

HELDERBERG MANOR

DEED OF SALE

UNIT NO: _____
PARKING BAY NO: _____
GARAGE NO: _____

(Consisting of this Schedule and the Conditions of Sale (“Conditions”) annexed together with annexures thereto)

Made and entered into by and between

SILVER KNIGHT PROPERTIES 43 (PTY) LTD

Registration No 2002/030673/07
(hereinafter called “the Seller”)

and

THE PURCHASER

(whose full particulars appear from the following Schedule)

THE SCHEDULE

1. PERSONAL PARTICULARS:

1.1 THE PURCHASER

ID No: _____

SARS Number _____

Marital Status: _____

Name of Spouse: _____

ID No. of Spouse: _____

of (address) _____

Tel. Numbers:

(h) _____ (w) _____

(cell) _____

E-mail address: _____

Company/ Trust No
(if applicable) _____

1.2 PURCHASE PRICE

Unit (consisting of:)

- Land component & Exclusive Use Area R _____

- Building Component (inclusive
of Garage) R _____

- Garage (garden apartments only) R _____

- Extras R _____

Total Payable (VAT inclusive) **R** _____

1.3 TOTAL PAYABLE IN WORDS :

_____ RAND

2. INTRODUCTION

- 2.1. The SOMERSET GARDENS Scheme is a Phased Development for retired people and is subject to the provisions of both the Sectional Titles Act and the Retired Persons Act. Paragraphs 18 to 31 hereof provide all disclosures required in terms of the Retired Persons Act and/or the regulations thereto.
- 2.2. The SOMERSET GARDENS Body Corporate has already been established simultaneously with the opening of the SOMERSET GARDENS Sectional Title Register.
- 2.3. SOMERSET GARDENS forms part of the HERITAGE PARK DEVELOPMENT and as such forms part of and is subject to the Rules of the HERITAGE PARK MASTER OWNERS' ASSOCIATION.
- 2.4. The Seller has purchased the right to extend the Sectional Plan and the Sectional Title Register in terms of the provisions of Section 25 of the Sectional Title's Act.
- 2.5. It is the intention of the Seller and the existing Body Corporate to change the name of the Development and the name of the Body Corporate from SOMERSET GARDENS to HELDERBERG MANOR.
- 2.6. All references hereinafter to HELDERBERG MANOR shall mean the existing scheme known as SOMERSET GARDENS.

3. PAYMENT OF THE PURCHASE PRICE

- 3.1 The Purchaser shall pay a deposit of 10% (ten per centum) of the full purchase price as calculated in clause 1.2 above on signature of this Agreement to the Attorney to be held in trust in an account in the name of the Purchaser bearing interest, for the benefit of the Purchaser, until registration of transfer. The Conveyancer is authorised to invest the aforesaid deposit in terms of Section 78(2)(a) of the Attorneys' Act.
- 3.2 In respect of the balance of the Purchase Price, the Purchaser shall have the option to either:
 - 3.2.1 pay the balance of the Purchase Price to the Attorneys within 7 (seven) days after being requested to do so by the Attorneys or such later date as the Seller may agree to in writing, to be held in trust by them, in accordance with the terms of section 78(2A) of the Attorneys Act in the highest yielding interest bearing call account available, interest for the credit of the Purchaser until the Seller becomes entitled to the interest on a portion or portions thereof in accordance with clause 3.3, or
 - 3.2.2 to issue an irrevocable and unconditional bank guarantee for the payment of the Purchase Price in instalments in accordance with clause 3.3 hereunder to the attorneys, nominated by the Seller, to receive in trust on account of the Purchaser, within **21 (Twenty One)** days from the date hereof, or such later date as the Seller may agree to in writing.

- 3.3. The Seller will, notwithstanding anything to the contrary contained herein or the Conditions of Sale, become entitled to such portion of the interest accruing on the Purchase Price so held in trust on behalf of the Purchaser as are set out hereunder:
- 3.3.1 Upon the Architect certifying that the building plans of the Unit have been approved by the Local Authority and that building work may commence forthwith, that portion of the Purchase Price of the Unit representing the Land Component and Exclusive Use Area, as set out in Clause 1.2 of this Schedule; and
- 3.3.2 Upon the Quantity Surveyor certifying such progress, relating to the construction of the Unit, as having been satisfactorily completed, as are described hereunder:
- 3.3.2.1 15% of the Building Component of the Purchase Price on completion of foundation i.e. floor height;
- 3.3.2.2 25% of the Building Component of the Purchase Price on completion of walls i.e. roof height;
- 3.3.2.3 25% of the Building Component of the Purchase Price on completion of plaster work and erection of roof;
- 3.3.2.4 10% of the Building Component of the Purchase Price on installation of sanitation;
- 3.3.2.5 15% of the Building Component of the Purchase Price on all joinery and tiling.
- 3.4 Upon the Architect issuing a certificate of practical completion in terms of section 6 of the Housing Development Schemes for Retired Persons Act 65/1988, the balance of the Building Component of the Purchase Price.
- 3.5 The Seller will be entitled to the interest from the date of issue of the Certificate by the Quantity Surveyor.
- 3.6 The Seller will become entitled to receive payment of the full Purchase Price plus all interest accrued in its favour in terms hereof against registration of transfer of the Unit into the name of the Purchaser.
- 3.7 Any amount due and payable by the Purchaser to the Seller shall bear interest at the rate of 2% above the prime overdraft rate of Standard Bank of South Africa Limited applicable at such time. Such interest shall be calculated from the due date unto date of payment thereof.

4 ANTICIPATED DATE OF POSSESSION AND OCCUPATION _____

(and vacant occupation if applicable subject to Clause (11) of the Conditions)

5. **AMOUNT OF LOAN** (if any) _____
(if completed, Clause 11 of the Conditions applies including the condition precedent)

6. **UNIT SOLD:** UNIT NO _____
As indicated on the attached phased site development plan and Unit Plan, marked Annexure "A" and "B" respectively.

7. **AGENT DEVMARK SALES TEAM : HELDERBERG MANOR**
The Purchaser warrants that no other agent was the effective cause of sale or is entitled to commission.

The parties agree that the agreement between them as contained in the Schedule hereto, the Conditions of Sale following hereafter and the annexures referred to in the said Schedule and the Conditions of Sale, constitute the entire agreement between the parties.

Signed by the **PURCHASER** on this _____ day of _____ 20____

As Witnesses:

1. _____

2. _____

PURCHASER

SPOUSE/ 2ND PURCHASER

Signed by the **SELLER** on this _____ day of _____ 20____

As Witnesses:

1. _____

2. _____

**For and on behalf of
SILVER KNIGHT
PROPERTIES 43 (PTY)
LIMITED**

CONDITIONS OF SALE

1. DEFINITIONS

In this Agreement:

“the Act” or “Retired Persons Act” shall mean the Housing Development Schemes for Retired Persons Act No. 65 of 1988, as amended from time to time (as contained in Annexure “F” attached hereto);

“the Architect” shall mean the Architect nominated by the Seller (and replaced in its discretion from time to time) or a member of the Architect’s firm and is currently AXION ARCHITECTS, 1ST FLOOR, 5 HIGH STREET, ROSENPARK, TYGERVALLEY, 7536;

“the Attorney” shall mean the Attorney nominated by the Seller, namely SMITH TABATA BUCHANAN BOYES, 2ND FLOOR, 5 HIGH STREET, ROSENPARK, TYGERVALLEY, 7536;

“the Bank” shall mean STANDARD BANK OF SOUTH AFRICA (PTY) LTD or such other bank as may be nominated by the Seller;

“the Body Corporate” shall mean the Body Corporate of HELDERBERG MANOR established in terms of the Sectional Titles Act;

“the Buildings” shall mean the buildings constituting the development known as SOMERSET GARDENS and to be renamed HELDERBERG MANOR situate at SOMERSET-WEST;

“Exclusive Use Area” will have the meaning contemplated in Section 27 of the Sectional Titles Act 95/1986 and relates in this instance to an area to be depicted on the Sectional Title Plan substantially the same as the area indicated on the site layout as set out in Annexure “A”.

“SOMERSET GARDENS” shall mean the buildings constituting the development on the land constituting the Village, which buildings will be renamed HELDERBERG MANOR;

“The Practical Completion Date” shall mean the date upon which possession and occupation of the Unit is tendered to the Purchaser consequent upon the Architect having certified or advised that the Unit is completed;

“the Date of Sale” shall mean the date upon which the last signature is affixed to this Deed of Sale;

“Health Care Centre” or “health care” means the Unit(s) comprising the health care centre (to be constructed in accordance with the approved plan) and which shall include the catering facilities and kitchen and which shall be adjacent to or adjoining the communal facilities, community centre and administrative centre;

“the Land” shall mean the land, or portion thereof, upon which the Buildings are situated or any extensions are to be situated;

“the Land Surveyor” shall mean the Land Surveyor nominated by the Seller or a member of his firm;

“Levy” shall mean the contribution normally payable by the Purchaser as contemplated in Section 1(xiii) of the Act and the Sectional Titles Act, as well as the contribution payable to the HERITAGE PARK MASTER OWNERS' ASSOCIATION;

“enhancement” shall mean the selling price realised on resale, minus the selling price paid in terms of this agreement;

“the Rules” shall mean the Rules in terms of the Sectional Titles Act and the Act as contained in Annexures 8 and 9 of the Regulations to the Act and the substituted or amended Rules;

“the Schedule” shall mean the schedule to which these conditions form an annexure;

“the Sectional Titles Act” shall mean the Sectional Titles Act No. 95 of 1986, as amended from time to time;

“the Seller” shall mean SILVER KNIGHT PROPERTIES 43 (PTY) LTD, Reg No 2002/030673/07, or any person or entity to whom the Seller has ceded or assigned any of its rights, title or interest herein or delegated its obligations;

“the Trustees” includes an alternate trustee, and where the context requires, refers to the Trustees of the Body Corporate in terms of the Sectional Titles Act;

“the Unit” shall mean the Unit indicated on the plans attached hereto marked “A” and “B” and also described in the Schedule, and includes an undivided share in the common property, excluding that upon which the proposed Health Care centre is to be built;

“the Village” shall mean the Sectional Title Development already registered as SOMERSET GARDENS situate on the Land and to be renamed as HELDERBERG MANOR;

“the contract period” means the period during which the purchaser is the registered owner of the “the Unit”.

“the Quantity Surveyor” means THE DE LEEUW GROUP;

Any words defined in the Act and/or the Sectional Titles Act shall bear the same meaning in this Agreement if not inconsistent with the subject matter or context. The Head Notes are for Reference purposes only and shall not govern the interpretation of the Agreement. Words importing the singular shall include the plural and vice versa; words importing the masculine shall include the feminine and neutral gender.

2. THE SALE

- 2.1 The Seller sells and the Purchaser purchases the Unit more fully described in the Schedule, subject to all these terms and conditions and those mentioned or referred to in the Seller's Title Deed and imposed by any Local Authority having jurisdiction including when approving the further phases of the Sectional Title Scheme known as SOMERSET GARDENS. The Purchaser accepts that the participation quota of the Unit will only be finally determined once the final phase of the Village is built and agrees to be bound by a certificate issued by the Land Surveyor setting out such participation quota.
- 2.2 The Seller undertakes that:
- 2.2.1 subject to the availability of materials and the discretion of the Seller to use other suitable materials, the Unit shall be or have been completed substantially in accordance with:
- 2.2.1.1 the plans approved by the requisite local authority;
- 2.2.1.2 the plans and specifications attached hereto marked "A", "B" and "C" respectively;
- 2.2.2 it shall make good at its cost:
- 2.2.2.1 any leakage in the roof of the Unit arising from faulty materials or workmanship occurring within a period of 120 (ONE HUNDRED AND TWENTY) days after the completion date; provided that if in the sole opinion of the Architect no heavy rains fall during that period, the period shall be extended for a further final period of 90 (NINETY) days;
- 2.2.2.2 any defects of which the Purchaser notifies the Seller in writing within 21 (TWENTY ONE) days from Completion Date;
- 2.2.2.3 any other defects of whatsoever nature which may appear in the Unit within 90 (NINETY) days from the Completion Date of the Unit due to faulty materials or workmanship; provided that the Purchaser notifies the Seller thereof in writing by not later than expiry of the said 90 (NINETY) day period;
- 2.2.2.4 The Architect shall be the final arbiter as to whether the Seller has complied with its obligations in terms of this Clause 2.2.
- 2.3 Save as specified in this Agreement, the Seller has made no representations, has given no warranties in respect of the subject matter of this sale.
- 2.4 Save for the obligation of the Seller in terms of 2.2 above, the Seller shall not be liable for any further or other damage or defect of whatsoever nature.
- 2.5 Prior to transfer no alterations will be allowed to the exterior or interior of the Unit except as specified in the Standard Specifications attached hereto, marked "C".

3. PURCHASE PRICE

- 3.1 The purchase price payable by the Purchaser to the Seller is as set out in the Schedule.
- 3.2 The purchase price is payable to the Seller free of bank charges in CAPE TOWN, without deduction or set off at the offices of the Seller, or at such other address as the Seller may advise the Purchaser from time to time, in the amount and on the dates reflected in the Schedule. All amounts paid on account of the purchase price prior to registration of transfer and prior to the issue of a certificate contemplated in Section 6 of the Act, shall be placed in a trust account held by the Seller's Attorneys.
- 3.3 Within **21 (twenty-one)** days hereof the Purchaser will be obliged to make payment of the purchase price or issue the Bank guarantee as set out in clause 3.1 of the Schedule.
- 3.4 Any interest earned on amounts paid by the Purchaser on account of the purchase price shall be for the account of the Purchaser until the Seller becomes entitled thereto in terms of clause 3.2 of the Schedule.

4. POSSESSION AND OCCUPATION

- 4.1 Possession of the Unit shall be given and taken on the Completion Date which is anticipated to occur on or about the date specified in the Schedule;
- 4.2 The Purchaser shall not have any claim of whatsoever nature against the Seller for any loss or damages should the Unit not be available for possession and / or occupation by the date specified in the Schedule.
- 4.3 Should any dispute arise between the Seller and the Purchaser as to the Completion Date of the Unit or the date of possession, or from which date the Unit was available for beneficial occupation or the date of occupation and/or possession, then the decision of the Architect as to such date as certified in terms of 1.1.9 shall be final and binding on the parties.

5. TRANSFER

- 5.1 It is recorded that it will only be possible to give transfer of the Unit to the Purchaser after registration of the Sectional Title Register where or any extension thereof to include the phase in which the Unit is situate (if applicable).
- 5.2 The Seller accordingly undertakes to use its best endeavours to procure the registration of the said plan and any extension as soon as possible after completion date (if applicable).
- 5.3 Transfer shall be passed by the Seller's Attorneys, which shall be given and taken as soon as possible after registration of the further phase of the Sectional Title Scheme provided that the Seller's Attorneys have received payment by the Purchaser of all amounts payable by him in terms of this Agreement. The Purchaser undertakes to sign the relevant transfer documents within **3 (THREE)** days of being called upon to do so. The Purchaser therefore agrees that any

delays in affecting transfer shall not give rise to any claim by the Purchaser for cancellation of this sale, or for damages, or otherwise. The sale shall continue in full force and effect notwithstanding any delay in effecting registration of transfer as aforesaid.

- 5.4 Subject to the provisions of Clause 2.2.2.2 above the Purchaser shall accept transfer of the Unit *voetstoots* and subject to all servitudes benefiting or burdening the Unit whether existing or hereafter imposed by the Seller, the Rules of the Body Corporate or any competent authority.
- 5.5 A copy of the Development Plans of **HELDERBERG MANOR** is available for inspection upon request at the offices of the Seller.
- 5.6 The Purchaser shall not in any circumstances be entitled to withhold, delay or abate payment of any amounts due to the Seller in terms of this agreement, by reason of any breach or alleged breach of the Seller's obligations hereunder or if any work of whatsoever nature is still required to be done by the Seller to the Unit at any time.

6. POSSESSION PENDING TRANSFER (if applicable)

If the date of possession of the Unit is prior to the date of transfer, then between the date of Possession and the date of transfer, the Purchaser shall:

- 6.1 be bound *mutatis mutandis* by all the obligations imposed in terms of the Rules, including the provisions of Section 44 of the Sectional Titles Act;
- 6.2 pay for all electricity and water consumed in the Unit as well as charges (including basic charges) levied by the Local Authority in this regard;
- 6.3 pay all charges levied by the Seller, Body Corporate, Home Owners' Association or Master Home Owners' Association, save for as set out in clause 9 below;
- 6.4 not make any alterations or additions of any nature whatsoever to the Unit without the Seller's prior written consent. This shall include the installation of air conditioners, sun-awnings, burglar bars, door guards or any other fixture.
- 6.5 not dispose of, let or in any manner whatsoever alienate any of the Purchaser's rights in and to the Unit or any portion thereof without the written consent of the Seller.
- 6.6 be responsible for and pay personally for the maintenance and repair of doors, ceilings, floors, windows, locks, plumbing and sanitary fittings, electrical fittings and other interior fittings and the interior generally of the Unit;
- 6.7 allow the Seller or his agent access at all reasonable times to the Unit;
- 6.8 as the Seller will be entitled to the interest on the Purchase Price in terms of clause 3.2 of the Schedule, no occupational interest will be payable;
- 6.9 as from date of practical completion the purchaser will be responsible for the payment of all levies to the Body Corporate.

- 6.10 The date of occupation shall under no circumstances be deferred or the Unit considered unsuitable for beneficial occupation by reason of any non-structural improvements, additions or alterations to be effected to the Unit, in terms of any agreement hereby signed by the Purchaser and the Seller, not having been completed.
- 6.11 The occupation of the Unit by the Purchaser (and those occupying through or under the Purchaser) between the date of occupation and the date of transfer, shall not in any way constitute a tenancy between the Seller and the Purchaser (and those occupying the Unit through or under the Purchaser).

7. WARRANTIES

- 7.1 Save as specifically set out in this Agreement the Seller has made no representations, and given no warranties in respect of the Unit and/or the Village or in respect of anything relating thereto.
- 7.2 More particularly and notwithstanding the provisions of 2.2 the Purchaser shall have no claim against the Seller including the cancellation of this Agreement for
- 7.2.1 any discrepancies of a non-material nature between the building plans and specifications relating to the Unit and the completed Unit;
 - 7.2.2 the Siting of the Unit or the siting of surrounding units which may be erected at any time after signature of this Agreement, provided only that the Seller warrants that there will be no material discrepancy in the siting of the Unit or the siting of the surrounding units from that indicated on the plans attached hereto marked "A" and "B".
 - 7.2.3 In addition, the Purchaser shall not have any claim of any nature against the Seller for any loss, damage or injury which the Purchaser, their family, agents and/or invitees may directly or indirectly suffer by reason of any latent or patent defects in the Unit or the Village or by reason of the Unit or the Village or any part thereof being in a defective condition or state or disrepair or any particular repair not being effected by the Seller timeously or at all, whether or not arising out of vis major or casus fortuis or any other cause either wholly or partly beyond the Seller's control.
- 7.3 The Purchaser acknowledges that he is aware that he may necessarily suffer a certain amount of inconvenience from building operations as a result of the construction of the various phases of the Sectional Title Scheme and village of which the Unit forms part and that he will have no claim against the Seller for compensation or damages by reason of such inconvenience.
- 7.4 The Seller warrants that as at the date of transfer:
- 7.4.1 the Seller will have obtained all the required approvals from the local and planning authorities
 - 7.4.2 building and development approvals will have been obtained

- 7.4.3 all services applicable to the Unit - water, power, waste water, access roads - will be completed when the Unit is tendered for transfer.
- 7.4.4 all landscaping required by the local authority for the phase in question, as shown on the development plan of the village, will be substantially completed.
- 7.4.5 on transfer of the Unit, it will be free from any bonds or encumbrances or liens of any nature whatsoever.

8. BODY CORPORATE AND HOME OWNERS' ASSOCIATION

The Purchaser hereby acknowledges that he is aware of the fact that he will become and remain a member of the Body Corporate and HERITAGE PARK MASTER OWNERS' ASSOCIATION for as long as he is an owner of the Unit.

9. LEVY STABILISATION FUND

- 9.1 In order to minimise the increase in levies, a levy stabilisation fund has been set up which will be administered by the Body Corporate.
- 9.2 As and when the Unit purchased in terms of this agreement is resold and paid for, the transferring attorney will pay an amount equivalent to 15% (fifteen per cent) of the enhancement directly to the stabilisation fund against transfer.

10. RISK

- 10.1 All risk in the Unit shall pass to the Purchaser on the Transfer date.
- 10.2 If, after possession but before transfer of the Unit to the Purchaser, the Unit is destroyed or damaged to such extent as to prevent the Purchaser from obtaining or continuing to enjoy beneficial occupation thereof then this sale may be cancelled at the instance of the Seller to be exercised within 45 days of such destruction or damage. In the event of cancellation, the Seller shall refund to the Purchaser all amounts which may have been paid by the Purchaser to the Seller under the provisions of 3 hereof (less interest accrued thereon), and the Purchaser shall have no further claims against the Seller, unless the damage or destruction is occasioned by the negligence of the Purchaser, in which event the Seller may retain all amounts received pending the finalisation of any claims to be instituted within 180 (one hundred and eighty) days.
- 10.3 If, before the transfer of the Unit to the Purchaser, the Unit is damaged but not to such an extent as to deprive the Purchaser of beneficial occupation thereof, or in the event that in terms of the preceding sub-paragraph the Seller does not elect to cancel the agreement, then:
 - 10.3.1 this Agreement shall not be cancelled;
 - 10.3.2 the Seller shall at its cost repair or rebuild the Unit to the same condition that it was in prior to such damage as quickly as possible in the circumstances;
 - 10.3.3 the Purchaser shall have no claim against the Seller arising out of the said damage;

10.3.4 the date of transfer referred to in the Schedule shall, if necessary, be extended to enable the Seller to do such things as are required to enable it to give transfer to the Purchaser.

10.4 In the event of there being any dispute between the parties as to whether or not the Purchaser has been prevented from obtaining or continuing to enjoy beneficial occupation then such dispute shall be referred to the Architect who shall act as expert, and not as arbitrator, and whose decision shall be final and binding on the parties.

10.5. Notwithstanding the foregoing, in the event of the Unit being damaged before risk has passed to such an extent that in the opinion of the Seller, it is uneconomical to reinstate the Unit, then the Seller shall be entitled, but not obliged, to cancel the agreement, in which event the Seller shall refund to the Purchaser all amounts which have been paid by the Purchaser to the Seller (subject to the reservation in 10.1 above and less interest accrued thereon). Should the Purchaser dispute the Seller's right to cancel in the circumstances contemplated in this sub-clause, then the matter shall be referred to the Architect and the provisions of clause 10.4 above shall, mutatis mutandis, apply.

11. COSTS

11.1 The Purchaser shall pay all costs pertaining to transfer upon demand by the Seller's Attorneys.

11.2 The Seller shall be responsible for the costs of drafting this Agreement and all attendances incidental thereto.

12. LOAN

12.1 If it is a condition precedent of this Agreement that the Purchaser be granted a loan in an amount specified in the Schedule hereto it shall be a loan by a financial institution against security of a first mortgage bond over the Unit on its usual terms and conditions within 30 (THIRTY) days of signature hereof by the Seller provided the Seller may, in its sole discretion extend this latter period for obtaining final approval by written notice to the Purchaser.

12.2 The Purchaser shall use his best endeavors and do all such things as are necessary or requisite to pursue fulfillment of the condition precedent, failing which the Purchaser shall be deemed to have waived the condition precedent.

12.3 Without derogating from the Purchaser's obligations in terms of 12.1 above, the Purchaser hereby irrevocably appoints the Seller (without recourse) as his agent in rem suam to do all things as may be necessary or requisite to enable the Seller to ensure that the condition referred to in 12.1 is fulfilled, without any obligation to the Seller.

12.4 If the condition referred to in 12.1 above is not fulfilled or waived by the Purchaser then this Agreement shall terminate, in which event:

12.4.1 the Purchaser shall vacate the Unit and deliver vacant occupation thereof to the Seller;

12.4.2 the Seller shall be entitled to retain all interest payable by the Purchaser in terms hereof.

12.4.3 the Seller shall refund to the Purchaser all amounts paid by the Purchaser in reduction of the capital amount of the purchase price after deduction of interest accrued thereon and of any amount which may be due by the Purchaser to the Seller in terms of sub-clause 12.4.2 above

13. BREACH

13.1 If the Purchaser commits a breach of this Agreement and/or fails to comply with any of the provisions hereof, the Seller (except for payment of the deposit or fulfillment of the condition precedent on breach whereof the Seller may summarily exercise the rights below) the Seller shall give the Purchaser 12 (TWELVE) days notice in writing to remedy such breach or failure, and if the Purchaser fails to remedy the breach timeously then the Seller shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which it may have in law, including the right to claim damages, either.

13.2 to claim immediate performance of the Purchaser's obligations and immediate payment of the purchase price and all other amounts payable by the Purchaser in terms of the agreement, with only subsequent transfer or performance by the Seller; or

13.3 to cancel this Agreement and retake possession of the Unit, eject the Purchaser, if in possession, hereby granting unto the Seller irrevocable authority in rem suam to enter upon and take possession of the Unit, the Purchaser hereby granting unto the Seller irrevocable authority in rem suam to retain any monies paid under this Agreement which monies shall be forfeited by the purchaser.

13.4 should the Purchaser breach the terms of the Agreement by failing to pay Levies for a period totaling 3 (three) months and should the Purchaser remain in breach after having received 30 (thirty) days written notice to remedy such notice, the Seller shall be entitled to cancel this Agreement and require the Purchaser to forthwith vacate the residential Unit and to offer it for sale back to the Seller in terms of Clause 16 hereof.

13.5 In the event of the Seller instructing an attorney to take action against the Purchaser, the Purchaser shall be liable for and pay all such attorneys fees (including collection charges) as between Attorney and Own Client.

14. NOMINEE, TRUSTEE AND SURETY(IES)

If the Purchaser and/or signatory is acting as a trustee for a Company or Close Corporation to be formed or in any representative capacity, then in the event of the said Company or Close Corporation not being formed or if formed, not ratifying and adopting this Agreement within 30 (THIRTY) days of the Date of Sale, the Purchaser or signatory (as the case may be), in his personal capacity, shall be the Purchaser hereunder and shall be bound by all the terms of this Agreement. If the Company or Close Corporation is formed and duly adopts and ratifies this sale as aforesaid, then the signatory by virtue of his signature hereto binds himself as surety and co-principal debtor jointly and severally with the Company or Close Corporation, as the case may be, for the fulfillment of all the terms and conditions of this Agreement. In the event of a registered Company or Close Corporation or the Trustees of a Trust being the Purchaser of the Unit referred to above, the signatory on behalf of such Purchaser, by virtue of his/their signature hereto binds himself/themselves as surety and co-principal debtor(s) jointly and severally for the fulfillment of all the terms and conditions of this Agreement.

15. PHASED DEVELOPMENT

- 15.1 The Purchaser (as far as needs be) acknowledges and agrees to the development of the Land (or any remainder thereof) in phases in terms of Section 25 of the Sectional Titles Act or any amendment or replacement thereof.
- 15.2 The phases of the development currently envisaged are available at the offices of the Seller.
- 15.3 The Seller shall not be bound to proceed with the uncompleted phases of the development at once but may do so in stages over a period not exceeding 15 (FIFTEEN) years in duration, which commenced on 22 August 2008.
- 15.4 The Purchaser (as far as needs be) hereby consents:
- 15.4.1 where applicable to the Seller preparing and submitting in terms of Section 25 of scheme or schemes to the Local Authority in terms of the said Section for approval and upon such approval, taking all necessary steps to erect additional buildings on the Land and thereafter applying for the registration of a Sectional Plan or Plans;
- 15.4.2 to the imposition by the Seller, as conditions of title, all or any of the terms of this Clause 15.
- 15.5 The Purchaser (as far as needs be) agrees to allow the Seller to exercise its positive and real right to proceed with the development in the manner envisaged herein and shall not be entitled to interfere with or obstruct the seller from erecting on the Common Property or any portion thereof, the additional buildings contemplated above, nor shall the Purchaser have the right of use of or access to, to which he would otherwise be entitled, any portion or portions of the Common Property upon which additional buildings are being erected until such time as the aforesaid additional buildings have been completed and the sectional plan or plans thereof registered; provided that the Seller shall pay all rates and

taxes and imposts calculated pro rata to the area of land involved, due in respect of such portion of the land whilst this condition remains applicable.

- 15.6 The Purchaser shall have no right to, or in, any such buildings, of which Units the Seller shall be the sole owner and certificates of registered title shall be issued to and in the name of the Seller who will be entitled to dispose of or otherwise deal with such Units for its own exclusive benefit and account.
- 15.7 The Purchaser consents to his participation quota being reviewed and adjusted as provided for in the Act upon registration of the sectional plans of the aforesaid additional building or buildings.
- 15.8 Neither the Purchaser nor any successor in title to the Purchaser or any other person to whom the Purchaser or his successor in title to the Unit has granted any real right, shall be entitled to withhold his consent to the opening of the Sectional Title Register or Registers and the phased development, as contemplated in this Agreement.
- 15.9 The Purchaser undertakes to sign upon request by the Seller all such documents as may be necessary to enable the Seller to proceed with the aforesaid phased developments.
- 15.10 Should the Purchaser fail to or refuse to sign any such document, then the Purchaser hereby appoints the Seller as his attorney and agent in rem suam to sign the same on his behalf.
- 15.11 The proceeds of the sale of all the Units comprising the additional buildings shall be for the Seller's sole account and shall not be for the account of the body corporate.

16. CHANGE IN DEVELOPMENT CONFIGURATION

The Seller shall have the right, within its sole discretion, to effect variations to the dimensions and configuration of each Building comprising the development and the development itself, provided that such variations shall not in a material fashion prejudicially affect any Unit already sold.

17. SOLE MANDATE

- 17.1 Should the Purchaser wish to resell the Unit, the Purchaser hereby grants the Seller a sole mandate to market the Unit for a period of 90 (ninety days) at commission to be agreed upon.
- 17.2 All re-sales shall be affected on the same terms and conditions as this Agreement.
- 17.3 Such Standard Sale Agreement shall in particular contain an undertaking by the new Purchaser to abide by the terms and conditions of the Standard Sale Agreement, the Rules and such House Rules as may be applicable from time to time.

18. OFFICIAL LANGUAGE

The Purchaser acknowledges that this contract has been drawn up in the language of his choice.

19. INFORMATION REQUIRED TO BE STATED IN TERMS OF SECTION 4 OF THE ACT

19.1 The owner of the balance of the land is the Seller and its address is set out above.

19.2 The Certificate contemplated in Section 6(1) of the Act will be issued and furnished to the Purchaser prior to the Completion Date.

19.3 Rules governing the use of the Unit and the conduct of the members are available for inspection at the address referred to above during normal business hours.

19.4 In terms of Section 4(1)C of the Act, the Seller states as follows:

19.4.1 the facilities to be provided on the Land or on a subdivided portion thereof are lounge, dining room, kitchen, reception, office lobbies, toilet facilities and frail care.

19.4.2 the services to be provided are set out in Clause 29 hereof.

19.5 An estimate of all expenditure for the control, management and administration of the Village and all services and facilities concerned for the period _____ is attached, marked Annexure "G".

19.6 The Purchaser is referred to the rights and remedies available to him in terms of Section 4(3), 8 and 9 of the Act.

19.7 The management structure of the Village is set out in the Rules and is recorded that the amended Rules will materially vary the aforesaid as a result of the rights of the Seller arising from the levy indemnity.

19.8 The land is to be mortgaged in favour of Standard Bank of South Africa (Pty) Ltd.

20. ADDRESS

It is agreed by the parties that their respective addresses as set out in the Schedule shall be the addresses to which all payments, notices or other documents shall be sent in relation to this Agreement and they further choose domicilium citandi et executandi at their respective addresses aforesaid.

21. ENTIRE CONTRACT

The parties hereto acknowledge that this Agreement constitutes the entire contract between them and that no other condition, stipulations, warranties or representations whatsoever have been made by or to either party or his agents other than such as may be included herein.

22. GENERAL

No indulgence shown by the Seller to the Purchaser shall prejudice the rights of the Seller under this Agreement, nor be deemed to be a waiver of any of its rights or a novation of this Agreement.

23. COMMISSION

The Seller shall be responsible for payment of the commission due to the Agent referred to in item Seven (7) of the Schedule.

24. MORE THAN ONE PURCHASER

In the event of there being more than one purchaser hereunder then their obligations hereunder shall be joint and several and in solidum.

25. PAYMENTS NOT MADE ON DUE DATE

Should the Purchaser fail to make any payment due to the seller or the Seller's Attorneys in terms of this Agreement on or before the due date, such amount shall bear interest at the rate of 2% above the prime overdraft rate of Standard Bank of South Africa applicable at such time. Such interest shall be calculated from the due date unto date of payment thereof.

26. JURISDICTION

The Purchaser hereby consents in terms of Section 45 of Act No. 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court having jurisdiction by virtue of Section 28 of the said Act in respect of any dispute between them arising out of the Agreement of Sale, without any obligation on the Seller to act in accordance therewith.

27. CESSION

The Seller shall be entitled to cede any or all of its rights and obligations in terms of this Agreement to any third party of its choice.

28. THE RULES

- 28.1 The Purchaser acknowledges being aware that a Body Corporate has been established for the Scheme known as SOMERSET GARDENS and that he will become a member of such Body Corporate upon taking transfer of the Unit and will as the registered owner be subject to the Rules governing such scheme, and be liable for levies imposed (as contained in Annexure "G" attached hereto).
- 28.2 The Purchaser further acknowledges having received copies of the operative Management Rules (as contained in Annexure "D" attached hereto) as were registered in the Deed Office and of the Conduct Rules (as contained in Annexure "E" attached hereto) as were approved by the members the Body Corporate.
- 28.3 It is further recorded that this Agreement of Sale is subject to the Rules and that the Seller and the Purchaser are subject to the Rules.
- 28.4 Insofar as the Purchaser is precluded by Law from binding himself in advance to agree to any delegation or obligation(s) by the Seller, it is recorded that the Rules provide for rights for the Seller to delegate or assign rights and obligations or to nominate.
- 28.5 Should the Seller purchase additional land adjoining to or in the vicinity of this Scheme and open a Sectional Title Register or form a Home Owners Association in respect of such additional property, the owners of Units in such adjoining Scheme will be entitled at the option of the Seller to use the Community Centre and the Health Care on the same terms and conditions as are applicable to owners in HELDERBERG MANOR subject to the right of preferential access and use to the members of the Body Corporate of HELDERBERG MANOR.
- 28.6 The Rules bind the Seller, the Operator to be appointed by the Developer, the Purchaser, the Body Corporate and Trustees, inter se and their successors, trustees, executors, heirs and curators.

29. FRAIL CARE AND HEALTH CARE CENTRE

- 29.1 A 48 (forty eight) bed Health Care Centre will be erected, which centre will however only be erected once 75% (seventy five percent) of all units have been completed.
- 29.2 The Health Care Centre shall be operated commercially and for the risk, profit and loss of an Operator to be appointed by the Developer but with preferential access and use to the members of the Body Corporate, subject to availability. Preferential access shall mean in preference to and to the exclusion of non-members and non-occupants.
- 29.3 The Health Care Centre may be utilised for persons other than the members of the Body Corporate and occupants e.g. the general public.
- 29.4 Notwithstanding any prior agreement it is recorded that the Operator to be appointed by the Developer may in its discretion, and after consultation with the Resident's normal medical practitioner, house occupants in health care, or refuse

admission to health care and refer an occupant to a hospital or mental institution or any other institution, if in the opinion of the Operator to be appointed by the Developer it is in the interest of the Body Corporate or its members or the occupant (s) to do so. The decision(s) of the Operator to be appointed by the Developer shall be final and binding.

29.5 The members have a perpetual and preferential right of access to and use of the facilities of the Health Care Centre subject to the following:

29.5.1 The Operator to be appointed by the Developer will be entitled to set commercially competitive rates for the services and facilities provided and rendered by the Health Care Centre, but which shall constitute a reasonable and market related charge.

29.5.2 The Operator to be appointed by the Developer will provide all reasonable services rendered by similar Health Care Centres in retirement villages and the management and services of the Health Care Centre will always comply with all legislation.

29.5.3 Availability of the facilities.

29.6 A member shall be deemed to be of unsound mind or incapable of managing his own affairs or unfit to be a trustee and/or incapable of continuing to reside in the Unit should any two medical practitioners together with the Operator to be appointed by the Developer so testify in writing.

30. EXCLUSIVE USE AREA

30.1 The purchaser will be granted the exclusive use of the Common Property land portion of the Unit, as appears from Annexure "A", which right will be ceded to him in terms of section 27 of the Sectional Titles Act (95/1986). The Purchaser will however not be allowed to fence in such exclusive use area.

30.2 The Exclusive Use area will however be maintained by the Body Corporate as part of its general gardens and in co-operation with the Purchaser who may garden such area in accordance with the policy laid down by the Body Corporate as to which plants and garden decorations will be allowed.

31. SALIENT FEATURES OF THE DEVELOPMENT

See Annexure "H" attached hereto.

33. CONTRACTOR'S GUARANTEE

See Annexure "I" attached hereto.

32. SPECIAL CONDITIONS

Signed by the **PURCHASER** on this _____ day of _____ 20 _____

As Witnesses:

1. _____

2. _____

PURCHASER

SPOUSE/ 2ND PURCHASER

Signed by the **SELLER** on this _____ day of _____ 20 _____

As Witnesses:

1. _____

2. _____

**For and on behalf of
SILVER KNIGHT
PROPERTIES 43 (PTY) LTD**