

**RONDEBOSCH OAKS
PHASE II
RESIDENTIAL
SECTIONAL TITLE DEVELOPMENT**

AGREEMENT OF SALE

ENTERED INTO BY AND BETWEEN

GROMAT (PROPRIETARY) LIMITED
REGISTRATION NUMBER: 1985/005798/07

(HEREINAFTER REFERRED TO AS "THE SELLER")

AND

.....
.....
.....

(HEREINAFTER REFERRED TO AS "THE PURCHASER")

IN RESPECT OF APARTMENT No. **RONDEBOSCH OAKS**

Rawson Developers & Homebuilders
222 Main Road
Rondebosch
Tel. 021 658 7100
Fax. 021 685 0053

Van Dyks Property Attorneys
No 8 Sunbird Office Park
Pasita Avenue
Tygervalley
7530
TEL. 021 914 5000
FAX. 021 914 5004

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THE SCHEDULE

A. THE SELLER

Full Name	GROMAT(PROPRIETARY) LIMITED REGISTRATION No.1985/005798/07
Address	222 Main Road, Rondebosch
Phone	+27 21 658 7100
Fax	+27 21 685 0053

and includes the Seller's successors-in-title.

B.1 THE PURCHASER (NATURAL PERSON) (ONE PURCHASER)

Full Name						
Identity No. / Registration No.				SA Income Tax Ref. No.		
Date of Birth				Passport No. & Country		
Marital Status (Please tick)	NOT MARRIED	IN COMMUNITY OF PROPERTY	**OUT OF COMMUNITY OF PROPERTY (by ANC)	MUSLIM/HINDU RITES	**FOREIGN MARRIAGE	OTHER
**Names of spouse						
Identity No.				SA Income Tax Ref. No.		
Date of Birth				Passport No. & Country		
E-Mail Address						
Phone (H)				Phone (B)		
Fax No.				Mobile No.		
Physical Address						
Postal Address						
Business Address						
Reason for purchasing	Primary residence	Investment	Other:			

B.2 THE PURCHASER (IF MORE THAN ONE PURCHASER, FILL IN HERE)

Full Name						
Identity No. / Registration No.				SA Income Tax Ref. No.		
Date of Birth				Passport No. & Country		
Marital Status (Please tick)	NOT MARRIED	IN COMMUNITY OF PROPERTY	**OUT OF COMMUNITY OF PROPERTY (by ANC)	MUSLIM/HINDU RITES	**FOREIGN MARRIAGE	OTHER
**Names of spouse						
Identity No.				SA Income Tax Ref. No.		
Date of Birth				Passport No. & Country		
E-Mail Address						
Phone (H)				Phone (B)		
Fax No.				Mobile No.		
Physical Address						
Postal Address						
Business Address						
Reason for purchasing	Primary residence	Investment	Other:			

B.3 PURCHASER'S PARTICULARS (for purposes of transfer)

If not a natural person but a Company, Close Corporation or Trust

Name of corporate body:			
Registration No.:			
VAT/Income Tax Registration No.:			
Name of contact person			
***Contact No.			Fax No. (B)

DETAILS OF ALL DIRECTORS/MEMBERS/TRUSTEES			
ATTACH RESOLUTION FOR PTY, CC OR TRUST			
Full Names	Identity No.	SA Income Tax Ref No.	Residential Address

C. THE PROPERTY SOLD

THE PROPERTY HEREBY SOLD IN THE RESIDENTIAL SECTIONAL TITLE SCHEME TO BE KNOWN AS "RONDEBOSCH OAKS II" COMPRISES RESIDENTIAL APARTMENTS TO WHICH IS ALLOCATED RIGHTS TO A PARKING BAY SITUATED ON REMAINDER ERF 46954 CAPE TOWN AT RONDEBOSCH

Unit No/s	
Parking Bay No/s	
Size/s Approximate	

hereinafter i.e. the unit/s and the rights together referred to as "the Property"

D. PURCHASE PRICE inclusive of VAT at 14%

R

E. PAYMENT OF PURCHASE PRICE

Total purchase price	R
Less deposit	R
Balance of purchase price on transfer	R

The Purchaser shall pay a deposit of R_____ on signature of this Agreement.

F. LEVY PAYABLE:

AS DETERMINED BY BODY CORPORATE

G. ESTIMATED OCCUPATION DATE _____

H. ESTIMATED TRANSFER DATE _____

I. BOND MORTGAGE LOAN REQUIRED? (TICK APPROPRIATE BOX)

NO

YES

Amount required:	R
Date by which bond must be granted:	30 (thirty) days from date of signature by the Seller

J. SELLING AGENT

Name of Agency	
Telephone No.	
e-mail	
Contact person	

VAT Number of Agency

K. CONVEYANCERS

Name of firm:	Van Dyks Property Attorneys
Business address:	No 8 Sunbird Office Park Pasita Avenue Tygervalley 7530
Postal address:	P.O. Box 4308 Tyger Park 7536
Telephone No.:	021 914 5000
International telephone No.:	+27 21 914 5000
Facsimile No.:	021 914 5004
Direct Facsimile No.:	086 538 4244
International facsimiles No.:	+27 21 914 5004

ANNEXURES

- A Schedule of finishes
- B Floor Plans and Unit Layouts
- C Typical Elevations
- D Participation Quota and Unit Areas
- E Section 25 Layout

SIGNED by the Purchaser at on 20__.

AS WITNESSES

- 1. Purchaser 1
- 2. Purchaser 2

SIGNED by the Seller at on 20__.

AS WITNESSES

- 1. Seller
- 2.

STANDARD CONDITIONS

RECORDAL

WHEREAS the Seller is the registered owner of REMAINDER ERF 46954 CAPE TOWN AT RONDEBOSCH, in the City of Cape Town, Province of the Western Cape, held by Certificate of Real Right SK 8577/2007 S,

AND WHEREAS the Seller intends extending a Residential Sectional Title Scheme in respect of the Land and Buildings erected and to be erected on the Land in terms of a Right of Extension.

AND WHEREAS the Purchaser wishes to purchase a unit or units in the Sectional Title Scheme to be registered which units are purchased voetstoots.

NOW THEREFORE THE PARTIES AGREE AS SET OUT HEREUNDER**1. INTERPRETATION**

For the purpose of this Agreement, unless the context indicates otherwise

- 1.1 "the Act" means the Sectional Titles Act No. 95 of 1986 or any amendments thereof, and regulations promulgated in terms thereof.
- 1.2 "the Agreement" or "this Agreement" means this agreement signed by the parties hereto together with the Schedule and all annexures attached hereto or referred to herein, which Schedule and annexures are deemed incorporated herein.
- 1.3 "Architect" means the architect appointed by the Seller to act as such from time to time in respect of the development Scheme or a member of a firm so appointed.
- 1.4 "Body Corporate" means the body corporate as defined in the Act, which, upon incorporation, will be the controlling body of the Land and Buildings in terms of the Act.
- 1.5 "Buildings" means the buildings erected or to be erected on the Land reflected on the annexures.
- 1.6 "Common Property" means those portions of land not forming part of any Section, in the development and constituted as common property in terms of the Act.

- 1.7 "Land Surveyor" means the land surveyor appointed by the Seller, to act as such from time to time in respect of the development scheme or a member of a firm so appointed.
- 1.8 "the Land" means **REMAINDER ERF 46954 CAPE TOWN AT RONDEBOSCH**, in the City of Cape Town, Province of the Western Cape; in respect of which a Certificate of Real Right of Extension No. SK 8577/2007 S, in terms of Section 25 of the Sectional Titles Act, was issued, and having physical address at Rouwkoop Road, Rondebosch
- 1.9 "NHBRC" means the National Home Builders Registration Council constituted under the Housing Consumers Protection Measures Act No 95 of 1998.
- 1.10 "the Occupation Date" means the date established in terms of Clause 8 below.
- 1.11 "Parking Bay" means an exclusive use area designated for purposes of parking a motor vehicle the rights to which shall be allocated to the respective owners of units in terms of Section 27A of the Act.
- 1.12 "Participation Quota" means in relation to a Residential Section, the quota allocated to that Section calculated by dividing the total of the quotas allocated by the Developer to the Residential Sections in proportion to the quotas made in terms of Section 32(1) of the Act.
- 1.13 "the Plans" means the Architects Plans.
- 1.14 "the Property" means the Property being the Unit with rights to the Exclusive Use of a Parking Bay allocated thereto in terms of section 27A of the Act as described in Clause C of the Schedule.
- 1.15 "the Purchaser" means the Purchaser described in clause A.2 and the Purchaser's successor in title, heirs, executors, administrators or assigns.
- 1.16 "Quantity Surveyor" means the Quantity Surveyor appointed by the Seller to act as such from time to time in respect of the development scheme or a member of a firm so appointed.
- 1.17 "Registration Date" means the date of registration of transfer of the Property in the name of the Purchaser.
- 1.18 "Rules" means the Conduct and Management Rules as prescribed by the said Act as may be amended by the Seller.

- 1.19 "Scheme" means the Land and Buildings forming part of the Sectional Title Scheme to be established on the Land reflected in the annexures.
- 1.20 "Section" or "Unit" means a section or unit as defined in the Act.
- 1.21 "Sectional Plan" means a draft Sectional Plan and/or a Sectional Plan, approved by the Surveyor-General.
- 1.22 "the Seller" means the Seller described in clause A and its successors-in-title.
- 1.23 "Seller's Conveyancers" means Van Dyks Property Attorneys, 8 Sunbird Office Park, Pasita Avenue, Tygervalley 7530, Phone: (021) 914 5000, Facsimile: (021) 914 5004 or 086 538 4244.
- 1.24 "VAT" means Value-added Tax payable and as defined in the Value-added Tax Act, 1991.
- 1.25 Words and expressions defined in the Act shall have the meanings therein defined and pending the registration of the Sectional Plan in respect of the Buildings, shall apply *mutatis mutandis* to the component of which the Property comprises.
- 1.26 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other one, and words importing the singular shall include the plural and *vice versa*.
- 1.27 The head notes to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.28 The provisions of the recordal and annexures to this Agreement shall be deemed to be incorporated in and form part of this Agreement.
- 1.29 The Purchaser confirms that the Purchaser has chosen English as the language of this Agreement, and all transfer documents to be prepared by the Seller's Conveyancers in that language.
- 1.30 If any provision of this Agreement is in conflict or inconsistent with the law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.31 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.32 When any number of days is prescribed in this Agreement, it shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be

the next succeeding day which is not a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa.

2. **SALE**

The Seller sells to the Purchaser who purchases from the Seller the Property to be established in terms of the Act as defined and as described in Clause C of the Schedule (read with the annexures hereto) and at the purchase price stated in clause D of the Schedule.

3. **CONDITIONS PRECEDENT**

Mortgage Loan (Bond)

- 3.1 In the event of a mortgage loan being required as indicated in I of the Schedule then this sale shall be subject to and conditional upon the Purchaser procuring a mortgage secured loan approved for the amount specified in clause I of the schedule from a bank or other financial institution, and such loan shall be approved in writing by no later than the date provided for in clause I of the schedule; provided that the Seller in the Seller's sole discretion, shall have the right to extend such period for a further 30 days. Such approval shall be unconditional save for the lenders normal terms and conditions. .
- 3.2 This Agreement shall operate irrevocably and in *rem suam* as a power of attorney in favour of the Seller granting the Seller power to apply for a mortgage loan on behalf of the Purchaser for the loan contemplated in clause I. The Seller is not obliged to exercise that power. The Purchaser hereby undertakes timeously to do all such things and to sign all such documents as may be necessary and/or requisite in order in fact to apply for and procure the approval of the said loan from a bank or other financial institution and to furnish written proof to the Seller of the granting or refusal thereof.
- 3.3 The Purchaser acknowledges that the Purchaser is fully aware of the requirements of the banks with regard to the maximum loan which Banks or Financial Institutions are prepared to grant on the basis of its income and commitments and the Purchaser hereby warrants that its income is sufficient in relation to its commitments to meet the requirements of the bank in this regard and having regard to the amount of the loan for which is applied.
- 3.4 In the event that the suspensive condition in this clause 3 is not timeously fulfilled, this Agreement shall be of no force and effect and neither party shall have any claim against the other, except that the Seller shall procure the refund to the Purchaser of the deposit referred to in clause E of the schedule, with accrued interest, if any.

- 3.5 If the Purchaser is a company, close corporation, trust or other legal entity and/or the Purchaser is a married person and the loan is approved subject to the condition of suretyship, then, such directors and/or shareholders and/or trustees and/or members and/or spouse shall bind themselves as sureties for and co-principal debtors with the Purchaser arising from or in connection with such loan then such loan shall be deemed to have been unconditionally approved and the provisions of this clause 3.1 above shall be deemed to have been fulfilled. The Purchaser undertakes to procure that such directors and/or shareholders and/or trustees and/or members and/or spouse shall bind themselves as sureties for and co-principal debtor as aforesaid.

4. **PURCHASE PRICE**

The purchase price reflected in clause D of the Schedule is payable as follows:

- 4.1 The deposit payable as per clause E in cash or bank guaranteed cheque or via electronic transfer against signature hereof by the Seller.
- 4.2 The payment referred to in clause 4.1 above shall be paid to the Seller's Conveyancers and shall be held in trust by the Seller's Conveyancers and shall be paid to the Seller against transfer unless otherwise provided for herein. The Seller's Conveyancers are irrevocably authorised to invest such deposit in an interest bearing account in terms of Section 78(2A) of the Attorneys Act No. 53 of 1979, with a bank or other financial institution of their choice. All interest earned shall accrue to the Purchaser pending registration of transfer of the Property in the name of the Purchaser. The Purchaser hereby agrees to pay an administrative fee (which is regulated by the National Credit Act, where applicable) levied by the Seller's Conveyancers in respect of the said investment and further consents that such interest earned on the said deposit may be utilised by the Seller's Conveyancers in their sole discretion to set off any fees due to the Seller's Conveyancers and/or bond registration attorneys.
- 4.3
- 4.3.1 The Purchaser shall furnish the Seller's Conveyancer within 30 (thirty) days from date of acceptance of this Agreement by the Seller, with an irrevocable guarantee for the balance of the purchase price drawn in favour of the Seller's Conveyancers which, save for providing for payment against tendering of registration of transfer of the Property into the name of the Purchaser, shall be unconditional and shall be in terms acceptable to the Seller. The guarantee shall be issued by a registered South African commercial bank or other

financial institution approved by the Seller's Conveyancers in their absolute discretion for payment of the balance of the purchase price. Withdrawal or purported withdrawal of the guarantee, by a guarantor as aforesaid, for any reason whatsoever, shall constitute a breach by the Purchaser of the Purchaser's obligations to deliver a guarantee in terms of this clause and in respect of which breach the Seller shall not be required to give notice in terms of clause 25 and the Seller shall be entitled summarily to act in accordance with the provisions of Clauses 25.1.1 and 25.1.2.

4.3.2 Alternatively to 4.3.1 above, the Purchaser shall timeously furnish the Seller's Conveyancers with a mortgage loan approval in terms of clause 3, read together with clause I of the Schedule herein, to cover the portion of the purchase price originally covered by 4.3.1.

4.4 All payments shall be made to the Seller's conveyancers in Cape Town free of commission, exchange, bank charges or set off.

4.5 All payments shall be made to the Seller's Conveyancers **Van Dyks Property Attorneys** and may be directly deposited into their Trust Account as follows: **ABSA Bank, Santyger Branch, Account No. 407 559 3210 ACB: 632-005, Deposit Reference: Surname and Unit number.** In the event of such a direct deposit, confirmation thereof must be faxed to their offices (+27 86 538 4244 or +27 21 914 5004, attention: **Maretha Penwarden**). In the event of the Purchaser failing to notify the Seller's Conveyancers of any deposit made or failing to comply with the provisions of Clause 6.9.3, the Seller's Conveyancers shall not be liable to account for any loss in interest.

4.6 In the event of the rate at which VAT is chargeable being amended after the date of signature hereof by the Purchaser and in circumstances in which the amended rate will apply to this transaction, then the purchase price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.

5. **INTEREST (ONLY APPLICABLE IN THE EVENT OF A BREACH)**

Any interest payable by the Purchaser in terms of this Agreement shall be at a rate of 2% (two *per centum*) above the prime rate on overdraft facilities being that rate charged by The Standard Bank of South Africa Ltd on unsecured loans from time to time. A certificate signed by the manager of any branch of the said bank shall be sufficient proof of the said prime rate charged from time to time.

6. TRANSFER

- 6.1 Transfer shall not be passed to the Purchaser, notwithstanding anything to the contrary herein contained, until such time as the total purchase price and all other amounts for which the Purchaser may be liable in terms hereof to the Registration Date have been paid, and/or payment thereof has been secured as herein provided.
- 6.2 Transfer of the Property shall be effected by the Seller's Conveyancers. All fees and disbursements including VAT where applicable, incurred in and ancillary to the preparation for and registration of transfer shall be paid by the Purchaser.
- 6.3 Any mortgage bond required to be registered to secure the purchase price shall be registered by an Attorney on the Rawson Finance Panel. All fees and disbursements including VAT where applicable, incurred in and ancillary to the preparation for and registration of a mortgage bond shall be paid by the Purchaser.
- 6.4 It is a material term of this agreement that the Purchaser shall pay such amounts, sign such documents and furnish such information and documentation as may be required by the Seller's Conveyancers for transfer and by the Attorneys appointed by Rawson Finance for the mortgage bond, within 7 (seven) days of being requested to do so.
- 6.5 The Purchaser hereby specifically authorises and agrees to the Seller's conveyancers preparing and completing from information provided by the Purchaser herein, a transfer duty form required by South African Revenue Service (SARS) for the clearance of the Property for transfer; and specifically authorises and agrees to the Seller's conveyancers on behalf of the Purchaser signing and submitting such form to SARS for which preparation, completion, signature and submission this Agreement shall be sufficient authority.
- 6.6 In the event of the Purchaser failing within 7 (seven) days of being requested to do so by either the Seller's Conveyancers or the mortgagee's conveyancers or both as the case may be
- 6.6.1 to pay any amount mentioned in 6.1, 6.2 or 6.3 above; and/or
- 6.6.2 to sign any document or furnish any information or documentation referred to in 6.4 above

(and the widest possible interpretation shall be used in respect of the terms hereof), then *ipso facto* on the eighth day after such request the Purchaser shall be liable to pay to the Seller penalty interest on the full purchase price at the rate mentioned in

clause 5 above, calculated from the said eighth day until the date of transfer, both dates inclusive.

- 6.7 In the event of registration of transfer to the Purchaser being delayed as a consequence of a default on the part of the Purchaser, then similarly to the terms of the preceding clause, the Purchaser shall pay to the Seller monthly in advance interest on the full purchase price, less any amount actually paid to the Seller on account thereof, at the rate mentioned in clause 5 above calculated from the date transfer would have been possible had it not been for the default of the Purchaser, until the date of actual transfer, both dates inclusive. The terms of this sub-clause shall not be applied in addition to the terms of clause 6.6 above but as an alternative thereto as circumstances dictate.
- 6.8 The Purchaser acknowledges and accepts that the Purchaser has bought property in a development where a development mortgage bond is likely to have been utilised by the Seller; and thus transfer to the Purchaser will be simultaneous with transfers to other Purchasers necessitated by the Property sold having to be released from the operation of the mortgage bond. Accordingly the Purchaser acknowledges and accepts that lodgement of the Purchaser's transfer documents at the Deeds Office shall be entirely in the discretion of the Seller's Conveyancers and the Purchaser's obligation to pay penalty interest shall remain, and be unaffected by any delay occasioned by the above.
- 6.9 The Purchaser acknowledges and accordingly undertakes to comply with all the requirements as further set out hereunder and to furnish all information and documentation required by the Seller's Conveyancers to enable the Seller's Conveyancers to fulfil their obligations in terms of the acts mentioned below, and that:-
- 6.9.1 the Seller's Conveyancers are designated as an "accountable institution" in terms of the Financial Intelligence Centres Act No 38 of 2001 ("FICA");
- 6.9.2 certain obligations are placed on the Seller's Conveyancers in terms of FICA and the Prevention of Organised Crime Act 21 of 1998 ("POCA");
- 6.9.3 the Seller's Conveyancers shall not be obliged to invest and administer any deposits or any other monies paid by the Purchaser or distribute any monies to the Seller in terms of this agreement unless the Purchaser has provided the Seller's Conveyancers with the documents that they require in terms of FICA and the Seller's Conveyancers shall not be held liable for any loss of interest as a result of the Purchaser's failure to comply herein.

7. COSTS

7.1 Transfer

Registration of transfer of the Unit shall be effected by the Seller's Conveyancers and all costs including Conveyancer's disbursements and fees plus VAT thereon incurred in and ancillary to the registration of transfer shall be borne by the Purchaser.

7.2 Mortgage Bond

7.2.1 In the event of the Purchaser requiring a mortgage loan to finance or partly finance the purchase of the Property, the Purchaser undertakes to utilise the services of Rawson Finance to procure the mortgage loan which loan shall be from one of ABSA Bank, Nedcor Bank, Standard Bank, FirstRand Bank or another bank agreed to in writing by the Seller.

7.2.2 All costs including attorneys' disbursements and fees plus VAT thereon incurred in and ancillary to the registration of a mortgage bond shall be paid by the Purchaser.

7.2.3 The Purchaser will be liable for the cost of the Electrical connection (ED Box) up to a maximum amount of R1,000.00 (One Thousand Rand). Any amount payable for the connection, in excess of R1,000.00 (One Thousand Rand) will be paid by the Seller.

8. REAL RIGHT OF EXTENSION

The property herewith purchased, forms part of the second phase in a development and is done in terms of a Right of Extension in terms of Section 25 of the Act, and in terms of which another 106 units are hereby developed. This is the last phase in the development and the right to extension will lapse after the last unit of the 106 is registered.

9. OCCUPATION

9.1 The Seller after consultation with the architect, shall give the Purchaser 30 (Thirty) days notice of the Occupation Date.

9.2 A certificate signed by the architect that the unit is available for beneficial occupation shall be binding on both parties. Should the architect so certify prior, on, or after the Occupation Date of which the Purchaser has been given notice such Occupation Date referred to in 9.1 shall be binding on the parties. The Seller shall not be required to

give a further 30 (Thirty) days notice of a later date; immediate notice to the Purchaser shall be sufficient for such later date to become binding on the parties as the Occupation Date.

- 9.3 The Seller shall use its best endeavours to procure that the unit is available for occupation by the estimated occupation date but the estimated occupation date remains an estimate. The occupation date shall be that date of which notice is given as contemplated in subclauses 9.1 and 9.2 above.
- 9.4 If for any reason whatsoever the Seller is unable to give the Purchaser occupation of the unit by the estimated occupation date, then the Purchaser shall have no claim of whatsoever nature against the Seller as a result thereof.
- 9.5 From the Occupation Date the Purchaser shall be liable for payment of all electricity and water consumed in or on the unit until transfer.
- 9.6 The failure on the part of the Purchaser to take physical occupation (whether personally or by agent) or to accept the keys to the section shall not affect the Occupation Date which shall remain as defined in 9.1 and 9.2.
- 9.7 The Seller and/or the Seller's duly authorised agent shall be entitled to inspect the unit at all reasonable times during the currency of the Agreement.

10. **SUBDIVISION OF SECTION**

In respect of three additional units to be established in Building 1 the Seller records and the Purchaser agrees, that the Developer may in the Developer's capacity as Developer or represented by the body corporate, as may be required by the Local Authority, apply to the Local Authority for such consent as may be necessary to use such three additional units in Building One, for residential purposes or such other purpose to which the Seller may agree and the Purchaser shall not be entitled to withhold the Purchaser's consent to such application. The provisions of this Clause 9 shall be imposed by the Seller as Developer in the Seller's application for the registration of the sectional plan as a condition contemplated in Section 11(2) of the Act in such terms as the Registrar of Deeds may require.

11. **COMMERCIAL UNIT**

Units 95, 96 and 97 in Building One of Phase I, will be sold as and used for, commercial purposes and in particular a laundry serving residents in the Scheme.

12. OCCUPATIONAL INTEREST

Should transfer take place after the Occupation Date, the Purchaser shall pay to the Seller occupational interest calculated on the purchase price at the Prime Rate from the date of occupation to date of transfer both dates inclusive, which rental shall be paid monthly in advance (on the first day of every calendar month) from the Occupation Date to the date of transfer aforesaid. In the event of registration of transfer being effected during the course of a calendar month, the Purchaser shall be refunded occupational interest overpaid. The Purchaser shall also be responsible for all electricity and (where applicable) water consumed in the unit as from the Occupation Date.

13. BUILDINGS NOT YET ERECTED

13.1 It is recorded that:

13.1.1 the Buildings have not yet been erected or completed as the case may be;

13.1.2 the Purchaser acknowledges that the Purchaser has inspected the Plans.

13.2 The Seller shall be entitled to vary the Building(s) and/or the designs, to such extent as may be reasonably necessary to:

13.2.1 meet any requirements of any competent authority.

13.2.2 meet any special features of the Property.

13.2.3 meet any special impediments such as water, sewer or electrical lines either above or under ground or any rock or other soil condition.

13.2.4 give effect to any changes in materials, finishes or fittings which the Seller's Conveyancers consider to be appropriate or which may not be readily available at the time due to shortage in supply of such materials, finishes or fittings, without however detracting from the quality of the Buildings and/or the Section.

13.2.5 obtain the approval of the Sectional title development scheme and/or the opening of the Sectional Title Register.

13.3 The Purchaser acknowledges that, on the Occupation Date, the Common Property forming part of the Land and Buildings, as well as other portions of the Buildings may be incomplete and that occupants of the Section may suffer inconvenience from the Building operations and the Purchaser further acknowledges that it shall have no claim whatsoever against the Seller by reason of any such inconvenience.

14. **SELECTION OF FINISHES**

- 14.1 The Seller shall give the Purchaser 14 (fourteen) days notice of a date from which the Purchaser will have 14 (fourteen) days to select the internal finishes to the Section.
- 14.2 Should the Purchaser fail to select the internal finishes during the selection period mentioned above then and in such event, the Seller shall request the Architect to attend to such selection on behalf of the Purchaser. The Purchaser and Seller shall accept the Architect's selection and shall have no claim against the Seller or the Architect pursuant to such selection.

15. **WARRANTIES**

- 15.1 The Purchaser shall within 90 (ninety) days after the Occupation Date notify the Seller in writing of all or any defects in the unit, failing which the Purchaser shall be deemed to have accepted the unit in good order and condition. The Seller shall cause all such reasonable repairs as notified by the Purchaser within such 90 (ninety) day period to be effected as soon as reasonably possible thereafter at the Seller's cost.
- 15.2 The Seller shall only be responsible in terms of clause 15.1 for defects caused by faulty materials and/or workmanship and the Seller shall under no circumstances be liable for any consequential loss or damage and the Purchaser hereby waives any such claim.
- 15.3 A certificate issued by the architect to the effect that any defect has been made good shall be final and binding on both parties and shall relieve the Seller from any further obligation in respect of such defect.
- 15.4 Save as specifically set out in this Agreement the Seller has made no representations and given no warranties in respect of the Property and the Development herein or in respect of anything relating thereto and this sale is accordingly voetstoots.
- 15.5 In the event of any defect manifesting itself subsequent to the 90 (ninety) day period referred to in clause 15.1 above (for which the Purchaser agrees the Seller shall not be liable) the Seller does hereby cede and make over to the Purchaser its rights to claim from the contractor/nominated sub-contractor/supplier (to the extent that the Seller is not precluded therefrom).
- 15.6 All undertakings hereby given to the Purchaser are personal to the Purchaser and cannot be alienated and disposed of by the Purchaser in any way.

15.7 The Purchaser shall not be entitled for whatever reason to withhold, set off or retain any amounts owing by the Purchaser to the Seller nor shall the Purchaser be entitled to withhold or abate payment of any amount due to the Seller in terms of this Agreement by reason of any breach of the Seller's obligations hereunder.

15.8 The Purchaser acknowledges and agrees that he shall have no claim against the Seller in respect of defects, whether latent, patent or otherwise in the common property or the units save for defects of which the Purchaser shall have notified the Seller pursuant to clause 15.1.

15.9

15.9.1 The Seller warrants that in respect of buildings to be erected at the instance of the Seller only that:

15.9.1.1 The building contractor engaged to construct and erect the buildings, is registered as a home builder;

15.9.1.2 The Buildings will be enrolled with the NHBRC,

15.9.1.3 The Buildings as referred to above and the apartments / sections/ units located therein, will be constructed in a workmanlike manner and will be fit for habitation and will be constructed in accordance with the NHBRC technical requirements.

15.10 The common property shall on the establishment of the Body Corporate, be inspected by the architect and when approved by the architect the Seller shall be deemed to have fulfilled the Seller's obligations to the owners and the Body Corporate and neither the owners nor the Body Corporate shall have any claim against the Seller in respect of the common property.

15.11 This Agreement constitutes the entire contract between the parties and the Purchaser hereby acknowledges that the rights and obligations of the parties are governed exclusively hereby. The Purchaser warrants not having been induced into entering into this contract by any representation not contained herein.

16. **LEVY/MANAGING AGENT**

16.1 From and including the date of occupation as aforesaid, the Purchaser shall be liable to pay to the Body Corporate a monthly levy in advance (*pro rata* in respect of any portion of a month) on the first day of each and every month, being a proportionate

share of the total cost of managing, operating, administering, insuring, repairing and maintaining the Land and the Buildings and the Property.

- 16.2 It is therefore agreed that the proposed Sectional Title Scheme in respect of the development will accordingly be a scheme as envisaged in terms of Section 32[2] of the Act.
- 16.3 The participation quota of a residential section shall be a percentage expressed to four decimal places, as determined by the Seller and approved by the Surveyor General.
- 16.4 The total of the quotas allocated by the Seller to the residential units shall be divided among them in proportion to a calculation of their quotas made in terms of Section 32[1] of the Act.
- 16.5 The Purchaser shall be responsible for payment to the Body Corporate of its proportional share of the electricity consumed in the building based on the sectional title unit area owned by the Purchaser.
- 16.6 Rates are payable by purchaser to the Municipality from date of occupation.
- 16.7 The Purchaser hereby irrevocably appoints the Seller as the Purchaser's proxy, which appointment the Seller accepts, to vote on the Purchaser's behalf at the first meeting of the Body Corporate for the appointment of managing agents for the first year of the existence of the Body Corporate.

17. **THE ESTABLISHMENT OF THE BODY CORPORATE**

It is recorded that the Body Corporate is established in terms of Section 36 of the Act.

The Purchaser agrees that:

- 17.1 immediately on becoming the registered owner of the Property the Purchaser will automatically become a member of the Body Corporate and will be and remain bound by its rules for so long as the Purchaser is a registered owner.
- 17.2 should the Purchaser sell the Property the Purchaser will ensure that his Purchaser is made fully aware of the existence of the Body Corporate and the fact that such successor Purchaser will automatically become a member of the Body Corporate.
- 17.3 The Seller shall be entitled, and to the extent that it is necessary the Purchaser consents to and authorises, the Seller, to make such alterations or amendments to the Rules as well as to file and to lodge such altered and amended Rules in the Deeds

Registry at Cape Town as the Seller in its sole discretion believes it necessary to give effect to the provisions of this agreement so as to provide for the homogeneous and harmonious operation of the scheme and/or as are required by the bondholder.

18. **RULES**

The Purchaser grants the Seller an irrevocable power of attorney in *rem suam* (operative from the time the Purchaser becomes the registered owner of the Property) to attend the necessary meetings of the Body Corporate and on behalf of and to the exclusion of the Purchaser to vote at meetings for the amendment and or adoption of the Rules, until such time as the Seller shall have transferred the last unit to a third party.

19. **SECTIONAL PLAN**

19.1 The Purchaser acknowledges that the Sectional Plan has not yet been drawn and that the exact boundaries of the Section forming part of the Property shall be those as shown on the final approved Sectional Plan. The Seller warrants that they will be substantially in accordance with those set out in the annexures hereto. The undivided share of the Common Property apportioned to the Section shall be in accordance with the Participation Quota, which is ultimately determined in terms of the Act upon approval and registration of the Sectional Plan.

19.2 The Purchaser shall not be entitled to claim cancellation of this Agreement or any reduction in the purchase price by reason of any minor alteration to the number, size, location or Participation Quota of any Section, or any increase in their number, to that shown on the Plans annexed hereto. The Purchaser undertakes to accept transfer of the Property as may be redefined and re-numbered in the Sectional Plan approved by the relevant local authority and the Surveyor-General. For purposes of clarity and good order, a minor alteration in size shall be an increase or decrease in the area of the Section or Unit not greater than 5% (*five per centum*).

19.3 The Land Surveyor shall have the sole decision upon whether a deviation referred to in clause 16.2 above is minor and his decision shall be binding on the parties.

20. **SECTIONAL TITLE – RESIDENTIAL**

20.1 The Purchaser acknowledges that this sale is by Sectional Title and that the Purchaser has or will have satisfied himself / herself / itself regarding all Rules, regulations, conditions and servitudes of whatever nature pertaining to the sale, ownership and use of the Property, before signature of this agreement. The Purchaser furthermore acknowledges that the Purchaser has been informed that the

the Management Rules and Conduct Rules are available for inspection at the Seller's office at 222 Main Road, Rondebosch. The Management Rules are the standard rules in terms of the regulations issued in term of the Sectional Title Act.

20.2 Units in the Sectional Title Scheme shall be sold and utilised for residential purposes only except for the units referred to in clause 10 & 11 of this agreement

20.3 The Purchaser further acknowledges, and the Seller being entirely free from all liability in respect thereof, that he purchases the property subject to all the servitudes and conditions:

20.3.1 contained in the titled deeds of the land;

20.3.2 imposed by the developer or any relevant authority in respect of the scheme in terms of Section 11(2) of the Act;

20.3.2 contained in the Rules;

contained in this Agreement.

21. **SELLING AGENT'S COMMISSION**

The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any agent other than the selling agent/s named in clause J of the Schedule. The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against/suffered by the Seller arising out of a breach of any of the foregoing warranty.

22. **JURISDICTION/COSTS**

22.1 The Purchaser hereby consents in terms of Section 45 of the Magistrate's Court's Act, No. 32 of 1944, as amended, to the jurisdiction of any Magistrates' Court having jurisdiction over its person under Section 28 of that Act, notwithstanding that any action or proceeding arising out of this Agreement would otherwise be beyond the jurisdiction of such court. The Seller shall, however, have the right to institute action in any other court of competent jurisdiction.

22.2 The Purchaser agrees that, in the event of the Seller instructing its attorneys and/or taking legal proceedings against the Purchaser pursuant to a failure by the Purchaser to fulfil any of its obligations in terms hereof, then the Purchaser shall pay all legal costs plus VAT incurred by the Seller in connection therewith as between attorney and own client, including collection commission laid down at the tariff rate applicable.

23. JOINT AND SEVERAL LIABILITY

Should this Agreement be signed, by more than 1 (one) person as purchaser, the obligations and liability of all the said Purchasers shall be joint and several.

24. TRUSTEE / DIRECTOR / MEMBER

24.1 If this Agreement is entered into, by the signatory for the Purchaser in a capacity as trustee / director / member for a trust / company or close corporation to be formed, then the said signatory, by the signatory's signature hereto, hereby binds himself/herself in favour of the Seller as surety and co-principal debtor, under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said trust / company or close corporation in terms of or arising out of this Agreement or any cancellation hereof; and

24.2 without prejudice to the provisions of clause 21.1 above, in the event of such trust / company or close corporation not being formed within 30 (thirty) days after the date of signature of this Agreement by the Purchaser, and/or failing to ratify and make the provisions of this Agreement binding upon itself, and/or failing within 7 (seven) days of being formed to deliver to the Seller's Conveyancers the originals or notarially certified copies of its Trust Deed, Memorandum and Articles of Association, Certificate to Commence Business, Certificate of Incorporation, and all necessary resolutions of shareholders and/or directors in respect of this sale, in the case of a company, or of its Founding Statement, any applicable association agreement (or ratification and adoption of this sale, in the case of a close corporation, then and in any such event, the said signatory shall be personally liable in terms hereof as if the signatory had contracted in his own personal capacity.

25. COMPANY/CLOSE CORPORATION/TRUST

If this Agreement is signed as Purchaser by a person purporting to act for and on behalf of a company, close corporation or trust (other than a company, close corporation or trust not yet formed), the signatory shall be deemed to warrant that the signatory is duly authorised so to sign this Agreement and shall by the signatory's signature hereto bind himself thereto in favour of the Seller as surety and co-principal debtor *in solidum* with such company, close corporation or trust under renunciation of the benefits of division, excussion and cession of action, for the due performance of all the obligations of the said company, close corporation or trust in terms of or arising out of this Agreement or any cancellation hereof.

26. **CESSION AND ASSIGNMENT OF RIGHTS**

The Purchaser shall not be entitled to sell, assign, cede or make over its rights under this Agreement and the Seller shall not under any circumstances agree to entering into a Tripartite Agreement. The Purchaser cannot sell or alienate his unit before he has taken transfer thereof.

27. **RIGHT TO RESILE**

27.1 Notwithstanding any provision to the contrary herein contained, within 6 (six) months from date of this agreement, the Seller in his sole discretion, shall have the right to resile from this Agreement, should the Seller be of the opinion that it has not achieved sufficient sales to proceed with the Development or should the Seller fail to obtain the necessary approvals from all competent authorities as may be required for the development comprising this scheme. Such aforementioned time period may be extended for a further period of 3 (three) months, should the Seller require such extension of time by the Seller giving the Purchaser notice to such effect.

27.2 Should the Seller elect to resile from this Agreement it shall give notice to the Purchaser to that effect, in which event this Agreement shall lapse and become null and void, and all amounts paid by the Purchaser together with interest earned thereon shall be refunded to the Purchaser.

27.3 Should the Seller fail to give the Purchaser timeous notice as referred to above, this agreement shall remain binding on the parties.

28. **BREACH**

28.1 Should the Purchaser fail to pay any amount, or fail to provide the guarantee(s) required in terms of this Agreement on due date, or should the Purchaser commit a breach of any other of the terms and conditions of this Agreement and remain in default for 7 (seven) days (unless such breach occurs after the transfer documents have been lodged in the Deeds Office for registration, in which case the 7 (seven) day period may at the election of the Seller be reduced to 24 (twenty four) hours) after dispatch of a written notice requiring payment and/or delivery of the guarantee(s) and/or requiring such breach to be remedied, the Seller shall be entitled without prejudice to any other rights of the Seller:

28.1.1 to cancel the sale in which event the Purchaser shall forfeit all monies paid to the Seller and/or the Seller's agents or Conveyancers in terms hereof, including monies paid as a deposit to such Conveyancers together with any

interest earned thereon; and the Seller's agents or Conveyancers shall be obliged to pay the deposit together with such interest to the Seller and, such cancellation shall be without prejudice to the Seller's other legal rights and remedies and the right to claim damages; or

28.1.2 to claim immediate payment, of the whole of the purchase price and the fulfilment of all the terms and conditions hereof.

28.2 The Purchaser shall be liable to the Seller to pay the Agents commission in event of cancellation or default by the Purchaser. If the Seller cancels this Agreement and resells the Property at a lower price, then the Purchaser shall be liable to the Seller for payment of the shortfall.

29. NOTICES AND DOMICILIA

29.1 The parties to the Agreement choose the addresses set out in clauses A and B in the schedule as their respective *domicilia citandi et executandi* for all purposes arising hereout and as their respective addresses for the service of any notices required to be served upon them hereunder.

29.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give such notice by telefax and/or by e-mail.

29.3 Either party may by notice to the other change the physical address chosen as its domicilium, or may advise a telefax number and/or email address or change the telefax number and/or e-mail address; provided that such change(s) shall only become effective on the 6th (sixth) business day after the date of receipt, or deemed date of receipt, of such notice by the addressee.

29.4 Any notice to a party shall -

29.4.1 If sent by pre-paid registered post, be deemed to have been received on the fourth business day after posting unless the contrary is proved.

29.4.2 If delivered by hand, shall be deemed to have been received on the day of delivery or on the next business day if the day of delivery is not a business day.

29.4.3 If sent by telefax and/or e-mail, shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day unless the contrary shall otherwise be proved.

29.5 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a party to this Agreement shall be an adequate written notice or communication to it/him notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi* or transmitted to such party's telefax number and/or e-mail address as stipulated herein.

30. ACKNOWLEDGEMENTS BY THE PURCHASER

- 30.1 The Seller and the Purchaser acknowledges that the sale is subject to the following terms and conditions;
- 30.2 The Surveyor General registering the approved Sectional Diagram relating to the property to be transferred to the Purchaser and the governing authorities issuing the clearance certificate required to register transfer;
- 30.3 The Seller shall diligently pursue the application for all the relevant approvals with the relevant authorities to bring about timeous completion of the development and transfer of the unit.

31. OFFER ACCEPTANCE

Inasmuch as this Agreement, signed by the Purchaser and delivered to the Seller, shall constitute an offer to purchase the Property, such offer shall not be capable of being withdrawn and shall remain open for acceptance by the Seller signing same within 45 (forty five) days after the date of signature thereof by the Purchaser.

32. SOLE CONTRACTUAL RELATIONSHIP

- 32.1 The parties hereto acknowledge that this Agreement represents the entire Agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever express or implied have been made by either party or their agents other than as set forth in this Agreement.
- 32.2 No variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.
- 32.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such

party in respect of this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.

32.4 The Purchaser acknowledges that all artistic, Architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets used by the Seller or its agents in the marketing and selling of the Property hereby purchased and sold, have been prepared and distributed as advertising material only; and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby; and that no presentation is thereby made by the Seller, and that the parties shall be bound by the terms contained in this Agreement only. It is further recorded that all furniture and fittings shown on the attached plans are for illustration purposes only and that the finishing schedule shall sufficiently detail the schedule of finishes in the Property or Section.

SIGNED by the Purchaser at on 20__.

AS WITNESSES

- 1. Purchaser 1
- 2. Purchaser 2

SIGNED by the Seller at on 20__.

AS WITNESSES

- 1. Seller
- 2.

AFFIRMATION OF SURETYSHIP

To be completed where the Purchaser is a company, close corporation or trust, or where one party is standing surety for the Purchaser's bond application.

We the undersigned, _____ and _____ hereby confirm that we have bound ourselves jointly and severally to and in favour of the SELLER as sureties and co-principal debtors in solidum with the Purchaser as set out in Clauses 3.5, 24 and 25 of this agreement, for the due fulfilment of all the obligations of the Purchaser arising from this agreement.

For signature by the signatory on behalf of the Purchaser but in such signatory's personal capacity.

SIGNED at _____ on this _____ day of _____ 20__.

AS WITNESSES:

1. _____

2. _____
_____ in his / her personal capacity as surety