

ERF/ UNIT NO: _____

DEED OF SALE

Made and entered into by and between:

SHINING OAKS INVESTMENTS 7 (PTY) LTD

Registration No. 2009/003511/07

("the Seller" and "the Builder")

AND

Whose full particulars appear in the information Schedule, forming an integral part of this
Agreement

("the Purchaser")

INFORMATION SCHEDULE

A	SELLER AND BUILDER	SHINING OAKS INVESTMENTS 7 (PTY) LTD		
A1	Registration No.	2009/003511/07		
A2	Address			
A3	Telephone			
A4	Telefax			
A5	Cell			
B	PURCHASER – Full names			
B1	ID/Registration No			
	Spouse full names			
B2	ID/Registration			
B3	Address in full (street and postal addresses)			
B4	Marital status ICOP/ANC			
B7	Telephone (w)			
B8	Cell Phone	(Cell)		
B9	Email	(Email)		
B10	PROPERTY description			
C1	Extent			
C2	Estimated Transfer Date			
D	BUILDING WORKS			
D1	House Type			
D2	Estimated Commencement Date			
E	PURCHASE PRICE	R		
E1	Purchase Price (Inclusive of VAT)		Property	Building
		Total Price	R	R
		Balance Due	R	R
E2	Amount of Bond required, if any	R		
E3	Total Balance of purchase price payable (Property and Building)	R		
	SELLING AGENT:	TEL:	CELL:	

SUMMARY OF ANNEXURES

Annexure A	Dwelling Layout
Annexure B	Dwelling Elevations
Annexure C	Specifications

2. INTERPRETATION

- 2.1.1 **LAND**
Erf No _____ being serviced land /to be services substantially in accordance with the Site Developments Plan, of which a copy is attached and marked Annexure A1.
- 2.1.2 **PROPERTY** Certain piece of the land as more fully described in Information Schedule
- 2.1.3 **DEVELOPMENT** the proposed housing development known as **HAMILTON ESTATE** at **KUILS RIVER**
- 2.1.4 **PARTIES** a collective reference to the seller and the purchaser and "**PARTY**" means one of them;
- 2.1.5 **DAY** and **DAY** of the week, excluding Sunday and South African Public Holidays;
- 2.1.6 **CONVEYANCERS** **MARAIS MULLER YEKISO, KUILS RIVER**
(Ref. THEUNIS HOFMEYR / SANDRA)
- 2.1.7 **AGREEMENT** the Deed of Alienation as defined in Section 1 of the Alienation of Land Act No 68/1981, as amended, in respect of the property and as set out in this document between seller and the purchaser;
- 2.1.8 **SIGNATURE DATE** the date of signature of the agreement by the party last signing;
- 2.2 Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons

Shall include partnerships and Bodies Corporate and vice versa;
- 2.3 **INDULGENCE**

Any indulgence in respect of time or anything else granted by the seller to the purchaser will not be considered to impair any of the rights of the seller in terms of the agreement, or effect any right whatsoever of the seller.
- 2.4 **EXCLUSION OF OTHER AGREEMENTS**

This agreement cancels and supercedes all other contracts entered into by the parties before the date of this agreement and any amendment, addition hereto or consensual cancellation thereof will be of no force or effect unless it appears in writing and is signed by the parties hereto
- 2.5 **CLAUSE HEADINGS**

The head notes in this agreement are used only for the purpose of reference and shall in no way effect or govern the construction or interpretation of the agreement
- 3. PURCHASE**
- 3.1 The seller hereby sells to the purchaser who hereby purchases the property on the following terms and conditions
- 4. PURCHASE PRICE**
- 4.1 The purchase price of the property is indicated in Information Schedule which amount includes Value Added Tax (VAT) at the standard rate applicable on the signature date.

- 4.2 The purchaser undertakes to pay the deposit of R_____ () as indicated in Information Schedule on the signature date to the conveyancers, which amount will be invested in a special savings account at a financial institution of their choice in terms of the provisions of Section 78(2)(A) of the Attorneys Act No 53/1979 until date of registration. The interest accrued on the savings account will be payable to the purchaser. The parties place on record that the deposit payable by the Purchaser shall be a non-refundable deposit. No deposit shall be refunded in the event of cancellation of this agreement on the side of the purchaser.
- 4.3 The purchaser hereby undertakes, and binds himself, to cause a guarantee for the balance of the purchase price being the amount referred to in Clause 4.1 less the deposit in Clause 4.2 to be issued by a commercial bank in favour of the seller or its nominee, which guarantee shall be to the satisfaction of the seller and/or the conveyancers.
- 4.4 The purchaser will be liable for the costs of the issuing of the guarantee.
- 4.5 The said guarantee shall be payable on registration of the property in the name of purchaser and shall be delivered to the conveyancers within 21 (twenty one) days after written request by the conveyancers.
- 4.5 All amounts payable by the purchaser in terms of this agreement shall be paid to the conveyancers free of exchange, or bank commission at cape town and without deduction or set-off by means of a cheque drawn by a recognized commercial bank or a bank guaranteed cheque.

5. POSSESSION

- 5.1 The purchaser shall be placed in possession and occupation of the property on date of registration.
- 5.2 The purchaser acknowledges that on the transfer date; the building/s and the other structures and / or improvements, including infrastructure and road in the development may be incomplete and that the purchaser may suffer inconvenience from building operations, moist, dust and other nuisance factors. The purchaser shall not be entitled by reason of any of the foregoing to cancel or withdraw from this agreement or to claim damages from any person or institute interdict proceedings nor shall the seller be responsible for any loss, damage or inconvenience suffered by the purchaser by reason of such building operations.
- 5.3 The purchaser is obliged without compensation to allow gas mains, electricity, telephone and television cables and or wires, main or other water pipes and sewerage pipes, including storm water pipes, to be led across the property and that the surface installations, such as mini substations, meter kiosk and service poles or standard will be installed on it where and when deemed necessary within reason by the Local Authority. This includes the right of access at all reasonable times to the property, by authorised persons by laying, removing or inspecting of any of the works in respect of the above.
- 5.4 The purchaser is further obliged, without compensation, to receive material or to permit excavations that may be required in order that the full width of the street may be left free and any bank safely and property sloped to compensate for the difference between the height of the street and the property as finally constructed unless the purchaser prefers to erect pertaining walls to the satisfaction of and within a period of time to be stipulated by the Local Authority.

6. OCCUPATION

- 6.1 No occupational rental shall be applicable as possession will be given to all purchasers on date of transfer.

7. TRANSFER OF PROPERTY

- 7.1 The parties hereby appoint the conveyancers to cause:
- 7.1.1 registration of transfer of the property in the name of the purchaser
 - 7.1.2 registration of a mortgage bond referred to in clause 21.1.1 in event of the purchaser requiring such bond to be registered.

7.2 In the event of a subsequent sale of the property by the purchaser, and it is required that such transfer must take place simultaneously with the registration of the property in the name of the purchaser, the purchaser hereby consents irrevocably that **MARAIS MULLER YEKISO** will attend to such simultaneous transfer.

7.3 **"IT IS SPECIFICALLY AGREED that MARAIS MULLER YEKISO, KUILS RIVER, shall be appointed to also attend to the registration of such bond, simultaneously with transfer of the herein mentioned unit."**

8. COSTS

8.1 The seller will be responsible for the payment of transfer fees;

8.2 **The PURCHASER accepts responsibility for his account and will pay on demand to the CONVEYANCERS the costs of registration of the mortgage bond referred to in clause 21.1.1;**

8.3 The seller hereby confirms that he is registered as a vendor in terms of the Value Added Tax Act of 1991, as amended and therefore no transfer duty will be payable.

9. DATE OF TRANSFER

Transfer will be passed as soon as:

9.1 the property is registerable and subject to the fulfilment of all suspensive conditions

9.2 the purchase price or balance thereof have either been guaranteed or paid;

9.3 the costs mentioned in Clause 8 have been paid

9.4 The parties hereby undertake to immediately upon written request by the conveyancers, to sign all documents and do all that is necessary, which in the opinion of the conveyancers may be necessary to effect registration of transfer of the property in the name of the purchaser and to give effect to the provisions of the agreement.

10. CONDITIONS OF TITLE

The property is sold as described in the existing title deed or deed thereof, and is subject to all the conditions, restrictions and servitudes (if any) attaching thereto or mentioned, or referred to in the title deed of the property;

11. JURISDICTION

11.1 The seller and the purchaser hereby consent to the jurisdiction of the Magistrate's Court for any action that might arise from this agreement.

11.2 The parties, however, reserves the right at his sole discretion to institute action in the High Court and to claim costs on the High Court scale.

12. DOMICILIUM AND NOTICES

12.1 For all purposes of this agreement including the giving of notice and services of legal process, the parties respectively choose domicilium citandi et executandi as follows:

12.1.1 the seller at _____

12.2.2 the purchaser at _____

- 12.2 Either party shall be entitled to change their domicilia citandi et executandi from time to time by giving written notice of an alternative address in the Republic (which address shall not be a post box address) to the other party, which notice shall take effect upon receipt thereof by the addressee.
- 12.3 All notices required to be given in terms of the agreement, shall be in writing and shall either be delivered by hand or be forwarded by pre-paid registered post in which latter event they shall be deemed, until the contrary has been proved, to have been received by the addressee on the 7th day after posting;

13 BREACH

- 13.1 In the event of the purchaser failing to fulfill on due date by any of the terms and conditions of this agreement, the seller or his agent shall have the right, immediately and without prior notice, either:
 - 13.1.1 to cancel the sale by giving written notice to the purchaser, which event the purchaser shall forfeit all monies paid to the seller or his Agent in Terms thereof, subject to applicable legal limitations, without prejudice to the seller's other legal rights and remedies and the right to claim damages.

Or

 - 13.1.2 to claim immediate payment of the whole of the purchase price and the fulfillment of all the terms and conditions thereof.
- 13.2 In the event of the cancellation of this agreement the seller shall further be immediately entitled to retake occupation of the property and to eject any occupier of the property who has obtained the right of occupation from the purchaser and the purchaser will have no right of recourse against the seller in respect of any improvements effected by him to the property, and the purchaser will have no rights of retention.
- 13.3 The purchaser further undertakes to pay attorney and client costs, agents commission applicable, collection, commission and tracing costs which the seller might incur in collecting any amount. Owing in terms of this agreement by the purchaser and which is not paid on the due date thereof including interest on such an amount at the rate mentioned in Clause 15.

14 INTEREST ON DUE PAYMENTS

- 14.1 Should any sum of which the purchaser is liable in terms of this agreement (whether for capital or interest) not be paid timeously as provided in this agreement, the purchaser shall pay interest thereon at the maximum rate from time to time as contemplated in the Usuary Act No 73/1968, as amended.
- 14.2 The said interest calculated on a daily basis and capitalized monthly and shall be payable on demand.

15 AGENT'S COMMISSION

- 15.1 The seller is responsible for payment of the Agent's commission referred to in Information Schedule.
 - 15.1.1 The purchaser hereby declares that the Estate Agent mentioned in the Information Schedule was the effective cause of this transaction and should any other Estate Agent or Agents after payment of the commission herein mentioned lodge a claim against the seller and can prove that they were the effective cause of the sale, then the purchaser hereby indemnifies the seller against such claim(s) plus all costs in connection therewith.
- 15.2 The agent shall be entitled to an amount of as per the addendum.
- 15.3 The seller will be appointed to negotiate all bond applications directly with each bank's development department.

16. LIABILITY OF SELLER AND PURCHASER

- 16.1 If the purchaser is more than 1 (one) person, then all the persons signing the agreement shall, jointly, severally and in solidum, be liable for the due performance of its obligations in terms of this agreement and does the purchaser hereby renounce all benefits arising from the legal exceptions de duobus vel pluribus reis debendi.
- 16.2 If this agreement is made by the purchaser in a representative capacity, then the signatory binds himself as surety and co-principal debtor in favour of the represented party for the due performance of his principal in terms of this agreement and does the purchaser renounce all benefits arising from the legal Exceptions that may be applicable, namely ordinis seu excusionis et divisionis and de Duobus vel pluribus reis debendi.
- 16.3 If this agreement is entered into by the signatory as Trustee for a Company or Close Corporation to be formed or already formed, or on behalf of himself or his nominee, then in that instance the signatory shall in his personal capacity be liable for the due fulfillment of all the obligations of such party in terms of this agreement if;
- 16.3.1 Close Corporation or Company to be formed is not formed before or on the date on which guarantees in terms of this agreement is to be furnished; or
 - 16.3.2 The Close Corporation or Company is formed, but does not ratify, adopt and accept this agreement; or
 - 16.3.3 The Close Corporation or Company ratifies, adopts and accepts this agreement but does not perform timeously in terms thereof; or
 - 16.3.4 If a Company or Close Corporation, which has already been formed, and such Company and Close Corporation fail to perform timeously in terms of this agreement; or
 - 16.3.5 Such party nominates another person and the person thus nominated does not accept the nomination, but fails to perform timeously in terms of this agreement.

17. ELECTRICAL INSTALLATIONS

- 17.1 Seller shall at his cost obtain the Certificate of Compliance as stipulated in Regulation 3 of the Machinery and Occupational Safety Act 7 of 1983 and will the Certificate of Compliance be handed over to the conveyancers before or on the date of registration of transfer;
- 17.2 If the electrical installation of the property is defective, the seller shall at cost repair the electrical installation in order to deliver the certificate to the conveyancers.

18. CONDITIONS PRECEDENT

- 18.1 the purchaser acknowledges that the buildings to be built on the property (the buildings) is subject to:
- 18.2 the seller obtaining approval for rezoning and subdivision of the Development Scheme by the Local Authority;

19. SUSPENSIVE CONDITION

- 19.1 The sale is subject to the suspensive condition that:
- 19.1.1 the purchaser obtains a loan for the amount indicated on Information Schedule against security for a first mortgage bond over the property within 21 (twenty one) days calculated from the signature date.

- 19.1.2 the purchaser entering into a written building agreement with the seller on terms and conditions set out, on date of signature hereof.
- 19.2 The purchaser undertakes immediately after the signing of this agreement to complete the necessary application forms for the obtaining of the aforesaid loan and undertakes further that in the event of the loan being granted to him to accept the loan, notwithstanding the fact that the terms and conditions of such loans may have changed between date of application and date of granting thereof.
- 19.3 The purchaser hereby irrevocable and in **rem suam** authorizes the seller, in the event of the purchaser failing to make the necessary application with the said institution, on his behalf to apply for the loan and to sign the application.
- 19.4 The purchaser undertakes to apply for the said loan through the services of the bond originator to be nominated by the seller and further to ensure and procure that the financial institution from which the purchaser obtains the loan instructs the conveyancers to attend to the registration of such bond.
- 19.5 In the event of non-compliance with any of the aforementioned suspensive conditions By the said date the seller or the purchaser will have the right to cancel this agreement giving written notice to the other party at his **domicilium citandi et executandi** in which event the parties shall be reinstated in the **status quo ante** hereto.

20. RESALE OF ERF

- 20.1 In the event of the purchaser deciding to sell the property before having erected a dwelling on it, the Estate Agents shall have a sole mandate for 120 days to sell the property, from time to time of the purchaser advising him by registered mail of his intention to sell the said property, and the purchaser shall not be entitled to erect or display, or allow to be erected or displayed, any advertising boards on the property accept with the prior written consent of the Estate Agents being obtained.

21 BUILDING PLANS, BUILDING RESTRICTIONS AND MINIMUM SPECIFICATIONS

- 21.1 These conditions, unless otherwise stated, are in favour of and enforceable by the Local Authority or it's successors or the purchaser, his heirs, executives or successors, entitle and shall be registered against the purchaser's Title Deed of the property in the event of the Registrar of Deeds being prepared to register the said conditions:
- 21.1.1 Building plans must be submitted by the purchaser to the Local Authority before any building work may commence. All buildings must be designed in accordance with the minimum specifications. The purchaser declares that he is fully aware of the contents of the said minimum specifications and shall be bound by the provisions thereof.
- 21.1.2 A high section of 5(five) metres (calculated from the highest point of the Erf to the highest point on the roof) shall apply to all erven.
- 21.1.3 A 1(one) metre building line restriction shall apply to the lateral boundaries of the erven within a development and a 1.5(one comma five) metre building line from the rear boundary. The street boundary shall be as per normal zoning scheme parameters.
- 21.1.4 No wire fences will be allowed on the street frontage.
- 21.1.5 The construction period of any building on the property shall not exceed 9(nine) months, that is, once the purchaser has commenced with building operations, the building must be completed within 9(nine) months. In the event of the purchaser not complying with provisions of this clause, the Local Authority
- 21.1.6 shall be entitled to claim rates and taxes in respect of the property as if the home has been fully completed.

22. OFFER

23 If this agreement is signed by one party only, this document will be construed as an offer to the other party, which will not be withdrawn, but must be accepted before 12h00 on the 5th (fifth) DAY calculated from the date of signature of this document by the purchaser, by signing this document and handing same to the conveyancer on or before the said time and date.

24. GENERAL

24.1 The parties agree that if the seller at any time decides not to go ahead with the Proposed Development, this agreement will become null and void and all monies paid by the purchaser will be repaid to him, together with interest.

24.2 The seller and the purchaser are aware that the numbering of the erven may Change, should the seller have to meet certain requirements in the process of subdivision of the land, and are in agreement that such a change in numbering shall not affect the actual identity of the property.

24.3 The parties agree that, should the percentage rate of Value Added Tax be Increased by any authority before date of registration of transfer, the purchase price will increase by such an amount as to enable the seller to pay the full percentage of Value Added Tax to the Receiver of Revenue on date of registration.

SIGNED at _____ on this _____ day of _____ 2010

AS WITNESSES:

1. _____ **SELLER**

2. _____

SIGNED at _____ on this _____ day of _____ 2010

AS WITNESSES:

1. _____ **PURCHASER**

2. _____

SIGNED at _____ on this _____ day of _____ 2010

AS WITNESSES:

1. _____ **SPOUSE**

2. _____