

ANNEXURE 1

This is the annexure referred to in the Agreement of Purchase and Sale and Schedule above and the provisions hereof shall be deemed to be incorporated in and to form part of this agreement.

NOW THEREFORE IT IS AGREED THAT:

1. Definitions

- 1.1 In this agreement unless otherwise indicated or unless the contrary intention shall appear the following terms shall have the meanings assigned to them hereunder, namely:
- 1.1.1 "body corporate" - the body corporate referred to in Section 36 of the Act established in respect of the buildings;
- 1.1.2 "building" or "buildings" - the building or buildings and all improvements which are still to be erected on the land;
- 1.1.3 "common property" - the land and such part of the buildings as are not included in any section;
- 1.1.4 "participation quota" - in relation to a section or the owner of a section shall be the decimal fraction specified in the schedule to the sectional plan;
- 1.1.5 "the Act" - the Sectional Titles Act, No. 95 of 1986, as amended, and all regulations made in terms thereof as amended or replaced from time to time;
- 1.1.6 "the conveyancers" – Vining Camerer Inc (Ref : Michelle Chavkin; Tel:011-7841970, Fax: 011-783 1974,e-mail : [mailto: michelle@viningc.co.za](mailto:michelle@viningc.co.za))
- 1.1.7 "the developer" - the seller or its successors in title or assigns having the rights and powers conferred on a developer by the Act;
- 1.1.8 "the manager" - the managing agent as appointed by the developer;
- 1.1.9 "the property" - collectively the land and the building or buildings;
- 1.1.10 "the schedule" - shall mean the schedule prefixed to this agreement, forming part hereof which contains details of the unit sold, the purchase price and other details hereinafter referred to;
- 1.1.11 "the scheme" - "BEDFORD "
- 1.1.12 "the sectional title register" - a sectional titles register in respect of the land and the building/s comprised in the scheme from time to time;
- 1.1.13 "the unit" - shall have the meaning defined in the Act and with regard to the unit hereby sold shall mean any unit which is specified in the schedule notwithstanding

that the sectional plan upon which the section forming part of the unit is shown or is to be shown may not be presently registered.

- 1.2 In this agreement, unless the context otherwise requires:
 - 1.2.1 words and expressions used in the Act shall have the same meanings as have been assigned to them in terms of the Act;
 - 1.2.2 the masculine shall include the feminine and vice versa and they shall both include neuter;
 - 1.2.3 the singular shall include the plural and vice versa;
 - 1.2.4 the headings are used for reference only and are in no way to be deemed to explain, modify, amplify or aid in the interpretation of this agreement.

2. Sale

- 2.1 The seller hereby sells to the purchaser who hereby purchases the unit from the seller, and on the terms and conditions set out in this agreement.
- 2.2 The precise boundaries of the section forming part of the unit hereby sold shall be as depicted upon the registered sectional plans.

3. Additional rights acquired / exclusive use areas

- 3.1 The Seller shall cede the exclusive use area/s relating to this unit to the purchaser, simultaneously with the registration of the transfer, by way of Notarial deed of Cession.
- 3.2 Such exclusive use area held by Notarial deed of Cession may not without the written consent of the developer, be sold, ceded or otherwise disposed of to anyone, except the person to whom the purchaser sells or disposes of the unit.
- 3.3 The purchaser undertakes not to interfere with or hinder any other purchaser or owner of any unit forming part of the scheme in the exercise by him of any exclusive rights granted to him.

4. Developers right of extension

The purchaser acknowledges that the developer has reserved the right to extend the sectional scheme in terms of Section 25(1)(a) of the Act for its own account, by the erection and completion from time to time within a period of 99 (NINETY Nine) years from the date of registration of the sectional plan, a further building or buildings on part or parts of the common property and to divide such buildings into sections and common property and to confer the rights of exclusive use over parts of the common property upon the owner of one or more units in the scheme.

5. Purchase price

The purchase price (including VAT) of the unit payable by the purchaser to the seller is the amount referred to in paragraph 4 of the schedule, which amount shall be payable as follows:

- 5.1 the deposit referred to in paragraph 5 of the schedule shall be held in trust by the conveyancers and invested in an interest bearing trust account in terms of Section 78(2A) of the Attorneys Act, interest accruing to the purchaser and paid to the seller or its nominee on transfer or when the seller is entitled thereto in terms of this agreement or to the purchaser when the purchaser is entitled thereto in terms of this agreement. The purchaser hereby acknowledges that prior to the deposit being invested in an interest bearing trust account by the seller's conveyancers, the purchaser is obliged to comply with the requirements of the Finance Intelligence Centre Act and to provide copies of certain documentation to the seller's conveyancers. Failure to comply and not sign and comply information when requested will result in the deposit not earning interest for the purchaser;
- 5.2 The amount of the loan in clause 6 of the schedule shall be secured by bankers guarantees acceptable to the seller and delivered to the seller's conveyancers and / or the balance of the purchase price in 7 of the Schedule shall be paid into trust with the seller's conveyancers (and be invested in terms of 5.1) or secured by the furnishing of bankers guarantees acceptable to the seller within 30 days from written request by the seller's conveyancers, provided such request may only be made after fulfilment of all suspensive conditions in this agreement.
- 5.3 Should the payment and / or the guarantees in 5.2 not be paid or delivered timeously as the case may be, the purchaser shall be liable for and shall pay without demand to the seller the mora interest in 16 of the schedule, the seller's rights in terms of clause 11 of this annexure 1 remaining unaffected.

6. **Occupational rental / levy**

In the event of the purchaser taking occupation of the unit prior to date of registration of transfer, the purchaser shall pay the occupational rental stated in 11 of the Schedule and the estimated initial monthly levy stated in 12 of the Schedule, thereafter monthly in advance on the first day of each month until transfer of the unit to the purchaser in terms hereof is registered. After registration of transfer, the purchaser shall pay the levy to the Body Corporate, the first of such levy payments shall include the amount in respect of the Body Corporate's obligation to repay the seller amounts paid by the seller, on behalf of the Body Corporate to Eskom and/or the local authority in respect of consumption deposits for the consumption of water and/or electricity, which amounts will be paid by the purchaser shall be determined in accordance with the participation quota.

7. **Costs of transfer/bond registration**

- 7.1 The deposit/s, instalments and all other amounts payable to the seller in terms of this agreement shall be payable free of all bank costs at the seller's address or at such other place within South Africa as the seller may from time to time in writing direct.
- 7.2 Each payment made in terms of this agreement and any interest earned on the deposit or other monies paid to the seller's conveyancers in terms of this agreement shall be allocated first to occupational rental and the levy, secondly to all other costs and charges due by the purchaser in terms hereof and thereafter in reduction of the balance of the purchase price.
- 7.3 Provided that:

- 7.3.1 the purchaser obtains the loan in 6 of the schedule via the seller's appointed mortgage originators, Bond Choice; and
- 7.3.2 the seller's conveyancers, Vining Camerer Inc, receive instructions from the purchaser's bankers to attend to the registration of the mortgage bond over the unit –
- the seller shall be liable for and shall pay all costs of and incidental to the transfer of the unit to the purchaser including all conveyancing fees, VAT thereon and other incidental charges. Transfer shall be attended to by the seller's conveyancers.
- 7.4 The purchaser will be liable for all bond registration costs, if any.
- 7.5 Transfer of the unit shall be effected by the seller's conveyancers. The purchaser shall provide all documentation and information, sign all documents and do whatever may be required by the said conveyancers within 7 days of request.
- 7.6 The purchaser hereby warrants that his/her/its tax affairs are in order and that SARS will be in a position to issue the necessary Transfer Duty Exemption certificate for purposes of the transfer of the unit on the request therefore.

8. **Occupation**

- 8.1 If applicable, and subject to the purchaser having paid on due date the deposit referred to in paragraph 5 of the schedule and subject to the purchase price being secured in terms of 10 of the schedule, and provided occupational rental, the estimated levy, legal costs and any other amounts due by the purchaser in terms of this agreement have been paid or secured and the purchaser has signed all documents as required by the seller's conveyancers including all certificates of completion as may be required by the purchaser's bankers, occupation of the unit shall be given to and taken by the purchaser, prior to date of registration of transfer, on a date agreed to between the parties.
- 8.2 In the event that the occupation date precedes the date of transfer, the purchaser shall pay the occupational rental as set out in clause 11 of the schedule and the estimated levy in clause 12 of the schedule to the seller.
- 8.3 It is recorded that the purchaser is aware that, on the occupation date, the building, common property, and other sections in the building may be incomplete and under construction and that the purchaser must necessarily suffer inconvenience from building operations and from noise and dust resulting therefrom. The purchaser shall not be entitled to cancel this agreement nor have any claim whatsoever against the seller by reason of any of the foregoing however the seller shall be obliged to take reasonable steps to control such noise and dust and to minimise the inconvenience to the purchaser.

9. **Passing of risk**

All the benefit of and risk in and to the unit shall pass to the purchaser on the transfer date.

10. **Purchaser's acknowledgment**

- 10.1 The purchaser acknowledges that he is aware of and fully acquainted with the matters hereinafter set forth, namely that:

- 10.1.1 the unit is sold in accordance with the sectional plan and the participation quota endorsed thereon as and when approved and subject to any modification or alterations which may be made thereto from time to time in accordance with the provisions of the Act or of any authority, and subject to any applicable conditions of title which may be incorporated therein;
- 10.1.2 if the areas of the common property are found not to correspond to those set out in this agreement, the seller shall not be liable for any shortfall nor shall it be entitled to claim compensation for any surplus.
- 10.1.3 The unit is sold voetstoots and the seller shall have no further or other liabilities in respect of any defects which appear in the unit whether patent or latent.

11. Purchaser's default

- 11.1 If the purchaser fails to pay on due date any instalment or other moneys which the purchaser may in terms hereof (provided that no notice need be given if the breach is the non-payment of the deposit in clause 5 of the schedule) or commits any other breach of any of the terms and conditions of this agreement (or of any of the rules and regulations to which the purchaser is subject in respect of the land and/or building, including the section), the seller shall be entitled without prejudice to any other remedies that it may have at law, if the purchaser fails to remedy such breach, default or non-payment within 10 days of despatch of written notice per prepaid registered or certified post or delivery thereof by hand calling upon the purchaser so to do:
 - 11.1.1 to cancel this agreement, retake possession of the unit and:
 - 11.1.1.1 claim all damages suffered by reason of the purchaser's breach of contract, in which event, pending the determination of such damages, the seller shall be entitled to retain in pledge, as security for the due payment by the purchaser of such damages, all amounts paid by the purchaser in terms of this agreement, and immediately the seller's claim for damages shall have been established, there shall be set off and credited against such damages the aforesaid amounts retained by the seller, provided that should such retained amounts exceed the damages so due to the seller, the seller shall refund the excess to the purchaser, but, that should the said damages exceed the said amounts retained, the purchaser shall be obliged to pay the amount of the shortfall to the seller on demand; or
 - 11.1.1.2 claim payment of all arrear payments then due and retain all payments already made by the purchaser to the seller prior thereto, as rouwkoop or as a penalty or as liquidated damages; or
 - 11.1.2 to claim immediate payment of the full balance of the purchase price interest and all other amounts payable by the purchaser in terms of this agreement.
- 11.2 If this agreement is cancelled as hereinbefore provided, the purchaser and all persons claiming a right of occupation through the purchaser, shall forthwith be obliged to vacate the unit and to deliver it to the seller. No lease or other right of occupation in favour of the purchaser shall be created or come into existence by virtue of this agreement.
- 11.3 If the purchaser disputes the seller's right to cancel this agreement, then pending the determination of such dispute, the purchaser shall be obliged to continue to pay all amounts payable by him in terms of this agreement on the due dates thereof and the seller shall be entitled to accept such payments without prejudice to its rights of cancellation as aforesaid. If such dispute is decided in favour of the seller then such

amounts so received by the seller after cancellation as aforesaid shall be deemed to have been paid to the seller prior to cancellation.

- 11.4 Should this agreement be cancelled in terms of this clause the purchaser shall not be entitled to claim or receive any compensation whatsoever from the seller for any alterations, additions or improvements effected to or on the section save only as otherwise provided by law.

12. **Mortgage finance**

- 12.1 This agreement is subject to the condition that the purchaser (or the seller or its agent, if any, on the purchaser's behalf) is able to raise a loan upon the security of a first mortgage bond to be passed over the unit for a sum of not less than the amount shown in 6 of the Schedule. Such bond shall be substantially on the same terms and conditions as bonds granted by any bank or other financial institution in respect of similar properties and for purchasers of a similar financial standing. This condition shall be deemed to have been fulfilled upon written advice by the lender to the seller or the purchaser that it is prepared to make the loan notwithstanding that funds might not immediately be available and notwithstanding that the final approval of the loan cannot be given until the sectional plans have been approved.

- 12.2 In the event that the aforesaid loan cannot be raised as in 12.1 by not later than the date in 10 of the schedule, provided the time period may be extended by the seller on written notice to the purchaser for a further period or periods not exceeding a total of 90 days, this agreement shall, subject to the provisions of 11.4, lapse and be of no further force and effect, in which event the purchaser hereby agrees that the sum of R15,000.00 may be retained by the seller as an agreed compensation for all costs incurred by the seller during the period of the suspensive condition. The said R15,000.00 shall be automatically deducted from the deposit and the balance of the deposit together with interest thereon shall be repaid to the purchaser.

- 12.3 The purchaser undertakes to use the purchaser's best endeavours in order to raise the aforesaid loan and furthermore undertakes to sign all such documents as are reasonably necessary for this purpose. The purchaser warrants that he earns sufficient to obtain the bond in the amount indicated.

13. **Joint and several liability**

Should this agreement be signed by more than one person as purchaser, the obligation of all such signatories shall be joint and several.

14. **Suretyship**

Should the purchaser be a company or close corporation or trust or should the purchaser have nominated a company or close corporation or trust as co-purchaser in terms of clause 15, the signatory to this agreement warrants that he is duly authorised to enter into this agreement on behalf of the company or close corporation and hereby binds himself as surety and co-principal debtor in favour of the seller for all the obligations of the purchaser in terms of this agreement (including any amounts which may become owing arising out of any breach of this agreement) and renounces the benefits of excussion, division, cession of action and *de duobus vel pluribus reis debendi* the meaning and full force and effects of such benefits the signatory/surety acknowledges he knows and understands.

15. **Resolutive condition (nomination clause in terms of Section 5(2) of the Transfer Duty Act)**
- 15.1 This agreement is subject to the resolutive condition that the purchaser may nominate a third party purchaser ("the nominated purchaser") under this agreement as follows:
- 15.1.1 the nominated purchaser need not be in existence at the time this agreement is signed but must be in existence at the time of the nomination;
- 15.1.2 both the nomination and the nominated purchaser's acceptance of the nomination must be in writing and must be delivered to the seller within 24 hours of signature of this agreement (or such extended date as the parties may agree in writing) failing which the right to nominate will lapse and the original purchaser will remain bound as purchaser under this agreement;
- 15.1.3 if a nomination and an acceptance are duly delivered as set out above, the sale to the original purchaser will automatically fall away and be dissolved on such delivery and a new sale to the nominated purchaser on the same terms and conditions will automatically simultaneously come into existence provided that:
- 15.1.3.1 reference to the date of this agreement will continue to refer to this date and not to the date of the new agreement;
- 15.1.3.2 the deposit, if any, paid by the original purchaser will be refundable by the seller to the original purchaser on payment by the nominated purchaser of the new deposit, provided that the nominated purchaser may pay the new deposit to the original purchaser in discharge both of the nominated purchaser's liability to pay the new deposit to the seller and the seller's liability to refund the old deposit to the original purchaser;
- 15.1.3.3 there shall be no consideration whatsoever payable by the nominated purchaser to the purchaser or to the seller arising out of the cancellation of this sale and the coming into existence of the new sale pursuant to this clause.
- 15.1.4 the original purchaser's rights to nominate a third party as purchaser is conditional on the original purchaser not being in breach of any obligation under this agreement.
- 15.1.5 The original purchaser will automatically be bound as surety and co-principal debtor for the nominated purchaser's obligations to the seller arising out of this sale (including any amounts which may become owing arising out of any breach of this agreement) and renounces the benefits of excussion, division, cession of action and *de duobus vel pluribus reis debendi* the meaning and full force and effects of such benefits the original purchaser acknowledges he knows and understands.
- 15.2 It is recorded that the agent has agreed that if a new sale to the nominated purchaser comes into existence pursuant to this clause, commission will only be payable to the agent on the new sale to the nominated purchaser and not on the sale to the original purchaser which has fallen away.
- 15.3 **Sale prior to transfer**

The purchaser shall not, save with the prior written consent of the seller, sell the unit prior to transfer. Consent, if any, shall not absolve the purchaser in any way from any of its obligations in terms hereof and in particular the obligation to take transfer of the unit pursuant hereto. Simultaneous transfer of the unit to the purchaser's third party purchaser may be permitted at the sole discretion of the seller and only provided such simultaneous transfer in no way delays the transfer of the unit to the purchaser.

16. **Commission**

The seller shall pay the Agent commission in terms of its mandate, which commission shall be deemed to be earned on the conclusion of this agreement, and should the agreement be subject to a suspensive condition, then upon fulfilment of such condition shall be payable on the registration of transfer of the property into the Purchaser's name. Should this agreement be cancelled for any reason whatsoever or should transfer of the property not be registered for any reason whatsoever, or should the Purchaser and / or Seller breach this agreement, then the Agent may claim Estate Agent's commission from the defaulting party.

17. **Miscellaneous matters**

17.1 **Addresses and Notices**

- 17.1.1 For the purposes of this agreement, including the giving of notices and the serving of legal process, the parties choose domicilium citandi et executandi ("domicilium") at the addresses set out in the Schedule.
- 17.1.2 A party may at any time change that party's domicilium by notice in writing to each of the other parties, provided that the new domicilium is in the Republic of South Africa and consists of, or includes, a physical address at which process can be serviced, such new address being effective on receipt by the addressee of such written notice.
- 17.1.3 Any notice given in connection with this agreement shall:
- 17.1.3.1 be delivered by hand; or
 - 17.1.3.2 be sent by prepaid registered post; or
 - 17.1.3.3 be sent by telefax (if the domicilium includes a telefax number),
 - 17.1.3.4 be sent by email (if the domicilium includes an email address);
- to the domicilium chosen by the party concerned.
- 17.1.4 A notice given as set out above shall be deemed to have been duly given:
- 17.1.4.1 if delivered, on the date of delivery;
 - 17.1.4.2 if sent by post, 7 days after posting;
 - 17.1.4.3 if sent by telefax, on the day that the telefax is transmitted.

17.2 Entire contract

This agreement constitutes the entire contract between the parties with regard to the matters dealt with in this agreement and no representations, terms, conditions or warranties not contained in this agreement shall be binding on the parties.

17.3 Variation and Cancellation

No agreement varying, adding to, deleting from or cancelling this agreement shall be effective unless reduced to writing and signed by or on behalf of the parties.

17.4 Indulgences

No indulgence granted by a party shall constitute a waiver of any of that party's rights under this agreement; accordingly, that party shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.