing which LEISURE HOMES may do so and recover the cost from the OCCUPANT.

7.2. Damage caused by the OCCUPANT or his/her servant or guest shall be repaired at his/her cost to the satisfaction of LEISURE HOMES and recovered as in Clause 7.1.

8. LIFE OCCUPATION RIGHTS HOLDERS ASSOCIATION

All holders of Life Occupation Rights in the above scheme shall automatically be members of the Association in the event of any such Life Occupation Rights Agreements being held jointly by more than one person, then such joint holders shall together represent one member.

9. MONTHLY LEVY

9.1. The OCCUPANT shall from date of taking occupation pay in advance to LEISURE HOMES such monthly levy as may from time to time be determined by LEISURE HOMES after consultation with the LIFE OCCUPATION RIGHTS HOLDERS ASSOCIATION COMMITTEE. The present levy is **RX,XXX.XX** per month, and it is estimated this will increase to **RX,XXX.XX** over the next two years.

9.2. The levy shall be based on LEISURE HOMES' estimate of the costs of fulfilling LEISURE HOMES' obligations in connection with the housing interests and bad debts arising therefrom, including:

9.2.1. Maintaining adjoining grounds

9.2.2. Water, sewerage and refuse removals

9.2.3. Security services

9.2.4. Comprehensive insurance on buildings and assets, including political riot cover

9.2.5. General maintenance, exterior repairs and replacements due to normal wear and tear

9.2.6. Rates and taxes, if any

9.2.7. Administration

9.2.8. Any other relevant item including provision for a reserve fund for extraordinary expenditure

9.2.9. An allowance for levies unpaid by reason of units being unsold all-in relation to life occupation rights residential units.

9.3. A levy is chargeable in accordance with the tariff prevailing from time to time in terms of the Community Schemes Ombud Service Act No 9 of 2011;

9.4. Electricity is paid for by the OCCUPANT by pre-paid cards.

20. STABILISATION FUND/TRUST/FRAIL CARE FUND

20.1. LEISURE HOMES so long as it controls the administration of the scheme shall create and administer a Stabilisation Fund or promote the establishment of a Trust in an endeavour to stabilise or minimise anticipated or future increases in levies in terms of Clause 9 above, by paying special expenses which would otherwise result in an increase in levies.

20.2. LEISURE HOMES so long as it controls the administration of the scheme shall pay into a Stabilisation Fund or Trust, and a Frail Care Fund (previously the Langham House Fund), a per cent of any profit (after the deduction from the profits accruing to LEISURE HOMES from the re-sale of life occupation rights in and to residential units in the COMPLEX as per Clause 10.3), in accordance with their policy as this might apply from time to time.

20.3. Profit shall be the consideration received by LEISURE HOMES from the re-sale of a unit less renovation costs less the amount due to the previous OCCUPANT or his/her Estate.

20.4. The OCCUPANT shall not be liable to pay any amount as endowment, enhancement levy, development contribution or any similar imposition.

21. REGULATIONS

The OCCUPANT shall abide by the Rules and Regulations relating to the COMPLEX framed from time to time by LEISURE HOMES.

22. PETS

No pets other than an approved caged bird and/or gold or tropical fish in a bowl or similar container shall be kept within the complex by the OCCUPANT, without the prior written consent of LEISURE HOMES in terms of the regulations of LEISURE HOMES. It is expressly recorded that the OCCUPANT may keep a small dog or cat within the complex. The Pet Rules and Regulations applicable is herunto annexed marked "B".

23. ABSENCE FROM THE UNIT

To promote the security of the Occupants and the COMPLEX the OCCUPANT shall in writing notify LEISURE HOMES of his/her intended absence from the UNIT for a continuous period of more than twenty-four hours. Should the UNIT be left vacant at any time LEISURE HOMES shall in its entire discretion have the right to access thereto.

24. RIGHT OF INSPECTION

LEISURE HOMES shall at all reasonable times have the right to inspect the UNIT and to effect improvements. The OCCUPANT shall not make any alterations, addition or improvement to the exterior or interior of the UNIT, or to the surrounding or common areas, without the prior written approval of LEISURE HOMES. Without departing from the general provisions herein, this shall include the installation of air-conditioners, sun-awnings, burglar or door guards or any other fixture.

25. INSURANCE

25.1. LEISURE HOMES shall insure the COMPLEX for the cost of replacement, and in particular the UNIT comprehensively against loss by fire, storm and political riot.

25.2. The OCCUPANT shall not do or allow anything whatsoever to be done that may in any way vitiate such policy or policies of insurance or cause the premiums thereof to be increased.

25.3. The OCCUPANT shall at his/her cost insure all his/her property situate within the UNIT.

25.4. LEISURE HOMES undertakes to furnish the OCCUPANT with relevant details of any policy of insurance arranged in terms of this Agreement or amendment/s thereto, on written request.

26. DAMAGE TO OR DESTRUCTION OF UNIT

- 26.1. In the event of the UNIT being either wholly or partially destroyed so as to render occupation thereof impossible, LEISURE HOMES, undertakes at its sole option to reinstate the UNIT to its former condition or to provide commensurate new accommodation as soon as reasonably possible.
- 26.2. During the period that the OCCUPANT cannot occupy the UNIT LEISURE HOMES will use its best endeavors to find reasonable alternative accommodation for him/her/them for the period of deprivation. LEISURE HOMES shall however not be bound to do so or liable in damages should it not be able to do so.
- 26.3. The cost of such alternative accommodation shall be borne by the OCCUPANT, but LEISURE HOMES shall arrange insurance cover to provide monthly payments to the OCCUPANT toward the monthly costs of such alternative accommodation.
- 26.4. The said insurance shall provide monthly payments of a maximum amount equal to a market related rental, as determined by the Chairman of the East London Institute of Estate Agents, that the OCCUPANT could have obtained for the UNIT during the period of deprivation of use.

27. MEDICAL CERTIFICATE

- 27.1. The OCCUPANT agrees that should he/she while in occupation of the UNIT become mentally or physically infirm, as certified by his/her registered Medical Practitioner, the OCCUPANT shall, if it is deemed to be in his/her best interest as determined by such Medical Practitioner, the LEISURE HOMES' Matron and the OCCUPANT'S family, be transferred to the LEISURE HOMES' sick bay or Frail Age Home, as the case may be, or some other more suitable facility, at the OCCUPANT'S expense.
- 27.2. Should the views of the Medical Practitioner, the LEISURE HOMES' Matron and the OCCUPANT'S family, under Clause 17.1, concerning the best interest of the OCCUPANT be at variance, then the decision of the OCCUPANT's family shall prevail. In the absence of availability of any of the OCCUPANT's family to give consent to any aforesaid transfer, then the decision of the OCCUPANT's Medical practitioner shall prevail. LEISURE HOMES acknowledges that it has a moral responsibility for the physical and mental well-being of the OCCUPANT, provided that all and any costs incurred shall be borne by the OCCUPANT.
- 27.3. The term "OCCUPANT'S family" is to be applied in accordance with the provisions of section 21 (3)(b)(i) of the Older Persons Act 13 of 2006. At all times the contents of this Clause 17 shall be interpreted and applied subject to and in accordance with the provision of section 21 of the Older Persons Act 13 of 2006, as amended from time to time.

28. TERMINATION OF LIFE OCCUPATION RIGHTS

LEISURE HOMES and the OCCUPANT hereby agree that this Agreement shall be terminated by any one of the following:

- 28.1. A written agreement of termination signed by LEISURE HOMES and the OCCUPANT.
- 28.2. Written cancellation by LEISURE HOMES in terms of Clause 21.
- 28.3. Receipt by LEISURE HOMES of a medical certificate certifying the OCCUPANT to be mentally or physically infirm, and the OCCUPANT'S transfer from the UNIT, in terms of Clause 17.
- 28.4. The OCCUPANT in writing terminating his life occupation rights and vacating the UNIT.
- 28.5. The death of the **last dying of the signatories** who qualifies as an OCCUPANT.

29. LEISURE HOMES' RIGHTS ON TERMINATION

- 29.1. Upon termination of this Agreement in terms of Clause 18, LEISURE HOMES shall be entitled to resume possession and vacant occupation of the UNIT, and require or effect the timeous removal of the OCCUPANT'S assets of whatsoever nature therein.
- 29.2. Should it be necessary to incur storage costs LEISURE HOMES shall have the right to recover such costs from the OCCUPANT or his/her Estate, including from any funds remaining with LEISURE HOMES.
- 29.3. Upon termination of the OCCUPANT'S right of occupancy, LEISURE HOMES shall automatically acquire legal ownership and control of the UNIT and be entitled to deal with it accordingly.
- 29.4. LEISURE HOMES shall as soon as reasonably possible submit the life occupation right to the UNIT for re-sale to best advantage to comply with the provisions of Clause 20.
- 29.5. LEISURE HOMES shall have the right not to submit the life occupation rights in and to the UNIT for re-sale, but to retain such rights for its own use or benefit. In that event all reference in Clause 20 to the re-sale price as reflected in an agreement of re-sale to a new occupant shall be deemed to refer to the market value of such life occupation right at the date of termination of this Agreement, as agreed upon between LEISURE HOMES and the OCCUPANT or his/her Estate, as the case may be. Failing such agreement, LEISURE HOMES and the OCCUPANT hereby agree to accept as final a valuation as determined in the sole discretion of LEISURE HOMES which shall be in accordance with the reasonable market values pertaining to the sale of units prevailing at that time.
- 29.6. Payment by LEISURE HOMES to the OCCUPANT or his/her Estate, as the case may be, shall be of an amount that is a percentage of the agreed or determined valuation, calculated in accordance with Clause 20. Such payment shall be made within four months of the date of such agreement or valuation, as the case may be.

30. RE-SALE AND REFUND PROVISIONS

30.1. LEISURE HOMES shall have the sole and final right to:

30.1.1. Decide what renovations and/or repairs shall be done to enhance the re-sale of the life occupation rights in and to the UNIT, the costs whereof shall be deducted from the re-sale price before percentages are paid to the respective parties; and

30.1.2. Have the UNIT valued and to fix the re-sale price. Neither the OCCUPANT nor his/her Estate shall have any claim whatsoever against LEISURE HOMES arising out of its having fixed or accepted any amount as the re-sale price.

30.2. Upon the termination of this Agreement as provided in Clause 18 hereof and upon payment in full to LEISURE HOMES of the re-sale price of the life occupation rights to the UNIT, **the OCCUPANT or the last dying of the co-signatories who qualifies as an OCCUPANT if that be the case, or his/her Estate**, as the case may be, shall be entitled to receive from LEISURE HOMES payment of the percentage of the re-sale price due in terms of Clause 20.1.1 above, if applicable, and in terms of the table below:

PERCENTAGE OF NET PURCHASE PRICE ACCRUING ON RE-SALE

PERIOD DURING WHICH OCCUPANT ENTITLED TO OCCUPATION						
	1 YEAR	2 YEARS	3 YEARS	4 YEARS	5 YEARS	THERE AFTER
Percentage Accruing to OCCUPANT/ESTATE	90 %	80 %	70 %	60 %	50 %	50 %
Percentage Accruing to LEISURE HOMES	10 %	20 %	30 %	40 %	50 %	50 %

30.3. In the event of this Agreement being terminated five years after the date upon which the OCCUPANT originally took occupation of the UNIT, then the percentage of the re-sale price payable to the OCCUPANT or his/her Estate shall remain at **fifty** per cent.

30.4. Anything to the contrary notwithstanding, in the event of this Agreement being terminated in terms of Clause 18.3 and the OCCUPANT (who would otherwise be entitled to payment), being transferred to LEISURE HOMES' frail chronic sick nursing facilities and such OCCUPANT'S income is insufficient to cover LEISURE HOMES' monthly charges in relation thereto, therefore then:

30.4.1. LEISURE HOMES' may retain the amounts which would otherwise be payable to the OCCUPANT and invest same in the name of LEISURE HOMES but identifying such investment as appertaining to the OCCUPANT.

30.4.2. If the OCCUPANT'S normal income is insufficient to cover LEISURE HOMES monthly charges and/or the necessary administration documentation for LEISURE HOMES' frail care facility is not completed satisfactorily in accordance with the policies of LEISURE HOMES prevailing from time to time for the occupant at the frail chronic sick block in the terms of Clause 6.2, therefore then the income from the investment shall be utilized towards payment of such charges and if such income is insufficient, the capital amount of such investment. Any income not utilized as aforesaid may be reinvested for the OCCUPANT or paid to him/her.

30.4.3. Upon the OCCUPANT'S death or removal from the frail chronic sick nursing facilities, the balance of the investment if any, shall be paid to OCCUPANT'S Estate or to OCCUPANT as the case may be.

20.5 In the event that the OCCUPANT makes no provision for a Last Will and Testament or dies intestate, leaving no heirs, LEISURE HOMES shall be entitled after the lapse of a period of 12 months from the date of death of the OCCUPANT, and after making due and reasonable enquiries and following due legal process, be entitled to forthwith regard the full proceeds of the sale of the UNIT as being specially bequeathed to LEISURE HOMES.

31. INJURIOUS CONDUCT AND NON-PAYMENT

31.1. LEISURE HOMES shall be entitled to cancel this Agreement and in its sole discretion may require the OCCUPANT to vacate the UNIT if it reasonably considers the OCCUPANT'S conduct is injurious to and in conflict with the interests and harmony of the COMPLEX, and the OCCUPANT has failed to remedy such conduct despite prior written request by LEISURE HOMES.

31.2. LEISURE HOMES shall be entitled in its sole discretion to cancel this Agreement and require the OCCUPANT to vacate the UNIT in the event of the OCCUPANT failing to pay the Monthly levy for a period of three months despite written demand/s giving the OCCUPANT thirty days within which to pay such arrears in full.

31.3. Notwithstanding the terms of Clause 21.2 above, LEISURE HOMES will in its sole discretion assist an OCCUPANT showing financial cause, by accepting a lesser amount than the monthly levy on condition that the OCCUPANT undertakes in writing to pay an agreed penalty on the outstanding balance due from time to time, and authorises the deduction of the final balance due plus the penalty to date of payment from the percentage payable to the OCCUPANT or his/her Estate in terms of Clause 20 hereof.

31.4. No indulgence or extension of time that may be allowed by LEISURE HOMES to the OCCUPANT in respect of any payment or breach of this Agreement shall be deemed to be a waiver of LEISURE HOME'S rights at any time.

32. SURVIVING SPOUSE

32.1. In the event that the OCCUPANT at the date of signature of this Life Occupation Right's Agreement was not lawfully married but as at the date of death was so married, LEISURE HOMES and the OCCUPANT hereby agree that such SPOUSE shall be entitled to an Option to purchase the UNIT or the deceased's share in the UNIT, which Option is to be exercised within a period of THREE months as from the date of death and payment of the full amount being made within a period of THREE months from date of exercising of the Option.

32.2. In the event that the SPOUSE exercises the above Option, they shall then be entitled to remain in occupation of the UNIT for the duration of her/his lifetime, subject to the terms below:

22.2.1 The SPOUSE shall be obliged to sign a new agreement, subjecting them to the terms and conditions therein contained.

22.2.2 Upon signature, the SPOUSE shall then also be entitled to the rights and benefits conferred by the new Agreement, save and except that the rights of continued occupation as contained in this Clause and Clause 23 hereof shall not be passed on to or acquired by any other person such SURVIVING SPOUSE may marry.

22.3 No occupation rights will be given to any other person who is not an OCCUPANT, subject to the following first being complied with:

22.3.1 The OCCUPANT must first be lawfully married to the new occupant;

22.3.2 Prior to the new occupant taking occupation of the UNIT, written permission must be obtained from LEISURE HOMES to occupy;

22.3.3 The new occupant signs an agreement pertaining to the rights of LEISURE HOMES and their own obligations with respect to this Clause 22 and Clause 23 below; and

22.3.4 Upon compliance with the above, the new occupant shall qualify as a SPOUSE and be able to exercise the Option to purchase the Life Occupation Right available to a SPOUSE, if that occasion arises.

33. SPOUSE OF TRANSFERRED OCCUPANT

33.1. Notwithstanding the provisions of Clause 18.3 hereof LEISURE HOMES and the OCCUPANT agree that in the event of the OCCUPANT being legally married at the time when a medical certificate is issued and the OCCUPANT is transferred in terms of Clause 17, and his/her Spouse is in occupation of the UNIT with him/her at such time, such Spouse shall be entitled to remain in occupation of the UNIT and to the rights and benefits conferred upon the OCCUPANT in terms of this Agreement.

33.2. The provisions of Clause 20.4 shall apply with any necessary changes in the event of the OCCUPANT or his/her Spouse being transferred in terms of Clause 17.

33.3. The provisions of this clause are similarly applicable to someone who qualifies as an OCCUPANT by virtue of being a co-signatory to this agreement.

34. TERMINATION OF BENEFITS

Upon termination of life occupation rights in terms of this Agreement all other rights and benefits accruing to the OCCUPANT in terms hereof, save and except those arising from the provisions of Clause 20 hereof, shall be deemed to be extinguished.

35. MAGISTRATE'S COURT JURISDICTION

The OCCUPANT hereby consents in terms of Section 45 of Act 32 of 1944, or any amendment thereof or substitution therefor, to LEISURE HOMES taking any legal proceedings for enforcing any of its rights under this Agreement, for the recovery of moneys claimable, cancellation thereof, damages or otherwise, in the Magistrate's Court of any district having jurisdiction in respect of the OCCUPANT by virtue of Section 28(1) of the aforesaid Act, if LEISURE HOMES so elects.

36. WARRANTIES AND REPRESENTATIONS

This Agreement constitutes the entire contract between LEISURE HOMES and the OCCUPANT and is in substitution of any prior agreement or arrangement between them, and no warranties, representations or conditions not recorded herein shall be binding on LEISURE HOMES unless reduced to writing and signed by both LEISURE HOMES and the OCCUPANT.

37. AGE RESTRICTION

37.1. No person under the age of sixty years shall occupy the UNIT other than as a guest without obtaining the prior written consent of LEISURE HOMES.

37.2. LEISURE HOMES shall be entitled, within ninety days of becoming aware of any contravention of Clause 27.1 to terminate this Agreement as envisaged in Clause 21.1 hereof, whereafter the provisions of Clause 21 shall apply.

38. LANGUAGE

The OCCUPANT has chosen that this Agreement be in English and acknowledges that a copy thereof has been furnished to him/her.

39. DOMICILIUM CITANDI ET EXECUTANDI

39.1. The OCCUPANT hereby chooses domicilium citandi et executandi at the address of the UNIT, provided that the OCCUPANT shall be entitled to alter his domicilium citandi by written notice to LEISURE HOMES, provided further that such domicilium citandi shall be an address within the Republic of South Africa.

39.2. LEISURE HOMES hereby chooses it's domicilium citandi et executandi at Kennersley Park, 104 Bonza Bay Road, Beacon Bay, East London.

40. NOTICES

Notices addressed to the parties may be sent by pre-paid registered post to, or may be delivered by hand at, the chosen domicilium citandi et executandi of the parties, as the sender may choose. Any notice sent by pre-paid registered post to the recipient's domicilium citandi et executandi shall be deemed to have been delivered seven days after posting, or if delivered by hand, on the date of delivery.

41. COSTS

The costs of drafting this Agreement, if any, shall be paid by LEISURE HOMES.

42. REMEDIES OF THE OCCUPANT

The OCCUPANT is referred to his/her rights and remedies as contained in Sections 8 and 9 of the Housing Development Schemes for Retired Persons Act No. 65 of 1988, as amended.

43. EXPENDITURE

A statement reflecting estimates for the next three years for the control, management and administration of the Housing Development Scheme and all services and facilities concerned is hereunto annexed marked "A".

44. JOINT AND SEVERAL LIABILITY

The OCCUPANTS (if more than one) shall be jointly and severally liable for their obligations hereunder.

DATED AT EAST LONDON THIS DAY OF 20XX.

AS WITNESSES:

1.
.....
LEISURE HOMES
GENERAL MANAGER
Duly Authorised

2.

DATED AT EAST LONDON THIS DAY OF 20XX.

AS WITNESSES:

1.
.....
XXX XXXXXXX
(Identity No. XXXXXXX XXXX XX X)
OCCUPANT

2.

DATED AT EAST LONDON THIS DAY OF 20XX.

AS WITNESSES:

1.
.....
XXX XXXXXXX
(Identity No. XXXXXXX XXXX XX X)
OCCUPANT

2.