

**ANNEXURE "A"
TO MAIN AGREEMENT
(AGREEMENT OF SALE)**

**HOUSING DEVELOPMENT SCHEME FOR RETIRED PERSONS
ACT 65/1988**

DEFINITIONS

Act	means Act No.65 of 1988 - Housing Development Schemes for Retired Persons Act;
Architect	means an architect as defined in section 1 of the Architects Act, 1970 (Act No.35 of 1970);
Housing development scheme	means any scheme, arrangement or undertaking - (a) in terms of which housing interests are alienated for occupation contemplated in section 7, whether the scheme, arrangement or undertaking is operated pursuant to or in connection with a development scheme or a share block scheme or membership of or participation in any club, association, organization or other body, or the issuing of shares, or otherwise, but excluding a property time-sharing scheme; (b) declared a housing development scheme by the Minister by notice in the Gazette for the purposes of this Act;
Housing interest	in relation to a housing development scheme, means any right to claim transfer of the land to which the scheme relates, or to use or occupy that land;
Levy	means the amount payable as a contribution to the costs of the control, management and administration for a housing development scheme;
Contract	means agreement entered into between the seller and purchaser for the purchase of a housing interest as defined in the Act;
Purchaser/ Member	means any person to whom a housing interest is alienated in terms of a contract;

Regulation means regulations issued under the Act in terms of section 11 by the Minister of Economic Affairs and Technology;

Seller/developer means a developer as defined in section 1(1) of the Sectional Titles Act and with reference to a housing interest any person who sells the said right for the first time;

Unit means a section together with its undivided share in common property apportioned to that section in accordance with the quota of the section; plus the exclusive use area(s) (if any)

Sectional title contract means an agreement between the developer and the purchaser of a housing interest in terms whereof the developer undertakes to build a sectional title unit or to sell an already built unit to the purchaser;

Body Corporate:

Any reference to Body Corporate shall include Management Association and vice versa.

Trustee:

Any reference to Trustees shall include Management Committee and vice versa.

Housing Interest:

Any reference to Housing Interest shall include a Unit and vice versa.

In terms of section 2 of the Act a contract alienating a housing interest to a retired person must be in writing and in terms of section 3 in an official language chosen by the purchaser and signed by both parties. The purchaser acknowledges that this agreement is in an official language chosen by him.

The legal basis of the Housing Interest sold will be sectional title on freehold land and therefore the duration of the housing interest is of a perpetual nature. **The unit will be registered in the name of the PURCHASER in terms of Act 95 of 1986 at the Deeds Office, Cape Town.**

The description of the Housing Interest sold, the extent thereof, the magisterial district in which it is situated, the amount and nature of the consideration paid as well as the parties addresses is reflected in the main agreement to which this document is an annexure.

The site development plan and floor plans of the building the purchaser buys, is attached as attachments to the Main Agreement (Agreement of Sale).

The seller has purchased various erven, now consolidated into ERF 19437 DURBANVILLE for an amount of R43 471 309,00 (FORTY THREE MILLION FOUR HUNDRED AND SEVENTY ONE THOUSAND THREE HUNDRED AND NINE RAND) and have taken transfer of the property. The Seller has also subsequently purchased Erf 1776 Durbanville for the amount of R3 300 000,00 (THREE MILLION THREE HUNDRED THOUSAND RAND), which is registered into its name, and which shall be tied/consolidated with the said Erf 19437 Durbanville. The land is currently unencumbered by a mortgage bond, but the Seller may in future require a mortgage bond to be registered on the land for development purposes.

Whereas the seller is not selling a right of occupation commonly known as "life right" the provisions of 4h(A) is not applicable requesting the seller to stipulate which portion of the purchase price will be applied by the seller to redeem the outstanding balance of the bond.

The main agreement reflects that any interest payable shall be a rate per annum equivalent to the prime rate of interest from time to time as charged by ABSA Bank Limited as more fully set out under Definitions and Interpretations.

The full purchase price is payable upon registration of the housing Interest, bought in the name of the purchaser, to the seller who gives transfer of the housing interest free of any bonds. No instalments is thus payable and therefore section 4 (i), (j), (k), (l) and (v) referring to instalment payments on life rights and interest thereon is not applicable to this contract.

Section 6 requires that an architect must issue a certificate to the purchaser upon the date that the property is sufficiently completed for the purpose of utilization and that it has been erected in accordance with the approved building plans and town planning scheme and only thereafter may the developer receive the purchase and building consideration.

Transfer to the purchaser will thus only transpire after the issuing of the section 6 certificate which certificate will be issued in accordance with the main agreement but

may not be longer than 2 (two) years after conclusion of the main agreement. Upon issuing of the certificate the purchaser becomes entitled to utilize the housing interest and is compelled to take transfer of the housing interest as soon as possible thereafter.

Should the seller fail to issue a certificate of completion for occupation within 2 (two) years after the main agreement (agreement of sale) became binding on both parties, the purchaser may, choose to abide to the contract in which event no interest shall be payable by him from the date in question until such certificate has been issued or the purchaser may cancel the agreement.

The risk of the housing interest will pass to the purchaser on date of registration of the unit into the name of the Purchaser. The Body Corporate shall insure the building or buildings relating to the Housing Development Scheme to its replacement value.

No amounts is payable in respect of the land as endowment, betterment or enhancement levies, a development contribution or any similar imposition except for a service contribution payable by the developer to the local authority prior to transfer of the property into the purchaser's name and the amount payable is for the seller's account.

A development scheme in terms of Act 95 of 1986 is to be established on Erf 19437 DURBANVILLE and Erf 1776 DURBANVILLE

The seller intends to alienate 100% of the development **excluding the frail care and assisted living facility** as referred to hereunder, for occupation by persons described as retired in terms of the Act, namely older than 50 and or their spouses.

For as long as the Developer/Seller is the registered owner of any Unit, other than the units in respect of the Frail Care facility/assisted living centre, or is the registered holder of any real right in the Housing Development Scheme, the Developer/Seller shall be entitled to appoint the majority of Trustees.

1. **BODY CORPORATE**

All owners of units in the Housing Development Scheme shall become a member of the Zonnezicht Retirement Village Body Corporate as provided by the STSMA. The purpose of the Body Corporate is to promote, regulate and advance the common interest of the retirement village and to manage the common property of the development

The Seller intends that the offices, lounge, dining room, laundry, library, kitchen,

hair salon, tea room, gym, ladies bar “non residential units”, and swimming pool shall form part of the common property.

The abovementioned non residential units as well as the swimming pool shall be managed by the Trustees of the Body Corporate or a managing agent appointed by them.

The management structure of the Body Corporate will be in accordance with the Management Rules thereof as prescribed by the STSMA and the Act for Housing Development Schemes for Retired Persons.

The rules of a housing development scheme as laid down by regulations 7 - 14 issued in terms of the Act for Housing Development Schemes for Retired Persons will be applicable, hereto annexed as Schedule 2.

2. COSTS

The purchaser is liable for the costs to register the property in his name but the costs of the main agreement and annexures thereto is for the sellers account.

3. LEVY

The levy payable by the purchaser of a unit is calculated in terms of the participation quota, as follows:

The square metres of the unit owner divided by the sum of the square metres of the different sectionalised residential units, together with the frail care/assisted living units within the Zonnezicht Retirement Village and to be expressed to the fourth decimal point “standard monthly levy”.

The attached estimates (schedule 3) done by a managing agent who the seller wishes to appoint as managing agents for the first 3 years is for a period of three years in advance as required by the act.

The estimate reflects:

all expenditure for the control, management and administration costs of the housing development scheme and all services and facilities for which the Body Corporate will accept liability;

The levy will be calculated taking the above into consideration and the levy referred to in the estimate is the expected estimate levy for the first 3 years.

All rates and taxes payable to the City of Cape Town, is for the account of the owner of the sectional title unit as well as electrical usage, which will be measured by pre-paid metering.

The levy payable for Special Services with regarding to or in connection with the provision of food and/or beverages (catering) or frail care/assisted living as more fully set out under clause 4 hereunder, will be added to the standard monthly levy which is to be calculated in accordance with the STSMA based on their participation quota and shall include water consumption and upkeep of the common property and insurance.

4. SPECIAL SERVICES

The Trustees, acting on behalf of the Body Corporate, have the right to appoint any private person, company or institution to render a special service or services to the Body Corporate.

For purposes of this clause special services shall mean any services with regards to or in connection with the provision of food and/or beverages, house-keeping and laundry, excluding the frail care and assisted living facility which will be retained by the Seller and to be managed by him and to be operated by an operator appointed by him as more fully referred to herein.

4.1 SPECIAL SERVICES USAGE AND CONTRIBUTIONS (LEVIES)

Contributions towards these services are compulsory and form part of the monthly levy and shall, inter alia, include the following services as part of the monthly levy as more fully set out in the attached schedule 3, irrespective of the fact that such Member or resident makes use thereof or not and all Members shall contribute equally towards the costs thereof. The Body Corporate may by way of special resolution impose special levies in order to make the rendering of the special services as defined above, possible over and above the levies hereinafter specified.

4.2 HOSPITALITY CENTRE

The Seller as Developer of the Housing Development Scheme envisages erecting and establishing, as a separate property entity, a Hospitality Centre

especially earmarked for that purpose, within the Housing Development Scheme to be utilised by all members or residents of the Housing Development Scheme in terms of the service agreements with the Operator thereof, which service agreements, will be entered into between the Body Corporate and the Operator. The Hospitality Centre will be an asset of the Body Corporate, but will be operated by an Operator appointed in terms of the Body Corporate Rules. The Hospitality centre will consist of: the offices, lounge, dining room, laundry, library, kitchen, hair salon, tea room, gym, ladies bar and swimming pool or other amenities and the area may be utilized as the owner/administrator of the area may deem fit.

Save for the 6 luncheon meals referred to in clause 4.3 hereunder, the cost of meals, refreshments etc. from the kitchen or bar will for as far as any part thereof may not be provided for in terms of the Body Corporate's service agreement with the Operator, be for the account of each individual utilizing such services and will not be included in the normal levies of the Body Corporate in applicable cases

4.3 MEALS

Each respective Unit in the Housing Development Scheme, shall be liable to take 6 luncheon meals per calendar month (weekends excluded) at the cost that the person who delivers the service have negotiated with the Trustees Committee. The costs hereof will be collected monthly in advance by the managing agent as set out above, as part of the monthly levy payable by the owners of the residential units. These meals will be provided from the date that a kitchen has been built and commissioned on the premises of the Zonnezicht Retirement Village.

4.4 MEDICAL SERVICES

4.4.1 Frail Care / Assisted Living

A further area shall be utilized as a frail care centre or assisted living centre and shall be equipped for this purpose. Any portion so utilized will be registered under section 3 of the Aged Persons Act (Act 81 of 1967) and the structure of the building of the area utilized as a frail care / assisted living facility will comply with the Aged Persons Act and its regulations and shall provide for where needed, care of debilitated persons. The facility will have at least 20 beds in rooms that comply with

the above mentioned Act.

Each person residing on the premises shall before taking occupation, supply the operator of the frail care/assisted living centre "the operator" preferred doctor with copies of their full medical history and consent that in case of emergency, the Operator can contact their preferred doctor;

Should the health condition of such person deteriorate to such a situation that the frail care facility is not able to give the necessary specialized assistance' the Body Corporate may request the member to be transferred to an institution that can take care of such person. In deciding the above, the report of the Operator's doctor will be accepted.

No property other than the designated frail care unit may be utilized as a base from which assisted living services are rendered. This provision however does not prevent any nursing services rendering assisted living services to individual owners of residential units.

The frail care facility / assisted living centre will be an asset of the Seller and will be managed by an operator appointed by him who will determine the costs of utilizing the services; the circumstances under which admittance to the facility will be allowed and for what periods a person may be admitted and the illnesses they will cater for.

Save as indicated in Schedule 3, the monthly levy do not include the utilization of the above frail care / assisted living facilities and users thereof are liable for the prescribed tariffs for services rendered and material used. However, the Purchaser of a unit shall be entitled to preferential access to the frail care facility.

The terms and conditions under which the Member or any occupant of his/her Unit may make use of any of the facilities or services provided from either the frail care or Assisted Living Centre will be arranged from time to time in terms of the Service Agreement that will be in place between such Member and the Operator of the Facility. Such Service Agreement will furthermore, determine the costs for utilising the services as well as the circumstances under which any Member / occupant of a housing unit will be treated in its Housing Unit. The Service Agreement will moreover specify the periods and what ailments or conditions nursing assistance will be provided for. None of these services are covered by the normal levies and users thereof will have to pay the prescribed

tariffs for services rendered and materials used as far as any thereof are not covered by the said Service Agreement between a Member and the Operator.

The frail care facility will be completed in the first phase of the Housing Development Scheme.

The Seller however has the right to expand or reduce the facilities depending on the demand of such services.

PRIVATE CARER

A Member shall be entitled to a private carer of his/her choice, at the cost of such Member, provided that such carer shall fall under the jurisdiction of the Operator of the Medical Services.

4.4.2 UNIT BASED CARE

Unit based care shall include the following services to be provided by the Operator of the Medical Services:

- 4.4.2.1 responding to the emergency bell situated in the respective Units as well as to the fire (smoke) alarm as well as conducting a mini clinic on a weekly basis (i.e. taking of blood pressure) and one blood sugar test per month.
- 4.4.2.2 The tariff for this service, in the amount of R250,00 per month, will be included under the Levy, as is more fully set out in Schedule 3.
- 4.4.2.3 This tariff does not include any material, (bandaging, etc.) used as a result of the call out.

4.5 OBLIGATION TO ENTER INTO SERVICES AGREEMENT

Although the Property sold is in terms of the Housing Development Schemes for Retired Persons Act 65 of 1988, all services provided from the **frail care, as well as the Assisted Living Centre** will be undertaken by an independent Operator as a separate business enterprise. The terms and conditions of use by Members and occupants of the housing development scheme, of such

facilities and the services provided will be exclusively regulated by service agreements entered into between the members and the Operator thereof.

5. SECTIONS 4, 8 AND 9 OF THE ACT

The seller wish to draw the member's attention to section 4(3), 8 and 9 of the Act and his remedies there under. The purchaser should ascertain the full text of the hereinafter sections for his/her own benefit.

Section 4(3)

If the seller for whatsoever reason is unable to furnish the certificate of completion within 2 (two) years after date of purchase, the purchaser may cancel the contract and the parties shall be entitled to the relief provided for in section 8 or the purchaser may abide by the contract in which event from that date onwards, no interest shall be paid by him until a certificate is furnished.

Section 8

Where the main agreement is void or cancelled in terms of this act and the purchaser has already performed, the purchaser has the right to claim certain additional interest and expenses as well as costs of improvements made by himself that enhances the market value of the land positively over and above the rights to recover the amounts already paid.

Section 9

Where a purchaser can prove that he suffered damages due to the non-compliance of the seller to the formalities prescribed in section 3 and 4 a Magistrates Court may, where the appropriate action is instituted within 3 (three) years from the date that the sale was concluded:

- (a) reduce the interest rate;
- (b) grant a rectification order;
- (c) declare the contract to be void ab initio;
- (d) grant such alternative relief as it may deem fit;

Any rouwkoop stipulation is subject to the Conventional Penalties Act No.19 of 1962.

The seller intends developing Erf 19437 DURBANVILLE and Erf 1776 DURBANVILLE as set out in the Annexures annexed hereto. Some of the sectional title units may not be owned by individuals or entities other than the Seller or Body Corporate from which services to the inhabitants may be provided. These areas shall however fall under the jurisdiction of the Body

Corporate as it shall be a member thereof to be utilized by all residents' sectional title units and members of the public. Nor the purchaser nor any other owner within the Housing Development Scheme will have any proprietary right to the area other than the registered owner thereof.

6. SALE OF UNIT BY PURCHASER

Every sale and transfer of a residential unit from an owner other than the developer shall carry a special levy of 5% (five percent) of the gross selling price payable to the Body Corporate. These levies must be collected by the transferring attorneys on registration and be paid to the Body Corporate and shall be used equally for the upkeep of the immovable property of the Body Corporate and to stabilize the levy and must be kept in a reserve fund for these purposes only. This condition will be inserted as a condition of title in favour of the Body Corporate against the Title Deed of all owners of sectional title units in the Housing Development Scheme.

Should a member sell and again buy a property within the Estate, the owner may qualify for 60% (sixty percent) rebate of the special levy paid which amount will be reimbursed to such purchaser on the date that the second property is registered in his/her name.

The consent of the Body Corporate to any resale will only be given upon fulfilment of all conditions for alienation as are contained in the Rules of the Body Corporate.

In view of the rights which the Body Corporate has in the re-sale of the Property, the Seller hereby makes it a specific condition that the registration of such re-sale transfer shall be attended to by the transferring attorney mentioned on page 7 of the Agreement of Sale. The Purchaser by his signature hereto confirms the need for such transfer to be registered by the said attorney for the reasons set out above and does hereby irrevocably agree to appoint the said attorney as the conveyancer to register the re-sale transfer and authorises such conveyancer to attend to the payment of the amounts payable to the Body Corporate and the Operator.

All re-sales shall be effected in terms of a Standard Deed of Sale Agreement embodying the terms and conditions contained herein and in the Rules or such other terms and conditions the Body Corporate may determine from time to

time.

7. **CONDUCT RULES**

The purchaser is aware of the contents of the Conduct rules of the Body Corporate, hereto annexed as Schedule 1



LAÄS &
SCHOLTZ
TEL: 021 975 0802