



AGREEMENT OF PURCHASE AND SALE

between

ROYAL ANTHEM INVESTMENTS 95 (PTY) LTD

and

INDEX

	Page
1. INTERPRETATION	3
2. PURCHASE AND SALE	4
3. PURCHASE PRICE AND PAYMENT	4
4. OCCUPATION, RISK AND POSSESSION	5
5. TRANSFER	5
6. CAPACITY OF PURCHASER	5
7. KINCARDINE HOME OWNERS ASSOCIATION	6
8. BUILDING LINE RESTRICTIONS	6
9. BREACH	7
10. DOMICILIUM	8
11. AGENT'S COMMISSION	8
12. GENERAL	9
13. OFFER	9

1. INTERPRETATION

In this agreement unless inconsistent with or otherwise indicated by the context the following words and expressions shall have the meanings assigned to them hereunder:

Part A: The Parties

- 1.1 "seller" means ROYAL ANTHEM INVESTMENTS 95 (PTY) LTD, Registration No. 2002/018269/07;
- 1.2 "seller's address" physical: Kincardine, 156 Zinnia Road, Kyalami
postal: P O Box 1538, Rivonia, 2128
fax no. (011) 468-1556
- 1.3 "purchaser" means ;
- 1.4 "purchaser's address" physical: ,
postal: ,
fax no. ;

Part B: General Definitions

- 1.5 "agent" means ;
- 1.6 "date of acceptance" means the date on which last of the parties whose signatures are required hereto signs this agreement;
- 1.7 "deposit" means R (.);
- 1.8 "development" means the development of the country estate to be known as KINCARDINE on Portion 156 (a portion of Portion 155) of the farm Diepsloot No. 388, Registration Division JR, Province of Gauteng, of which the property forms a part;
- 1.9 "general plan" means the approved Surveyor General Diagram No. ____/2010, a copy of which is annexed hereto marked "A";
- 1.10 "guarantee due date" means (.) days after date of acceptance;
- 1.11 "occupation date" means the date of transfer;

- 1.12 "**offer expiry date**" means 14 days after the date of signature hereof by the purchaser;
- 1.13 "**property**" means Portion of Portion 156 of the farm Diepsloot No. 388, JR, as will more fully appear from the general plan;
- 1.14 "**purchase price**" means R (.) inclusive of VAT;
- 1.15 "**servitude diagram**" means the diagram annexed hereto marked "B";
- 1.16 "**seller's conveyancer**" means Tonkin Clacey Attorneys, 24 Baker Street, Rosebank, Johannesburg, tel no. (011) 880-6695 (reference M J Clacey);
- 1.17 "**transfer**" means transfer of the property into the name of the purchaser in the office of the Registrar of Deeds, Pretoria;
- 1.18 the singular shall include the plural and *vice versa* and words importing one gender shall include the other genders;
- 1.19 headings to clauses are for reference purposes only and are not be used in the interpretation thereof;
- 1.20 the number of days prescribed shall be calculated exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2. **PURCHASE AND SALE**

The seller hereby sells to the purchaser, who hereby purchases, the property for the purchase price and on the terms and conditions set out in this agreement and subject to all conditions of title, voetstoots and as it stands.

3. **PURCHASE PRICE AND PAYMENT**

The purchase price shall be paid on transfer and shall be secured as follows:

- 3.1 the deposit shall be paid on the date of acceptance. The deposit shall be paid to the seller's conveyancer in trust and invested by the seller's conveyancer in an interest bearing account in the name of the purchaser in terms of Section 78(2)(A) of the Attorneys Act, 1979. Interest on the deposit shall accrue for the benefit of the purchaser. On date of transfer the deposit shall be paid to the seller and the interest to the purchaser; and
- 3.2 the balance of the purchase price shall be paid against registration of transfer of the property and shall be secured by cash or by unconditional bank guarantees drawn in favour of the

seller or its nominee and expressed to be payable free of exchange against transfer. Such cash or guarantees shall be furnished to the seller's conveyancer on or before the guarantee due date.

4. OCCUPATION, RISK AND POSSESSION

The seller shall give occupation to the purchaser on the occupation date, from which date all benefit of and risk in and to the property shall pass to the purchaser.

5. TRANSFER

5.1 Transfer of the property shall be effected by the seller's conveyancer within a reasonable time after the purchaser has complied with the terms of clause 3 hereof.

5.2 The purchaser shall be liable for and pay on demand the conveyancing costs of this transaction.

5.3 Transfer of the property shall be effected by the seller's conveyancer within a reasonable time after:

5.3.1 the purchaser has complied with the terms of clause 3 hereof;

5.3.2 the parties have signed all documents required by the seller's conveyancer relating to the transfer, which documents the parties undertake to sign whenever called on to do so; and

5.3.3 the purchaser has paid to the said conveyancer the costs of transfer and matters incidental thereto, for which the purchaser shall be liable and obliged to make provision on demand.

6. CAPACITY OF PURCHASER

If the purchaser is a company or close corporation to be formed:

6.1 The signatory on behalf of the purchaser hereby undertakes to register the company or close corporation and furnish the seller's conveyancer with a certified copy of the Memorandum and Articles of Association or CK1 document on or before the guarantee due date. If the purchaser fails to comply herewith, the purchaser shall forthwith be deemed to be the purchaser in his personal capacity.

6.2 Upon incorporation of the company or close corporation, the signatory by his signature hereto binds himself as surety for and co-principal debtor *in solidum* with the company or close corporation for the due and punctual performance by the purchaser of all its obligations arising out of this agreement.

7. KINCARDINE HOME OWNERS ASSOCIATION

- 7.1 The property is subject to the rules of the Kincardine Home Owners Association, Registration No. 2005/020124/08 ("**the Association**"), of which the purchaser shall on registration of transfer automatically become a member.
- 7.2 The purchaser acknowledges having received a copy of the articles of association of the Association on or before the date of signature of this agreement by the purchaser and understands the contents thereof.
- 7.3 The Association shall, on behalf of its members, be entitled to certain servitudes over the development as will more fully appear from the servitude diagram. These servitudes are intended to enable the Association to control the common areas in the development for the benefit of its members.
- 7.4 The seller intends (but is not obliged) to transfer Portion 493 in the development to the Association for the purposes of general storage and other uses. If the seller elects to transfer the said portion to the Association:
- 7.4.1 no consideration shall be paid to the seller for the portion; and
- 7.4.2 the Association shall be obliged to accept such transfer and the Association shall through its members thereafter be liable for all costs arising from the ownership by the Association of the said portion.

8. BUILDING LINE RESTRICTIONS

The properties comprising the development are subject to the following building line restrictions and servitudes in favour of the Association:

8.1 All properties

Each of the properties in the development is subject to a building line restriction 10 (ten) metres wide along all of the boundaries of such property, except that:

- 8.1.1 if (as will appear more fully from the servitude diagram) any property in the development is subject to a servitude for road purposes along any of its boundaries, no building line restriction shall operate in respect of that boundary and the edge of the road servitude shall constitute the building line for that boundary;
- 8.1.2 the building line restrictions on the northern boundaries of Portions 489, 490, 491, 492 and 493 in the development shall be 3 (three) metres only;
- 8.1.3 Portion 483 in the development shall not be subject to any building line restrictions;
- 8.1.4 the building line restrictions on the northern boundary of Portion 474 in the development shall be 5 (five) metres only.

8.2 Portions 489 to 493

Portions 489, 490, 491, 492 and 493 in the development are subject to a servitude in favour of Eskom as will more fully appear from the general plan.

8.3 Portions 470 to 473, 478 and 479

Portions 470, 471, 472, 473, 478 and 479 in the development are subject to a servitude for storm water purposes, water storage and drainage as will more fully appear from the servitude diagram.

8.4 Portion 472

Portion 472 in the development is subject to a servitude of use in respect of the buildings shown on the servitude diagram.

8.5 Portions 471, 472, 480, 481, 488 and 489

Portions 471, 472, 480, 481, 488 and 489 are subject to a servitude for the purposes of erecting a common wall on the public street boundary of the development as will more fully appear from the servitude diagram.

9. BREACH

9.1 By purchaser

If the purchaser defaults in the payment of any sum whatsoever payable by the purchaser in terms hereof or breaches any of the purchaser's other obligations (all of which are agreed to be material) hereunder and fails to remedy such default or breach within 10 (ten) days from the date of dispatch of written notice requiring the remedy of such default or breach, the seller shall be entitled, without prejudice to any other rights available to it in terms of this agreement or in law:

- 9.1.1 to claim forthwith from the purchaser the whole of the balance of the purchase price together with interest at the prime overdraft rate charged by Standard Bank of South Africa Limited from time to time, calculated monthly in advance from the date of breach to the date of payment in full, as well as all other sums for which the purchaser may then be liable in terms of this agreement; or
- 9.1.2 to cancel this agreement and claim from the purchaser such damages as it may have sustained by reason of the cancellation; or
- 9.1.3 to cancel this agreement and retain all amounts which the purchaser has paid in terms hereof as a genuine pre-estimate of the damages which the seller has sustained by reason of such cancellation. In this event, the purchaser shall be deemed to have authorised the seller's conveyancer to pay to the seller any amount paid by the purchaser in terms hereof and invested by the seller's conveyancer on the purchaser's behalf, and also to claim from the purchaser occupational interest until the date of repossession.

9.2 **By seller**

If the seller defaults in any of its obligations as set out in this agreement, the purchaser shall be entitled, without prejudice to any other rights which it may have at law, to:

- 9.2.1 cancel the agreement and claim such damages from the seller as it may have suffered as a result of such default; or
- 9.2.2 institute proceedings to compel the fulfilment by the seller of its obligations;

provided that it has first given the seller reasonable notice to rectify its default, which notice shall be for a period no less than 10 (ten) days from the date of dispatch of such notice, and the seller has failed to comply with such notice.

10. **DOMICILIUM**

- 10.1 The parties choose their *domicilia citandi et executandi* for all purposes under this agreement whether in respect of Court process, notices or other documents or communications of whatsoever nature, at the addresses set out in 1.2 and 1.4 respectively.
- 10.2 Either party shall be able to change that party's *domicilium citandi et executandi* on written notice to the other. Such change of *domicilium citandi et executandi* shall take effect on the fourteenth day after the delivery to the other parties of the notice referred to therein.
- 10.3 Any notice addressed to a party at its *domicilium citandi et executandi* will be sent by prepaid registered post, or delivered by hand, or sent by telefax.
- 10.4 A notice will be presumed, unless the contrary is proved, to have been given:
 - 10.4.1 if posted by prepaid registered post, 5 (five) days after the date of posting thereof;
 - 10.4.2 if hand delivered during business hours on a business day, on the day of delivery;
 - 10.4.3 if sent by telefax, on the first business day following the date of sending of such telefax.

11. **AGENT'S COMMISSION**

- 11.1 The seller shall be liable and shall pay to the agent commission as agreed between the agent and the seller.
- 11.2 Commission shall be deemed to be earned on fulfilment of any suspensive conditions contained herein and payable on registration of transfer.
- 11.3 If the agreement is cancelled as a result of any breach hereof by the purchaser, the purchaser shall be liable for payment of the commission to the agent in an amount equivalent to 7,5% (seven comma five per centum) of the purchase price (exclusive of VAT), which amount shall become due, owing and payable to the agent on the date of cancellation.

12. GENERAL

- 12.1 This agreement represents the entire agreement between the parties. No other terms, conditions, stipulations, undertakings, representations or warranties shall be of any force or effect save as expressly included herein. No variation of or addition to or consensual cancellation of this agreement and no waiver by the seller of any of its rights hereunder shall be of any force or effect unless reduced to writing and signed by or on behalf of both parties.
- 12.2 If this agreement is signed by more than one person as purchaser the obligations of all the signatories shall be joint and several. If this agreement is not signed by all the persons named as purchasers, this agreement shall nonetheless be and shall remain binding on the purchasers who have signed this agreement.
- 12.3 No latitude, extension of time or other indulgence which may be given or allowed by the seller to the purchaser in respect of any of its obligations in terms of this agreement shall constitute a waiver, abandonment or novation of the seller's rights in terms hereof.

13. OFFER

Signature of this document by the purchaser shall constitute an offer to the seller which shall be irrevocable and shall be open for acceptance until 16:30 on the offer expiry date, whereupon if not so accepted this offer shall automatically terminate.

SIGNED at on this the day of 2013

AS WITNESSES:

1. _____

2. _____

SELLER

SIGNED at on this the day of 2013

AS WITNESSES:

1. _____

2. _____

PURCHASER

PARTICULARS OF PURCHASER

Purchaser's full names _____
(or name of Purchaser's representative)

Identity number / Registration number _____

Tel. _____ Cell _____ Fax. _____

e-mail _____ address

Postal Address _____

PURCHASER'S SIGNATURE