

DEED OF SALE FOR UNIT IN THE SECTIONAL TITLE
DEVELOPMENT KNOWN AS:

BURGOYNE

ENTERED INTO BY AND BETWEEN

RAPIPROP 83 [PROPRIETARY] LIMITED
Registration Number 2003/017541/07
(Seller)

and

(Purchaser)

UNIT NO. _____ BURGOYNE

UNIT DESCRIPTION: _____ FLOOR

PHYSICAL ADDRESS OF PROPERTY: UNIT NO. _____ BURGOYNE,
2 BUITENGRACHT DRIVE, RICHWOOD, 7441

Prepared by:
ATTORNEYS MILTONS MATSEMELA INC
48 Blaauwberg Road
Table View
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BURGOYNE /DL/LAL/FINAL/07.12.2018

INITIAL HERE

CONTRACT TO BE USED WHEN THE PURCHASER IS ENTITLED TO THE PROTECTION AFFORDED CONSUMERS BY THE CONSUMER PROTECTION ACT, ACT 68 OF 2008.

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CONSUMER PROTECTION ACT NOTICE

In complying with the Consumer Protection Act, certain portions of the agreement have been printed in ***bold italics***. The reason for this is to specifically draw the Purchaser's attention to these clauses as they either:

- limit in some way the risk or liability of the Seller or any other person;
- constitute an assumption of risk or liability by the Purchaser;
- impose an obligation on the Purchaser to indemnify the Seller or any other person for some cause; or
- are acknowledgement of a fact by the Purchaser.

Kindly ensure that before signing this agreement that you have had an adequate opportunity to understand these terms. If you do not understand these terms or if you do not appreciate their effect, please ask for an explanation and do not sign the agreement until the terms have been explained to your satisfaction.

DEFINITIONS

In this agreement, and unless the context in which the words are used require another meaning, the following words shall have the meanings as set out below:

- | | | | |
|-----|-----------------|-------|---|
| (a) | Act | means | the Sectional Titles Act No. 95 of 1986, together with any amendments that are in force and the regulations made in terms of the Act; |
| (b) | apartment | means | that portion of the unit purchased in which the purchaser may live; |
| (c) | architect | means | an independent architect appointed by the president of the South African Institute of Architects or his nominee. |
| (d) | attorneys | means | MILTONS MATSEMELA INC., of 48 Blaauwberg Road, Table View, 7441; |
| (e) | buildings | means | all buildings forming the development and built/to be built on the land; |
| (f) | common property | means | those portions of the land not forming part of any section or exclusive use area; |
| (g) | completion date | means | the date which the Seller's architect certifies to be the date on which the apartment is completed and ready for beneficial occupation. |

- (h) defect means any material imperfection in the unit that renders it less acceptable than persons generally would be reasonably entitled to expect in the circumstances or any characteristic of the unit that renders it less useful, practicable or safe than persons generally would be reasonably entitled to expect in the circumstances.
- (i) the development means the land and the buildings built/to be built on the land (and in respect of which the Seller intends to open a Sectional Title register in the Deeds Registry at Cape Town);
- (j) deposit means the deposit payable by the Purchaser on signature hereof and referred to in the agreement and Schedule "A";
- (k) estate agent/s means the estate agent/s as appointed by the Seller at any given time, currently IGROW WEALTH INVESTMENTS (PTY) LTD (hereinafter referred to as IGROW);
- (l) exclusive use area means the area(s) (if any) depicted as such on the plans, and listed in Schedule "A", forming part of the development and in respect of which the Purchaser shall have the sole and exclusive use and enjoyment in terms of the body corporate rules, alternatively by way of cession in terms of Section 27 of the Act;
- (m) estimated completion date means 30 April 2019;
- (n) fault means any non-material imperfection in the unit which does not amount to a defect as defined in this agreement.
- (o) land means the land on which the development, of which the unit sold forms a part, has been or is to be developed, and being ERF 1474 RICHMOND PARK, situated at Buitengracht Drive, Richwood, 7441.
- (p) levy means the contribution payable by the Purchaser to the body corporate as contemplated in terms of Section 3 of the New Act;
- (q) mortgage originators means the mortgage originator/s as appointed by the Seller at any given time.

- (r) municipal charges means the charges levied by the municipal authority for water, electricity, sewerage, availability, service and administration.
- (s) New Act means the Sectional Title Schemes Management Act No. 8 of 2011;
- (t) occupational rent means the rental for the right of occupation given to the Purchaser before transfer as specified in Schedule "A" hereto;
- (u) participation quota means in relation to a section, a decimal fraction determined in accordance with the provisions of Section 32 (1) of the Act in respect of that section.
- (v) plans means the architectural plans annexed hereto as Schedule "B" which show the section in three dimensions and where the unit is positioned in the development and the exclusive use areas;
- (w) purchase price means the total purchase price as specified in Schedule "A";
- (x) Purchaser means the Purchaser as recorded in Schedule "A";
- (y) rules means the rules of the body corporate in force from time to time including any house rules;
- (z) section means the apartment plus any other portions of the development which the Purchaser is buying which will be shown as such on a sectional plan, as defined in the Act and which are specified in Schedule "A" hereto, read in conjunction with the plans.
- (aa) Seller means RAPIPROP 83 [PROPRIETARY] LIMITED, Registration Number 2003/017541/07
c/o Miltons Matsemela Inc., 48 Blaauwberg Road, Table View;
- (bb) Contractor means RAPIPROP 83 [PROPRIETARY] LIMITED, Registration Number 2003/017541/07
- (cc) Seller's architect means ENRICA VAN DER LINDEN;

- | | | | |
|------|--------------------|-------|--|
| (dd) | the schedules | means | the schedules annexed hereto marked "A", "B1", "B2", "B3" and "C". |
| (ee) | the specifications | means | the schedule of specifications annexed hereto and marked Schedule "C". |
| (ff) | the unit | means | the section/s, plus the exclusive use area/s (if any) hereby sold, forming part of the development and includes an undivided share in the common property as determined in terms of the Act and the New Act; |

When the singular of any word is used this will also include the plural and the reverse shall also apply.

When the masculine gender of any word is used this shall also include the female and neuter genders and the reverse shall also apply.

When reference is made to any "person", this shall include partnerships, companies, close corporations and other legal entities, and the reverse shall also apply.

Reference to the agreement shall include the agreement and all of its schedules.

The titles to the paragraphs of this agreement are inserted only to make it easier to refer to them and the titles shall not affect the interpretation of any of the paragraphs to which they relate.

1. PREAMBLE

- 1.1. The Seller is the registered owner of the land and will be able to pass transfer of a unit to the Purchaser.
- 1.2. The Seller intends to apply for the approval of the development in terms of the Act and for the opening of a Sectional Title Register in respect of this development.
- 1.3. The Purchaser wishes to purchase a unit in the development from the Seller, who wishes to sell a unit to the Purchaser, upon the terms and conditions as recorded below.
- 1.4. What the above means is that the purchaser will not become the owner of freestanding property and will be the owner of the apartment only and be a co-owner, along with all other owners of apartments, in an organization called a body corporate, of all the common amenities, and the land not built upon, or not belonging to other owners, in the development

2. SALE OF UNIT

- 2.1. The Seller sells to the Purchaser who purchases the unit in the development.
- 2.2. The unit shall be built in accordance with the specifications. As will be seen from Schedule "C", the specifications provide the finishing details of the apartment.
- 2.3. Because the buildings will only be built in the future, it is possible that the specific materials or equipment listed in the specifications will not be easily available at the time that they are needed. If this happens the Seller shall be entitled to substitute the unavailable materials or equipment, without reference to the Purchaser, with replacement materials or equipment of equal or better quality.
- 2.4. ***As long as the replacement materials or equipment are of equal or better quality, the Purchaser shall have no claim against the Seller for this.***

3. PURCHASE PRICE

The purchase price is inclusive of VAT as listed in Schedule "A". In the event of the rate of VAT [which is currently 15%] increases or decreases after date of signature of this agreement, and in the event that such increase or decrease is applicable to this agreement, the purchase price will be increased or decreased accordingly.

4. PAYMENT OF PURCHASE PRICE

- 4.1. The purchase price shall be payable by the Purchaser to the Seller in the following manner:
 - 4.1.1. A deposit of the amount set out in Schedule "A" shall be paid to the attorneys in cash or by bank guaranteed cheque or by electronic funds transfer on signature of this agreement by the Purchaser. This deposit shall be held in trust by the attorneys, who shall invest same in an interest-bearing savings account, which interest shall accrue to the Purchaser.
 - 4.1.2. The Purchaser hereby instructs the attorneys to invest the deposit into an interest bearing savings account with a registered bank of the attorney's choice, in terms of Section 86(4) of the Legal Practice Act, 2014 (Act 28 of 2014), with interest accruing to the Purchaser, subject to the provisions of 4.1.3 and 4.1.4. It is in the Purchaser's interest to invest the monies in this fashion as the interest on the attorneys regular trust account is not payable to the Purchaser. Although the attorneys will select one of the reputable South African banks for the investment of the deposit, ***the Purchaser acknowledges that the deposit will not be protected in the unlikely event that the bank goes insolvent (bankrupt).***
 - 4.1.3. Notwithstanding anything else to the contrary, the Purchaser specifically hereby agrees, in accordance with the Code of Conduct of "The Estates Agency Affairs Board" and hereby instructs the Attorney to pay a portion of the Reservation Fee, as deposited by the Purchaser, in an amount of

R20 000.00 (Twenty Thousand Rand), to the Agent, namely IGROW WEALTH INVESTMENTS (PTY) LTD (hereinafter referred to as IGROW).

- 4.1.4. The Purchaser is made aware that once the portion of the Reservation deposit is released to IGROW interest will only be earned on the remaining deposit amount. Such amount shall only become payable by the Attorney to IGROW once the Attorney has received proof that the Purchaser's mortgage bond application relating to such purchase has been approved and was accepted by the Purchaser and Seller (for purposes mentioned), and that the full purchase price has been secured by way of cash or bank guarantee.
- 4.1.5. Should the Purchaser forfeit the Reservation Fee due to unrestored breach of the agreement by the Purchaser, such portion paid to IGROW will not be refunded but retained by IGROW as commission earned and the Purchaser will have no claim of whatsoever nature against the Seller and indemnified the Seller accordingly.
- 4.1.6. In the event the Seller decides not to continue with the development as already provided for, or in the event of unrestored breach and cancellation by the Seller, IGROW shall upon demand be obliged to repay such portion of the Reservation Deposit, without set-off or any deductions, into the Purchaser's nominated bank account within 14 (fourteen) days. The balance of the deposit held by the Attorney, will also be refunded immediately after the investment has been uplifted.
- 4.1.7. The Purchaser will be entitled to formally cancel the sale due to the failure of the Seller to pass transfer of such Property into the name of the Purchaser within 30 (thirty) months from date of signature. In such event, the same principles as per clause 4.1.6 above will apply. (IGROW will then have to claim any damage suffered due to breach by the Seller, in terms of its agreement with the Seller.
- 4.1.8. IGROW accepts the benefits and obligations in terms of this clause.
- 4.1.9. ***The Purchaser acknowledges*** that it is imperative that all payments made to the Attorneys by EFT contain the reference number of the transaction associated with this sale agreement allocated to the matter by the Attorneys and that the Attorneys are informed of such payment by email addressed to Lesleyanni@miltos.law.za. The Attorneys Trust Account details are as follows:

MILTONS MATSEMELA TABLE VIEW INC
ABSA BANK, MILNERTON
TRUST ACCOUNT NO. 409 317 6674
BRANCH CODE: 632-005
SWIFT CODE: ABSAZAJJ
REF: LAL/UNIT NO. _____ BURGOYNE

PLEASE NOTE THAT THE ATTORNEYS WILL NEVER CHANGE OR ADAPT THEIR TRUST ACCOUNT DETAILS VIA E-MAIL OR ANY OTHER ELECTRONIC FORM. PLEASE CONTACT THE ATTORNEYS FOR FORMAL VERIFICATION SHOULD YOU RECEIVE ANY CORRESPONDENCE OF SUCH A NATURE. BE VERY AWARE OF CYBERFRAUD.

If the Purchaser fails to follow these instructions in accordance with this paragraph the Attorneys might not identify the payment and allocate it to the credit of the Purchaser and thereby cause the PURCHASER to suffer potential loss. ***The Seller and the Attorneys are hereby indemnified in respect of any interest which may be lost due to non-compliance with this paragraph 4.***

4.1.10. The balance of the purchase price, shall be paid against tender of transfer of the unit in the name of the Purchaser.

4.2. All or any payments made by the Purchaser in accordance with this agreement, shall be paid to the Seller and/or the attorneys free of exchange, at Cape Town.

5. GUARANTEE FOR BALANCE OF PURCHASE PRICE

5.1. The Purchaser shall provide the Seller or the attorneys with a bank or other guarantee acceptable to the Seller for the payment of the balance of the purchase price.

5.2. This guarantee must be provided within 10 (TEN) ordinary days of signature of this agreement or, if there are any suspensive conditions that have been included in this agreement for the benefit of the Purchaser only, within 10 ordinary days of fulfillment of all these suspensive conditions.

5.3. A bank guarantee is a letter of undertaking which South African banks are able to issue, against payment of their standard fee, if the Purchaser has enough money or a big enough loan facility at the relevant bank.

6. SUSPENSIVE CONDITION FOR THE BENEFIT OF THE SELLER

6.1. ***The Purchaser acknowledges that the viability and profitability of the development is dependent on various factors including the number of units sold off plan before the development is built, the Sellers ability to raise finance from a bank, the time that it will take for all the formalities for the development to be completed and the time that it will take to build before the development is complete and transfers can be registered.***

- 6.2. This agreement is therefore subject to and conditional upon the Seller establishing, in its sole discretion, that the development is viable and profitable by no later than the development date recorded in Schedule "A".
- 6.3. ***If, within 7 days after the development date, the Seller has not sent written notice by registered mail telling the Purchaser that the development is not being proceeded with, then the suspensive condition shall be deemed to have been fulfilled and the Seller shall be bound to proceed with the development.***
- 6.4. In the event of the Seller giving the said notice of cancellation the agreement will fall away and be of no further force or effect.
- 6.5. In the event of this agreement being cancelled because this suspensive condition was not met, the Seller shall refund to the Purchaser the deposit paid and any other amounts paid on account of the purchase price, plus accrued interest on these amounts, if any. ***After this refund the Purchaser shall have no further claim against the Seller as a result of this agreement.***
7. **POSSESSION AND DELIVERY, OCCUPATION, RISK AND BENEFIT**
- 7.1. ***It is recorded that the buildings are presently in the course of planning and/or construction. Many factors will affect the date on which the apartment will be ready for beneficial occupation and for this reason the Seller is not able to give the exact date on which this will occur. The estimated completion date must therefore serve as a guideline only and does not bind the Seller in any way. The Seller however does undertake to ensure that the apartment will be ready for beneficial occupation within a reasonable period of time, having regard to the circumstances of this development.***
- 7.2. ***The Seller shall give the Purchaser at least 30 (THIRTY) calendar days written notice of the completion date of the apartment. As already mentioned in the definitions to this agreement the completion date is the date on which the Seller's architect certifies the apartment ready for beneficial occupation. On the completion date possession and occupation of the apartment shall be delivered to and taken by the Purchaser. Should the Purchaser be unavailable to take delivery or refuse to do so, then delivery of the keys to the apartment to the estate agent shall amount to delivery to the Purchaser.***
- 7.3. ***From the completion date risk in and benefit of the apartment shall pass to the Purchaser. What this means is that from this date the Purchaser shall be responsible if something happens to the apartment and the Purchaser shall also be liable for occupational rent, levies and the cost of all municipal services related to the unit. The purchaser shall also be able to reside in the apartment.***

- 7.4. ***Should the Seller, for reasons beyond the Seller's reasonable control, not be able to give possession and occupation of the apartment on the date as notified, the Purchaser shall take delivery, possession and occupation, on a further 5 days written notice and this date shall then be deemed to be the completion date. In such circumstances the Purchaser shall have no claim of any nature against the Seller for any loss or damage, whether caused directly or indirectly by the delay.***
- 7.5. ***Should the Developer and Purchaser disagree as to whether the apartment was/is sufficiently complete for beneficial occupation then this dispute shall be referred to the Seller's architect for a decision. Should there be any dispute about the Seller's architect's decision the matter shall be referred to the architect whose decision shall be final and binding.***
- 7.6. ***The Seller shall be entitled to refuse the Purchaser actual possession and occupation of the apartment if the Purchaser is in breach of the agreement. Such a breach may be the failure to have signed all transfer and bond documents or paid all transfer and bond registration costs or provided the payment guaranty (if applicable). In that event the Purchaser shall still be deemed to have taken possession and occupation on the completion date. The Purchaser shall therefore still be liable for all amounts due from that date as if the Purchaser had taken possession and occupation.***
- 7.7. The Seller agrees to afford the Purchaser a reasonable opportunity to examine the apartment and for this purpose the Purchaser, or a representative appointed by the Purchaser, shall inspect the apartment with the Seller or a representative of the Seller on the completion date. This inspection shall be to agree what faults and defects are present in the apartment, if any. Both parties shall record these faults and defects in writing in a snag list and the Seller undertakes to remedy these faults and defects within 3 (THREE) months of the completion date.
- 7.8. ***Delivery of the unit to the Purchaser shall also be deemed to have taken place on the completion date.***

8. OCCUPATIONAL RENTAL

- 8.1. Occupational rental is an amount which the Purchaser will pay to the Seller for the right to have possession and occupation of the apartment before the Purchaser becomes the owner of it and before the Seller receives the purchaser price.
- 8.2. In accordance with the explanation set out above, should registration of transfer of the unit take place after the completion date, the Purchaser shall pay the occupational rental to the Seller calculated as prescribed in Schedule "A". This occupational rental shall be paid monthly in advance from the completion date until registration of transfer. If the completion date falls on any day other than the first day of the month, then the Purchaser shall pay a proportionate amount for the days in the month following the completion date.

9. TRANSFER

- 9.1. ***It is recorded that it will only be possible for the Seller to give transfer of the unit to the Purchaser upon the opening of the Sectional Title register in respect of the development, as provided for in Section 12 of the Act and upon fulfillment by the Purchaser of all his obligations in terms of this agreement.***
- 9.2. The Seller accordingly undertakes to do everything reasonably possible for the opening of the sectional title register as soon as is legally possible.
- 9.3. Transfer shall be passed, subject to the sectional title register having being opened, as close to the completion date as is practically possible, but in any event, no earlier than 5 days after the completion date.
- 9.4. The Purchaser shall sign all documents (including but not limited to the transfer and bond documents) necessary to give effect to this agreement within 4 (FOUR) days for being called upon to do so by the attorneys.
- 9.5. Because the sale is not subject to transfer duty and no transfer duty will be payable, the Purchaser irrevocably authorises the attorneys to sign declarations to the Receiver of Revenue for purposes of obtaining a Transfer Duty exemption certificate. This exemption certificate is a formality for the transfer.
- 9.6. ***The Purchaser shall accept transfer of the unit, subject to all conditions, rules and servitudes benefiting or burdening the unit, the land and the development, whether they exist at time of signature of this agreement or whether they are imposed later by any competent authority.***

10. EXTENT OF SECTION

- 10.1. It is recorded that building is not an exact science and that upon completion of the building it might be that the section is either slightly bigger or slightly smaller than the sizes as recorded in this agreement.
- 10.2. In this event the Purchaser shall only be able to claim compensation from the Seller if the section is more than 5% smaller than as recorded in this agreement. The Seller shall have no claim against the Purchaser if the section is greater in extent.
- 10.3. ***The parties agree that a difference of 5% or less in the extent of the section shall not amount to a breach of the agreement by the Seller and the Purchaser shall have no claim for compensation for any such shortfall.***
- 10.4. ***Should the section be smaller than agreed and should the difference in extent be greater than 5% the Purchaser shall not be entitled to cancel the agreement. The Purchaser shall however be entitled to a reduction of the purchase price.***

- 10.5. The reduction in purchase price shall be calculated by first establishing the value, per square meter, of the unit by dividing the purchase price recorded in Schedule "A" by the extent of the section as recorded in the plans.
- 10.6. Secondly, the area by which the section is less in extent ("the missing square meterage") shall be established.
- 10.7. ***The Seller shall be excused conceding a reduction for the first 5% of missing square meterage, for which the Seller has been excused of liability as set out above.***
- 10.8. The remaining missing square meterage shall then be multiplied by the price per square meter as established. The resulting amount shall then be deducted from the purchase price, or refunded to the Purchaser by the Seller.
- 10.9. The extent of the section and the missing square meterage shall be established by the Surveyor who prepared the sectional title plans or his nominee, duly appointed in writing, whose decision shall be final.

11. EXCLUSIVE USE AREAS

The exclusive use areas, if any, allocated to each unit in terms of this agreement shall be created by way of entry into the Body Corporate Rules or alternatively ceded to the Purchaser in terms of Section 27 of the Act.

12. CONDITIONS APPLICABLE PENDING TRANSFER

As has already been referred to in this agreement, the common property will be owned and controlled by a body corporate for and on behalf of all owners including the Purchaser. As the body corporate will only be established once the first transfer of a unit in the development has occurred, the Seller shall from the completion date and until the date of the establishment of the body corporate bear the rights and obligations of the body corporate. In this regard, during the period from the completion date until date of transfer, the following conditions shall apply:

- 12.1. save insofar as may be inconsistent with the provisions of this agreement, the provisions of Section 3 of the New Act (which deals with the functions of bodies corporate) shall apply;
- 12.2. ***the rules for the development shall bind the Purchaser and be enforceable by the Seller;***
- 12.3. ***the Purchaser may not make any alterations or additions whatsoever to the unit and/or the exclusive use area without the prior written consent of the Seller;***
- 12.4. ***the Purchaser shall maintain the unit in the same condition as it was on the completion date;***

12.5. ***the Purchaser shall be responsible for and pay to the Seller promptly and on demand all municipal charges relating to the unit for periods after the completion date.***

12.6. the Seller shall insure the development, including the unit, against all risks deemed necessary by the Seller until the date of the establishment of the Body Corporate, at which time the Body Corporate shall be obliged to assume this liability to insure. The Seller shall be entitled to recover a proportionate share of these insurance premiums from the Purchaser calculated in accordance with on the participation quota allocated to the unit. This contribution shall be payable as part of the levies referred to below.

13. LEVIES

13.1. As has already been explained in the paragraphs above, the Seller will be carrying out the obligations of the body corporate until it is established and will be bearing the costs associated with this. It is therefore agreed as follows:

13.2. ***From the completion date the Purchaser shall be liable for the levy calculated in accordance with the participation quota attributable to each unit, as if the Purchaser was the registered owner of the unit and as if the Body Corporate had already been established.***

13.3. As no levy will by then have been formally determined by the Body Corporate the levy shall be deemed to be the amount determined by the managing agents referred to in the paragraph with this heading below.

13.4. Such levy shall be paid monthly in advance on the first day of each and every calendar month provided that if the completion date falls on any day other than the first day of a calendar month, the Purchaser shall be obliged to pay a proportionate share of the levy due for the calendar month in which the completion date occurs.

13.5. Such levy shall be paid to the Seller until registration of transfer and thereafter to the Body Corporate of the sectional title scheme.

13.6. As an assistance to the Purchaser the Seller explains that levy payable to the body corporate is allocated between the owners of residential units proportionately to the size of each unit. This allocation is called a participation quota.

14. COSTS

14.1. The Seller shall pay all costs of transfer [excluding transfer duty which is not payable], costs of all necessary affidavits, and all other costs which have to be incurred in order to comply with all laws relating to the passing of transfer of the unit, including value added tax on such costs, as detailed in Schedule "A" hereto. These costs are included in the Purchase Price on condition that Miltons Matsemela attorneys are also appointed as the bond registration attorneys.

- 14.2. Should the Purchaser be registering a bond over the unit to finance any part of the purchase price, the Purchaser shall pay the costs of any such bond registration including the fees charged by the attorneys for their services and the fees and charges of the financial institution which grants the bond. IGROW will ensure that Miltons Matsemela attorneys are appointed as the bond attorneys in the bank package letters.

15. THE RULES

- 15.1. The law requires the owners of units in the development to conduct themselves with consideration for the rights of other owners and the body corporate itself and provides for the creation of body corporate rules to ensure this. The rules also deal with procedural issues in the running of the body corporate / the development.
- 15.2. The Body Corporate Management and Conduct rules prescribed in Section 10 of the New Act, as amended by the Seller prior to the establishment of the Body Corporate, shall apply to the development.
- 15.3. These rules are therefore for the benefit of all the persons who will own units in the development or live in the development.
- 15.4. **The Purchaser undertakes to comply with these rules and to ensure that any resident/s of his unit also comply.**

16. WARRANTY OF QUALITY

- 16.1. The Seller furnishes the Warranty of Quality in respect of the unit, including both latent and patent defects, as set out in Section 56 of the Consumer Protection Act, Act 68 of 2008, and warrants that the unit shall be:
- 16.1.1. Reasonably suitable for the purpose for which it is generally intended;
- 16.1.2. Of good quality, in good working order, and free of any defect;
- 16.1.3. Usable and durable for a reasonable period of time, having regard to the use to which it will be put and to all the surrounding circumstances of the supply;
- 16.1.4. Compliant with any applicable standards set out under the Standards Act, Act 29 Of 1993, or any other public regulation.
- 16.2. The aforementioned warranty in terms of the Consumer Protection Act shall be applicable for a period of 6 months from the completion date.
- 16.3. The Seller also furnishes to the Purchaser the Standard Home Builders Warranty prescribed by the National Home Builders Registration Council.
- 16.4. The Seller furnishes no further warranties in respect of the unit and in all other respects the unit is sold without any further warrantees in respect of all faults and

defects, whether visible or hidden, as defined in this agreement or the common law.

17. REPAIR OF FAULTS AND DEFECTS

- 17.1. The Seller shall, within a reasonable period of time, repair any faults and defects which occur in the warranty period as set out above, subject however to those faults and defects being drawn to the Seller's attention in writing not later than within 14 days of the expiry of the warranty.
- 17.2. The Seller shall not be obligated to repair any damage, fault or defect which is the result of the Purchaser's actions or omissions or those of his visitors, co-inhabitants or any other person present at the apartment other than employees and agents of the Seller. The Seller shall not be obligated to repair any hairline settlement cracks which may occur, it being recorded that settlement is an inevitable part of the construction process. Lastly, the Seller shall not be obligated to repair any damage, fault or defect arising from the Purchaser's failure to adequately maintain the apartment or which results from wear and tear due to the occupation of the apartment.
- 17.3. Any defect or fault arising in or at the apartment must be drawn to the Seller's attention in writing as soon as it is reasonably evident. Failure to notify the Seller of a fault or defect as soon as it becomes evident may result in further damage to the apartment which the Seller shall not be obligated to repair.

18. GENERAL TERM RELATED TO THE WARRANTIES

In the event of a dispute as to whether the Seller is obliged to remedy any fault or defect, or whether any fault or defect has been attended to, a certificate by the architect shall be final and binding on both parties.

19. WORK IN PROGRESS, RISK AND INDEMNITY

- 19.1. The Purchaser acknowledges that on the completion date the buildings in the development may not all be complete and that there may still be building and other related activities taking place on the development.
- 19.2. The Purchaser consents to such building work continuing until the development is fully built and finally completed.
- 19.3. ***The Purchaser acknowledges that the ongoing building work will create a possible risk of damage to property or serious injury or death to people.***
- 19.4. ***The Purchaser voluntarily assumes these risks and indemnifies the Seller, his agents, employees, contractors or sub-contractors and anyone acting for or controlled by the Seller against any claim for damages. This indemnity shall however not be binding if such damage or injury results from gross negligence of the Seller, his agents, employees, contractors or sub-contractors or anyone acting for or controlled by the Seller.***

After having had sufficient time to consider the matter I hereby confirm I have understood and accepted this risk and given the required indemnity.

Purchaser to sign here

20. DIRECT MARKETING AND COOLING OFF

- 20.1. In terms of Section 16 of the Consumer Protection Act, if this transaction has resulted from direct marketing the Purchaser has the right to cancel this agreement without reason or penalty by written notice within 5 business days after the agreement was concluded, or within 5 business days after delivery of the unit.
- 20.2. The Seller is unable to accept the risk of cancellation without reason within 5 business days of delivery as the success of the development is dependant upon the enforceability of the agreements of sale and the transfer of the units being passed to the Purchasers shortly after delivery.
- 20.3. This is because the Seller will have obtained development finance on the strength of binding pre-sales. In addition, if the transaction is cancelled after delivery the Seller will be left to carry the holding costs of the unit, which the Seller will have already built, for an uncertain period into the future, whilst looking for a replacement Purchaser. This has the potential to create substantial losses for the Seller and place the completion of the development in jeopardy for other purchasers.
- 20.4. The Seller is therefore not prepared to enter in to this agreement with any purchaser if the transaction has resulted from direct marketing.
- 20.5. ***The Purchaser therefore warrants that this transaction has not resulted from direct marketing and the Seller enters into this transaction relying entirely upon such a warranty.***
- 20.6. If after delivery, the Purchaser is successful in cancelling this agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the Consumer Protection Act, the Purchaser shall be liable for the damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of warranty.

After having had sufficient time to consider the matter I hereby confirm I have understood this provision and agree to furnish the required warranty.

Purchaser to sign here

21. DEFAULT

- 21.1. If any party (“the defaulting party”) commits a breach of this agreement and persists with such breach for more than 7 (SEVEN) days after being called upon in writing to rectify same, then the innocent party shall 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:
- 21.1.1. to cancel this agreement; or
- 21.1.2. to claim immediate performance and/or payment of all the defaulting party’s outstanding obligations in terms of the agreement.
- 21.2. ***Upon cancellation, should the defaulting party have been the Purchaser, the Seller shall be entitled to take and keep the deposit as the minimum amount of reasonable pre-estimated agreed damages, in addition to the further rights set out in the default paragraph above.***
- 21.3. ***Upon cancellation, should the defaulting party have been the Seller, the Seller shall (in addition to the refunding to the Purchaser of any deposit which the Purchaser might already have paid) pay to the Purchaser an amount equal to the deposit paid by the Purchaser and the Purchaser shall be entitled to keep this amount as the minimum amount of reasonable pre-estimated agreed damages, in addition to the further rights set out in the breach paragraph above.***
- 21.4. Should the defaulting party be the Purchaser, and should the Purchaser dispute the Seller’s right to cancel and remain in occupation of the unit after date of cancellation, the Purchaser shall continue to pay the occupational rental, the municipal charges and the levy and any other amounts as if the agreement had not been cancelled. The Seller shall be entitled to claim and accept payment of such amounts without prejudice to the Seller’s claim for cancellation.
- 21.5. ***Should the innocent party at first elect not to enforce its rights of cancellation, the innocent party shall not be prevented from cancelling the agreement at a later stage as a result of the same breach should the defaulting party defend the action instituted by the innocent party to enforce the agreement and/or should any judgment given to the innocent party, which obliges the defaulting party to perform, not be satisfied within a reasonable period.***
- 21.6. Notwithstanding the provisions of paragraph 21.1, neither party shall be entitled to cancel the agreement after 7 days notice if the breach complained of is not reasonably capable of being remedied in the 7 day period. In such an event the notice placing the defaulting party on terms to perform shall only entitle the cancellation of the agreement if the period given to perform is reasonable in the circumstances.

22. INSPECTION OF UNIT

The Seller and/or the Seller's duly authorised representative shall be entitled to inspect the unit at all reasonable times while the Purchaser still owes the Seller any amount in terms of this agreement.

23. MORTGAGE LOAN - SUSPENSIVE CONDITION

- 23.1. If an amount for a mortgage loan has been filled in on Schedule "A" then it is agreed that the Purchaser requires a bank to grant a mortgage loan in the amount as specified in Schedule "A" to enable him to perform in terms of this agreement and that if such a loan is not granted then this agreement shall become null and void.
- 23.2. This loan must be granted on the bank's normal terms and conditions for a loan of this nature which is being granted to a person of the financial category into which the Purchaser falls.
- 23.3. The loan must be finally approved by no later than the date or within the time period set out in schedule "A".
- 23.4. Even if the loan is not granted by the specified date, this agreement shall continue to be binding until either of the parties gives notice to the other that they are no longer prepared to wait for the loan to be approved. Only once such notice has been received by the other party shall this agreement fall away.
- 23.5. The Purchaser is obliged to apply for such loan through the services of bond originators as appointed by IGROW to do so. The Seller reserves the right to not approve the financial institution to which the Purchaser has applied in the event the Seller is of the view that his right to prompt and efficient transfer of the Unit may be prejudiced due to certain mortgage conditions the financial institution has imposed, which may, inter alia, include the appointment of attorneys other than the bond registration attorneys referred to hereinto attend to the registration of the mortgage bond for which the Purchaser may have applied. Should IGROW allow the Purchaser to make use of his own bond originator, personal banker or do the bond application himself/herself, then an amount of R10 000.00 (Ten Thousand Rand) inclusive of VAT, will be payable over and above the original purchase price to IGROW. The abovementioned amount will be payable together with the balance of the purchase price to the Attorney.
- 23.6. The Purchaser hereby authorizes IGROW to lodge such application for finance as well as to sign the necessary documentation on behalf of the Purchaser.
- 23.7. The Purchaser undertakes to provide, on request, all information required by the financiers within 5 (five) days from Seller's signature hereof to the appointed bond originator.
- 23.8. The Purchaser may not after his mortgage bond has been approved by a Financial Institution, substitute the said mortgage bond with a mortgage bond of another financial institution. Any delay caused by this practice will not be acceptable to the Seller and the Seller reserves all his rights.

- 23.9. In the event a bond has been approved and prior to date of registration of transfer, the bond is withdrawn, whether on the instructions of the Purchaser or for any other reason, by such financial institution, it will still be regarded as if the suspensive condition pertaining to bond approval was met and will therefore result in a breach of the agreement by the Purchaser and be dealt with accordingly as provided for in this agreement.
- 23.10. If the loan is not approved and the agreement lapses, then:
- 23.10.1. The Seller shall refund to the Purchaser the deposit and all amounts paid by the Purchaser in reduction of the purchase price, plus accrued interest.
- 23.10.2. The Seller may deduct from this amount only the amounts, if any, that the Purchaser is liable for in terms of the agreement up to that time.
- 23.10.3. If he has taken occupation of the unit already, the Purchaser shall vacate the unit immediately and return it to the Seller in the same condition as when received;
- 23.11. The Purchaser shall be obliged to ensure that the attorneys are appointed to attend to the registration of the mortgage bond contemplated in terms of this agreement.

24. MANAGING AGENT

- 24.1. The Seller may appoint and delegate any or all of its powers and duties in the management of the development to a managing agent for a maximum period of 1 (ONE) year from the date of the opening of the Sectional Title Register. This managing agent shall be entitled to exercise all such powers as the Seller may determine. This delegation shall be binding on the body corporate once it is formed.
- 24.2. Nothing in this clause shall, however, be interpreted to relieve the Seller of any of its obligations to the Purchaser as set out in this agreement.

25. JURISDICTION AND LEGAL COSTS

- 25.1. ***The parties agree that this agreement shall be concluded at the time and place that the Seller accepts this offer by signing this agreement. This will be the case even if the Seller is only told of this acceptance afterwards.***
- 25.2. The parties hereby consent to the jurisdiction of the Magistrates' District or Regional Court having jurisdiction in terms of Section 28 (1) of the Magistrates' Court Act, even if this court does not usually have jurisdiction to hear the matter. The purpose of this paragraph is to allow the parties disputes to be heard in the Magistrate's Court with quicker proceedings and lower costs, rather than the High Court.
- 25.3. Notwithstanding what has been stated in the paragraph above, either party shall be entitled to institute any action against the other, arising out of this agreement,

in any court having jurisdiction and such party shall not be prejudiced in any costs order as a result of their choice of court.

- 25.4. The party who is successful with their claim or their defence shall be entitled to recover from the other all legal costs incurred by them in the legal proceedings on a scale as between attorney and client.

26. GENERAL

- 26.1. ***All the terms of this agreement between the parties are recorded in this written contract. No variation of this agreement and no cancellation by agreement shall be binding on the parties unless such variation or cancellation is written down and signed by the parties hereto.***
- 26.2. No extension of time or indulgence which either party might grant to the other shall have any effect on the rights which either party might have in terms of the agreement. Should either party not strictly enforce their rights under the contract this will not amount to a waiver of such a right, and it shall also not be regarded as creating a new or varied agreement.
- 26.3. If there is more than one Purchaser in terms of this agreement, they shall each be each be fully liable for all of the obligations of the Purchaser and these obligations shall not be able to be divided between these Purchasers. In legal terms therefore the liability of each of the Purchasers shall be joint and several.
- 26.4. The Purchaser warrants that he is fully up to date with all his obligations to the South African Revenue Services and that he will remain so until the unit is transferred to him. The purpose of this warranty is to ensure that there are no such defaults as this might delay the acquisition of a transfer duty receipt/exemption certificate from the South African Revenue Service or serve to cause the bank granting mortgage finance to the Purchaser [if applicable] to withdraw the mortgage finance offered.
- 26.5. The Purchaser agrees to record, in the space provided in Schedule "A", the representations and promises which have been made to him by the Seller and/or the agent and/or a person acting on behalf of the Seller which have caused the Purchaser to enter into this agreement. This will allow the Seller to address any mistaken beliefs that the Purchaser might have regarding the development before entering into the agreement.
- 26.6. The Purchaser warrants that no representations other than those recorded in Schedule "A" have been made to him which have caused the Purchaser to enter into this agreement.
- 26.7. If any provision of this agreement is found to be wholly or partly invalid, unenforceable or unlawful, then –
- 26.7.1. to the extent of its invalidity, unenforceability or unlawfulness such provision will be severable from the remainder of the agreement; and
- 26.7.2. the remainder of this agreement will remain in full force and effect.

27. CHOSEN ADDRESSES FOR SERVICE OF NOTICES

- 27.1. The parties hereby choose the following addresses as the addresses at which they will accept all notices including legal notices and summonses:
- 27.1.1. the Seller at the address recorded in the definitions;
- 27.1.2. the Purchaser at the address recorded in Schedule "A" until the completion date and thereafter at the address of the unit hereby sold unless the Purchaser has notified the Seller of any other address;
- 27.2. Any notice to any party shall be addressed to it at its chosen address and sent by prepaid registered post or delivered by hand or sent by fax to the fax number recorded on Schedule "A" or sent by e-mail to the e-mail address recorded on Schedule "A".
- 27.3. In case of any notice sent by prepaid registered post, it shall be deemed to have been received, on the 4th (fourth) business day after posting.
- 27.4. If the document is sent in any other way it must be received by the addressee to be effective notice.
- 27.5. This paragraph shall not effect the provisions of any other law which deals with the service of documents issued by any court.

28. COMMISSION

Commission shall be payable to the estate agent by the Seller on registration of transfer of the unit to the Purchaser in the amount as set out in their Mandate Agreement.

29. OFFER

- 29.1. ***Once signed by the Purchaser, this agreement shall be regarded as an offer by the Purchaser to the Seller. The Purchaser shall not be able to withdraw the offer until midnight on the 10th (TENTH) calendar day after signature hereof. The offer shall thereafter remain open for acceptance until withdrawn by the Purchaser.***
- 29.2. ***Should the Seller counter offer, this will not amount to a refusal of the Purchaser's offer and the Purchaser's offer shall at all times remain open for acceptance until withdrawn after the 10 calendar days have passed.***

30. RESALES

- 30.1. ***Until such time as the Seller has sold all the units in the development, the Purchaser is not allowed to sell or in any way dispose of the unit purchased in this agreement. The Seller may however give the Purchaser written authority to sell before this date has arrived.***

- 30.2. The Purchaser shall ensure and warrants that any subsequent agreement relating to the sale, alienation or disposal of the unit, shall contain this clause preventing sales until the development is sold out.
- 30.3. If such a resale does take place, the Purchaser shall ensure that his guarantees (or finances) shall remain available and in place at all times, and the Purchaser shall still be obliged to take transfer of his unit. The Purchaser shall not be entitled to pass transfer to his Purchaser at the same time as he takes transfer of his unit.

31. COMPLIANCE CERTIFICATES

The Seller undertakes at its own expense to arrange for the supply of an electrical certificate of compliance, if the unit contains a gas installation or appliances, a gas certificate of compliance, and if the unit is situated in the municipality of Cape Town, a certificate of compliance as contemplated in the City of Cape Town's water by-law of 2010 in respect of the unit.

32. RIGHT OF EXTENSION [IF APPLICABLE]

It is recorded that the Seller has reserved the right to extend the scheme in phases, in terms of Section 25 of the Act. This means that the Seller may build on to the development at some time in the future. The Purchaser understands and agrees that he might have to endure the inconvenience of ongoing construction activities on the site and furthermore accept that any amenities serving the whole development, or improvements of the common property may only be constructed with the final phase.

33. COMPANY/CLOSE CORPORATION - TO BE FORMED – SURETYSHIP *[delete this clause if not applicable]*

- 33.1. This clause only applies if the Purchaser is acting on behalf of a company or close corporation which will be formed and which will then be the Purchaser of the unit.
- 33.2. ***In this event, the person signing this document shall be personally liable for all the obligations of the Purchaser, as though he was the purchaser in his personal capacity if;***
- 33.2.1. ***the company or close corporation (as the case may be), on whose behalf he acts, is not incorporated (registered) within 45 (FORTY FIVE) days of date of signing of this document; and/or***
- 33.2.2. ***if the company/close corporation fails to adopt and ratify this agreement within 7 (SEVEN) days of date of incorporation (registration).***

33.3. ***If the company/close corporation is incorporated and does ratify this agreement in time, the person who signs this agreement shall remain liable to the Seller as surety for and co-principal debtor with the company/close corporation for its obligations as Purchaser in terms of this Agreement, waiving of the benefits of excussion and division.***

33.4. What this means is that if the company / close corporation does not perform for any reason the Seller shall be entitled to hold the person who signs this agreement fully liable for all the Purchaser's obligations in terms of the agreement, including the obligation to pay damages in the event that the agreement is cancelled. The Seller shall also not have to proceed against the company or close corporation first and the Seller may enforce the full agreement and/or claim for damages against the signatory.

After having had sufficient time to consider the matter I hereby confirm I have understood this provision and agree to furnish the required suretyship.

Purchaser to sign here

**34. COMPANY/CLOSE CORPORATION/TRUST – FORMED - SURETYSHIP
*[delete this clause if not applicable]***

34.1. ***In the event of the Purchaser being a company or a close corporation or the trustees for the time being of a trust or any other legal person, the person who signs this agreement for the Purchaser, by his signature hereto binds himself to the Seller as surety and co-principal debtor in solidum for the Purchaser of all the Purchaser's obligations in terms of this Agreement waiving the benefit of division and excussion.***

34.2. What this means is that if the Purchaser does not perform for any reason the Seller shall be entitled to hold the person who signs this agreement fully liable for all the Purchaser's obligations in terms of the agreement, including the obligation to pay damages in the event that the agreement is cancelled. The Seller shall also not have to proceed against the company or close corporation or trust first and the Seller may enforce the full agreement and/or claim for damages against the signatory.

After having had sufficient time to consider the matter I hereby confirm I have understood this provision and agree to furnish the required suretyship.

Purchaser to sign here

35. SCHEDULES

The attached schedules form part of the agreement between the parties:

Schedule "A", which sets out the further details of the agreement.

Schedule "B1" being the plans which show the floor layout of the unit.

Schedule "B2" being an elevation drawing showing where the unit is positioned in the development.

Schedule "B3" being a ground layout showing where the exclusive use areas are.

Schedule "C", being the list of specifications for construction and finishing.

This offer signed at _____ on this ____ day of _____ 20__

AS WITNESSES:

1.
Purchaser

2.
Purchaser

PLEASE DO NOT SIGN THIS AGREEMENT UNTIL YOU HAVE HAD A PROPER OPPORTUNITY TO READ AND UNDERSTAND THE AGREEMENT. IF YOU DO NOT UNDERSTAND ANY PART OF THE AGREEMENT ASK FOR AN EXPLANATION.

YOUR ATTENTION IS SPECIALLY DRAWN TO THE PORTIONS OF THE AGREEMENT IN BOLD TEXT AS THEY EITHER

- **LIMIT IN SOME WAY THE RISK OR LIABILITY OF THE SELLER OR ANY OTHER PERSON;**
- **CONSTITUTE AN ASSUMPTION OF RISK OR LIABILITY BY THE PURCHASER;**
- **IMPOSE AN OBLIGATION ON THE PURCHASER TO INDEMNIFY THE SELLER OR ANY OTHER PERSON FOR SOME CAUSE; OR**
- **ARE ACKNOWLEDGEMENT OF A FACT BY THE PURCHASER.**

Purchasers spouse consenting to the mortgage of the unit, if a mortgage loan is required and if the Purchaser is married in Community of Property:

.....
Spouse

.....
Spouse

This offer accepted at _____ on this ____ day of _____ 20__

AS WITNESSES:

1.

2.
Seller

SCHEDULE "A" to Sale Agreement for **BURGOYNE**

Full names of Purchaser: _____

Residential and Postal
address of Purchaser : _____

Date of Birth: _____

Identity Number: _____

SARS income tax
registration number: _____

Marital status: Married according to S.A. Law YES / NO

Out of Community of Property / In Community of Property

Married according to Foreign Law being the Laws of:

[Complete/Delete appropriately]

Date and Place of Marriage: _____

If married in community of property,
full names of Spouse: _____

Email address: _____

Telephone Number: (WORK) _____

(HOME) _____

(CELL) _____

(FAX) _____

Schedule "A" - Page 2

Unit/s purchased and cost (excluding VAT):

Unit/Section _____ Price: _____

Parking bay/s: _____ Price: _____

Garage/s: _____ Price: _____

Other: _____ Price: _____

Applicable Taxes (VAT) _____

TOTAL inclusive of VAT: _____

Deposit Amount: R40 000,00 (FORTY THOUSAND RAND)

Bond Amount: R _____
[if left blank then this agreement shall not be subject to the granting of a bond]

Bond Grant Date: within 21 (twenty-one) working days of signature by both parties

Development date: 30 April 2019

Occupational Rental: R _____ per month

Purpose for which the Unit will be used: RESIDENTIAL

The Purchaser must record here, for the record and for the Seller to know, the representations and promises not recorded in the agreement, that have been made to the Purchaser by the Seller and/or the agent and/or a person acting on behalf of the Seller which has caused the Purchaser to enter into this agreement:

(If additional space is required please continue on another page, sign it, and annex it to the agreement)

The Purchaser hereby acknowledges receipt of a copy of this agreement

PURCHASER

PURCHASER

SCHEDULE 'B1'

This must be a floor plan of the unit itself which must have dimensions recorded on the plan and a scale.

SCHEDULE 'B2'

This must be an elevation drawing of the building or the portion of the building in which the unit is situated with the unit marked with an "X" or a circle around the unit showing where in the building it is to be situated.

SCHEDULE 'B3'

If there are parking bays or other exclusive use areas then a plan must be attached showing the layout and marking the one which the Purchaser is acquiring.

SCHEDULE 'C'

GENERAL SPECIFICATION AND COMPLETION SCHEDULE