

DEED OF SALE

Between:

GONDWANA PROPERTY SALES CC
(Registration Number _____)

(‘the Seller’)

and

.....

(‘the Purchaser’)

Sale of Erf No:

A. SCHEDULE OF INFORMATION AND DEFINITIONS**1. DETAILS OF SELLER**

Gondwana Property Sales CC
 11 Cherrywood Close, Parklands, 7441

2. DETAILS OF PURCHASER

Purchaser's full name / company name:

Identity Number / Registration Number:

Purchaser's Marital Status (ANC / COP):

Purchaser's business address:
Code:

Purchaser's postal address:
Code:

Purchaser's email address:

Purchaser's Tel. No:	
Cell:	
Business:	Home:
Purchaser's Fax No:	
Business:	Home:

3. PROPERTY

Development Ward: Milkwood / Red Rocks
3.1 Erf No:
In extent: m ²
As indicated on Annexure A
3.2 Building: Fully furnished unit as per Annexure B

4. EXCLUSIVE USE AREA

Exclusive Use Area No:
In extent: +- 1 Hectare
As indicated 'Annexure C'

5. PURCHASE PRICE (VAT inclusive)

5.1 Erf	R
5.2 Building	R
TOTAL	R

6. PAYMENT OF PURCHASE PRICE

6.1	Full Purchase Price is payable into the Trust Account of the appointed conveyancers within 21 days after signature of this agreement.	R
6.1.1	Purchase price of land on registration of Erf in the name of the Purchaser	R
6.1.2	Purchase price of the building on receipt of progress payment certificate, issued by a professional quantity surveyor, appointed by the Seller	R

7. NAME OF SELLING AGENT

Oyster Portfolios

B. TERMS AND CONDITIONS**1. DEFINITIONS:**

In this agreement, unless the context indicates otherwise, the following terms shall have the separate meanings assigned to them hereunder:

- 1.1 'architect' shall mean the architect(s) appointed by the Seller from time to time;
- 1.2 "articles" The Memorandum and Articles of Association, from time to time, of the Gondwana Game Reserve Home Owners Association;
- 1.3 "conveyancer" GIDEON TRUTER ATTORNEYS
20 Monte Vista Boulevard, Monte Vista, 7460
Tel: 021 – 558 0067
Fax: 086 – 603 2704

E-Mail: gideont@gideontruter.co.za

First National Bank – N1 City Branch

Trust Account Nr: 6224 6295 803

Branch code: 200410

Swift code: **FIRZAJJ**

Reference: Purchaser's Surname and Erf Number

- 1.4 'completion date' or 'date of completion' shall mean the date certified as such by the architect in terms of clause 11.5;
- 1.5 "effective date" The date of signature thereof;
- 1.6 "Gondwana" The development on the farm Gondwana Game Reserve No. 376 together with the land owned by the Home Owners Association;
- 1.7 "Home Owners Association" The Gondwana Game Reserve Home Owners Association;
- 1.8 "Property" shall mean the resort zone property (free hold title) in extent approximately 300m² (three hundred square metres) as per the Schedule of Information, Clause 3 together with the building and depicted on Annexure;
- 1.9 'property' shall mean the erf as per the schedule of information, clause 3, together with the building, clause 1.12 of the definitions;
- 1.10 "Exclusive Use Area" Shall mean the private area surrounding the "Property" in extent of approximately 1 (one) hectare as per the schedule of information, Clause 3 and depicted on Annexure. This right will be in perpetuity and for the exclusive use of the Property owner as per the conditions of the Gondwana Home Owner's Association Constitution;

- 1.11 "registration date" The date of registration of transfer of the property into the name of the Purchaser;
- 1.12 'building' shall mean the residential house to be erected upon the property in accordance with this Deed of Sale and the annexure thereto;
- 1.13 "rules" The Conduct Rules laid down by the Developer from time to time for the use, enjoyment and management of the Gondwana development and the property;
- 1.14 "Sold" shall mean in the event of the Purchaser alienating the property to any third party or disposing of his shares/membership/interest in a Company, Close Corporation or Trust that owns the property;
- 1.15 "VAT" shall mean value added tax as determined by the Value Added Tax Act, as amended from time to time.
- 1.16 "Annexure" shall include Gondwana architectural guidelines, Gondwana Game Reserve conduct rules, Articles of association of Gondwana Game Reserve Home Owners Association (Pty) Ltd (Association incorporated under Section 21).

2. PAYMENT OF THE PURCHASE PRICE

2.1 The purchase price shall be paid to the Seller as follows:

- 2.1.1 The amount stated in clause 6 of the schedule of information on signature hereof by the Purchaser to the conveyancer, which amount shall be held in trust until registration of transfer and draw

downs on building and shall be invested in an interest bearing trust account with interest to accrue to the Purchaser on transfer;

- 2.2 The conveyancer shall be entitled and obliged and is hereby authorised by the parties hereto in terms of Section 78(2) of the Attorneys Act, 1979, to invest the deposit and any other amount paid to them in terms of clause 2 in an interest-bearing trust account, interest accruing to the Purchaser. The Purchaser hereby authorises the conveyancer to make payment to the Seller in accordance with clause 2 from any monies held on trust by them on behalf of the Purchaser.
- 2.3 All amounts payable by the Purchaser in terms of this agreement shall be paid to the Seller's conveyancer free of exchange or commission at Cape Town and without deduction or set off in cash or by means of a bank guaranteed cheque or cheque drawn by a South African registered commercial bank.

3. VOETSTOOTS

- 3.1 The Seller hereby sells to the Purchaser, who purchases the property, on the terms and subject to conditions contained in this agreement.
- 3.2 The Purchaser acknowledges that he has inspected the property and that no warranties or representations have been made except as contained in this agreement and he accordingly purchases the property voetstoots. The property, as more fully described in the current title deeds of the property, is sold subject to all existing title conditions and servitude's mentioned or referred to therein, as well as any conditions that may be imposed by any relevant Governmental Authority which may have jurisdiction over the property, and in the condition and to the extent such as it now lies, VOETSTOOTS.
- 3.3 The Purchaser acknowledges that no representations or warranties have been given to him regarding the consistency of the soil or the suitability for any purpose.

4. TRANSFER

- 4.1 Transfer shall be effected by the conveyancer as soon as possible.
- 4.2 The Purchaser must sign the transfer documents and return same to the conveyancer within 7 (SEVEN) days of being called upon to do so.
- 4.3 The Purchaser shall, in addition upon request by the Seller's conveyancer, pay all costs of transfer (including VAT on such costs) Value Added Tax and stamp duties (if any), costs of all necessary affidavits and all other costs which have to be incurred in order to comply with statutes or other enactments or regulations relating to the passing of transfer of the property.

5. SERVICE CHARGES (LEVIES)

- 5.1 The Purchaser shall be obliged to pay the service charges (levies) as provided for in the Home Owners' Association from the date of registration of transfer.
- 5.2 The Purchaser agrees and accepts that monthly service charges shall be paid by means of an irrevocable debit order authority that he agrees and undertakes to sign as and when called upon to do so by the Seller / Management.
- 5.3 In certain instances the costs of the provision of electricity, water and telephone services would be paid in bulk to service providers. In the event of those costs being identified as directly attributable to individual members, such costs shall not be added to the service charges, but shall be individually billed on a monthly basis to such members.

6. SELLER'S OBLIGATIONS

The parties hereby record the following:

- 6.1 The Seller has developed the Reserve according to all consents obtained and the approved General Plan by the relevant authorities.
- 6.2 The Seller has procured that the Purchaser shall have full access to the Reserve subject to the Conduct Rules.
- 6.3 All the necessary services to the property have been installed.
- 6.4 The Seller has constructed a gravel road from the closest common road to the boundary of the property. The Seller has constructed a dirt road network throughout Gondwana suitable for 4X4 vehicles for the purpose of game viewing.
- 6.5 The Seller has erected a suitable game fence securing Gondwana's perimeter. All clustered housing areas will be enclosed with an electrified deterrent fence prior to predator species being introduced onto the reserve.

7. HOME OWNER'S ASSOCIATION

- 7.1 The Purchaser acknowledges that
 - 7.1.1 it is a condition of sale of the property that the Purchaser shall simultaneously with registration of transfer of the property into his name, become a member of the Gondwana Game Reserve Home Owner's Association; and
 - 7.1.2 by Signing of this agreement that the Memorandum and Articles of Association of Gondwana Game Reserve Home Owners Association (Proprietary) Limited and Constitution was fully disclosed for his/her perusal.

- 7.2 The Purchaser shall remain a member of the Home Owner's Association and shall comply with and abide by all of the provisions of the Memorandum and Articles of Association of Gondwana Game Reserve Home Owners Association (Proprietary) Limited and Constitution and the rules of the said association for as long as he remains the registered owner of the property.
- 7.3 The rights and obligations of the Purchaser in terms of this agreement, both prior to and post registration of transfer of the property to the Purchaser's name, cannot be ceded or transferred without the written consent of the Seller and/or the Home Owner's Association / Management having first been obtained.
- 7.4 Should the Purchaser and/or their successors in title dispose of the property, he is obliged to and undertakes to notify the new Purchaser regarding the compulsory membership of the Home Owner's Association as more fully set out above and he furthermore undertakes to procure that such new owner will, on registration of transfer into his name, become a member of the Home Owner's Association and accepts to comply with and abide by all of the provisions of the said Memorandum and Articles of Association / Constitution and the rules of the said association.
- 7.5 The Purchaser shall pay directly to the relevant supplying authority all costs in relation to the electricity and telephone supplies in respect of his property.
- 7.6 The Purchaser acknowledges that no central sewerage system will be installed on the property. The Purchaser will be obliged to install a Bioletix type system which is the preferred sewage system as prescribed by the Department of Environmental Affairs, or a septic tank sewage system. If a septic tank system is desired, the purchaser shall conduct a soil permeability test on their property by qualified professionals to confirm permeability is acceptable.

- 7.7 In terms of the Articles of Association of the Home Owners' Association, the Seller has the right to extend or alter the area or composition of the development by requiring the Home Owners' Association to incorporate into the development any adjacent land, and/or any property acquired by the Seller from time to time which the Seller shall be entitled to develop as it may deem fit. The density of the development will however never be more than 1 (ONE) erf per 62 (SIXTY TWO) hectares.

8. SPECIAL CONDITION APPLICABLE TO ALIENATION

- 8.1 Should the Purchaser wish to sell the property, he will comply with all requirements laid down in the subdivision, and in particular he will, as a prerequisite for the transfer of the property first have to obtain a clearance certificate from the Seller.
- 8.2 The Seller shall be entitled to prevent transfer of the property in the event that any service charges or any other imposts due to the Home Owner's Association have not been paid or that any other condition has not been complied with, or if the Purchaser's successor-in-title has not committed himself in writing to be subject to the terms as contained in the Association Agreement.
- 8.3 In the event of a Purchaser wishing to sell or alienate his property in any manner he shall be obliged first to offer his property to the Seller who, for a period of 14 (FOURTEEN) days calculated from the date of receipt of the offer, shall have the right to purchase the property upon the terms and conditions offered to him;

9. CONSTRUCTION OF THE BUILDING

- 9.1 The Seller undertakes to build the building upon the property in compliance with national building regulations, other relevant statutory requirements relating to building works and substantially in accordance with the under mentioned annexure, subject to the remaining provisions of this clause 11;

9.1.1 Schedule of finishes and specifications contained in the annexure;

9.1.2 Indicative foot print;

9.2 The Seller shall commence the erection of the building within 30 (thirty) days of the plan having been finally approved by the local authority, and provided the Purchaser has complied with its obligations in terms of clause 2 provided that registration of transfer has been effected. The Seller undertakes to submit building plans for approval to the local authority as soon as reasonably possible. The Seller shall diligently proceed with the construction of the building and endeavor to complete it within a reasonable time thereafter.

9.3 The Seller shall be entitled to substitute items with a similar standard for any specified item referred to in the schedule of finishes.

9.4 Any building materials used will be of a standard quality and type freely available locally; nomination by product and/or color is merely for identification purposes and the Seller may, at his/her own choice and discretion, use other products, types of manufacturers or colors provided that if alternative materials are used, they shall be of at least a similar quality. The Seller shall endeavor, but shall not be obliged, to advise the Purchaser should any alternative materials be used.

9.5 The building shall be regarded as complete upon the date that the building is sufficiently completed for beneficial occupation as certified by the architect whose decision as to that date shall be final and binding upon the parties.

9.6 The Seller shall:

9.6.1 Within 60 (sixty) days, remedy any patent defects in the building which manifest themselves within 14 (fourteen) days after the completion date, provided that the Purchaser notifies the Seller in

writing within the said period of 14 (fourteen) days of any such defects, failing which the Purchaser shall be deemed to have accepted the building in the condition in which same were at the completion date; and

9.6.2 Remedy any material latent defect in the building due to faulty workmanship or materials, manifesting itself within 60 (sixty) days of the completion date, provided that the Purchaser notifies the Seller in writing within the said period of 60 (sixty) days. For the purposes of this sub-clause, the expression 'material defect' means those defects, the existence of which are recorded in writing as requiring to be remedied or repaired by the architect. The architect shall determine whether such defects recorded in writing are 'material defects' and his/her decision shall be final and binding upon the parties. The architect shall be the final arbiter as to whether the Seller has complied with its obligations in terms of this or the preceding clause 9.7.1.

9.7 Should any dispute arise between the Seller and the Purchaser as to whether the building is complete in terms of clause 11.6 and/or the correctness of the architect's completion certificate issued in terms thereof, either party may refer the dispute to arbitration as follows:

9.7.1 He/she must advise the other party of his/her intention in writing;

9.7.2 The arbitrator shall be a registered architect decided upon by the parties within 7 (seven) days of the date of the notice referred to in clause 11.8.1 and failing such decision, the arbitrator shall be appointed by the chairman for the time being of the Institute of Architects (Cape);

9.7.3 An inspection of the building work will be attended by the arbitrator and both parties within 7 (seven) days of his/her appointment at which time the parties will present their cases by way of a written

memoranda supplemented by oral evidence should the arbitrator so desire;

- 9.7.4 No legal representation or cross examination will be allowed;
- 9.7.5 The arbitrator will within 14 (fourteen) days after the inspection make his/her decision known to the parties;
- 9.7.6 The cost of the arbitration shall be borne by the Purchaser; and
- 9.7.7 The parties irrevocably agree that the decision of the arbitrator shall be final and binding on each of them and can be made an order of court to whose jurisdiction the parties are subject.

10. LATE SIGNING OR DELAYS BY THE PURCHASER

Should the Purchaser delay registration of transfer, after the notification date referred to in this agreement, caused by any delay(s), the Purchaser shall be liable to interest on the full purchase price at 2% (TWO PERCENT) above the prime overdraft rate charged by the Seller's bankers, in South Africa, from time to time, such interest to commence from the notification date.

11 POSSESSION AND OCCUPATION

- 11.1 Possession and vacant occupation of the property shall be given to the Purchaser on the completion date, subject to fulfilment of the provisions of Clause 2.2 above, from which date all risk and benefit in the property shall pass to the Purchaser.
- 11.2 The Purchaser shall be liable for all municipal rates and taxes applicable to the property as well as that portion of the home owners' association levy payable to the Gondwana Home Owners' Association from the transfer date.

- 11.3 It is anticipated that the building shall be completed within a reasonable time after date of transfer.

12. AGENT'S COMMISSION

- 12.1 The parties record that the agent specified in clause 7 of the schedule of information, was the effective cause of this transaction.
- 12.2 The Seller shall pay the agent's commission. The commission of 6% of the total contract price shall become due upon endorsement of this Deed of Sale and shall be payable upon payment of purchase price to the Conveyancer.
- 12.3 The Purchaser warrants and undertakes to the Seller that the Purchaser has not been introduced to the Seller, the property or the development by any third party entitled to commission other than the agent specified in clause 8 of the schedule of information and indemnifies the Seller against any claim that may be instituted by any agent claiming that he/she introduced the property and is the effective cause of the sale.
- 12.4 The party responsible for the commission hereby irrevocably instructs the Conveyancer to pay the commission plus VAT (if applicable) to the Agent, without deduction or set off on receipt of full payment by the Conveyancer.
- 12.5 Should this agreement be cancelled due to the Purchaser failing to comply with his obligations herein or through any fault on the part of the Purchaser, the Purchaser will be liable to pay the Agent's commission. In such event, any commission paid by the Seller to the Agent shall be recoverable from the Purchaser on demand. The Seller and the Purchaser hereby irrevocably instruct the Conveyancer or anyone holding the deposit or other monies in a trust account, to deduct therefrom the Commission as a preferent

payment at such time when the sale is cancelled, terminated or rendered null and void for any reason whatsoever.

Should this Agreement be cancelled as a result of a failure on the part of the Seller, the Seller shall remain liable for the Agent's commission in terms of this agreement.

- 12.6 Without limiting any right granted to the Agent herein, the Agent shall not be responsible in any way for any defects or other errors in the description of the Property or for any other matter relating to it.

13. PURCHASE ON BEHALF OF A COMPANY / CLOSE CORPORATION / TRUST / OTHER LEGAL ENTITY

13.1 Should the Purchaser act as representative of a Company/Close Corporation, Trust or any other juristic person formed or to be formed, (hereinafter referred to as "the legal entity"), the Purchaser undertakes to register the legal entity within 30 (thirty) days after this agreement has been signed, to inform the Seller of the information of the legal entity and to deliver the notice and ratification and proof thereof to the attorneys, within 60 (sixty) days after this agreement has been signed.

13.2 In the event of a legal entity –

- 13.2.1 not registering in time; or
- 13.2.2 failing to ratify this transaction; or
- 13.2.3 failing to honor the obligations and terms of the contract for whichever reasons; or
- 13.2.4 failing to furnish proof of ratification to the Seller's attorneys within the set period,

the Purchaser agrees that he (the signatory hereto as "Purchaser") shall personally be responsible and shall be obliged to honor the obligations in terms of this agreement and to take transfer of the Property in his name.

13.3 The person who signs the agreement as the Purchaser binds himself as surety and co-principal debtor to a legal entity that is to be established or has already been established for timeous compliance with all responsibilities in accordance with this agreement and hereby renounces all the exceptions.

14. DOMICILIA AND NOTICES

14.1 For the purposes of this agreement, including the giving of notices and the serving of legal process, the parties choose *domicilium citandi et executandi* ('*domicilium*') as follows :

14.1.1 The Seller: as contained in the schedule of information; and

14.1.2 The Purchaser: as contained in the schedule of information.

14.2 A party may at any time change his *domicilium* by notice in writing, provided that the new *domicilium* consists of, or includes a physical address at which process can be served or notices given.

14.3 All notices shall be in writing and sent by prepaid registered post or delivered by hand, faxed or e-mailed, together with proof thereof, to the *domicilium* chosen by the party concerned and shall, if posted, be deemed to have been duly delivered 7 (SEVEN) days after the day on which such notice was posted.

15. WARRANTIES

The Purchaser acknowledges that the Seller has made no representations and given no warranties in respect of the property or in respect of anything relating thereto, whether express or implied, not expressly contained herein, and he has not been influenced by any representation made by or on behalf of the Seller to enter into this Deed of Sale, save as set out herein. Without limiting the generality of the foregoing, it is recorded that the model and marketing material of Gondwana represents artist impressions of Gondwana and that it is not foreseen that the completed development will correspond with either the model or the site

development plan in all detail. The Seller shall not be held liable for any changes to the layout, design of buildings, water features, landscaping, etc as it appears on the model and/or the site development plan.

16. BREACH BY PURCHASER

16.1 If the Purchaser commits a breach of this agreement and/or fails to comply with any of the provisions hereof, then the Seller shall be entitled to give the Purchaser not less than 7 (SEVEN) days' notice in writing to remedy such breach and/or failure and if the Purchaser fails to comply with such notice, then the Seller shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Seller may have in law, including the right to claim damages:

16.1.1 To cancel this agreement (in which event the Purchaser shall forfeit all monies paid to the Seller or its attorneys or agent/s in terms of this agreement and all interest thereon); and/or

16.1.2 To claim immediate performance and/or payment of all the Purchaser's obligations in terms of this agreement; and/or

16.1.3 To recover from the Purchaser all or any brokerage payable or paid by the Seller in respect of this transaction.

16.2 Should the Seller take steps against the Purchaser pursuant to a breach by the Purchaser of this agreement, then without prejudice to any other rights which the Seller may have, the Seller shall be entitled to recover from the Purchaser all legal costs incurred by it including attorney/client charges, tracing fees and such collection commission as the Seller is obliged to pay to its attorneys.

16.3 Should transfer be delayed by the Purchaser for whatever reason and the Seller elects not to cancel this agreement, then the Purchaser shall pay to the Seller interest on the full purchase price at 2% (TWO PERCENT) above the prime overdraft rate charged by the Seller's bankers from time to

time calculated from the date that the Seller's attorneys (acting as experts) certify in writing that in their opinion the transfer ought reasonably to have been registered, but for such delay.

17. CO-OPERATION

Each of the parties hereby undertakes to:

- 17.1 Sign and/or execute all such documents (and without limiting the generality of the foregoing, same shall include the execution of the necessary power of attorney and VAT / transfer duty declarations);
- 17.2 Do and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing, all such acts; and
- 17.3 Pass, and to procure the passing of all such resolutions of directors or shareholders of any company; to the extent that the same may lie within such party's power and may be required to give effect to the import or intent of this agreement, or any contract concluded pursuant to the provisions of this agreement.

18. JOINT AND SEVERAL LIABILITY

Should there be more than one Purchaser, the Purchasers shall be liable jointly and severally and *in solidum* for the payment of all monies hereunder and for the carrying out of all the terms of this Deed of Sale.

19. CONCESSIONS

No extension of time, allowances or concessions allowed and no temporary variation of the terms of this Deed of Sale for any party will be regarded as a waiver of his rights hereunder. The Seller may furthermore at any time and without prior notice expect the Purchaser to strictly and timeously comply with each and every term and condition.

20. JURISDICTION

For the purposes of the proceedings arising from this agreement, the parties hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction over the person of the defendant in terms of section 28 of the Magistrate's Court Act of 1944, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the Court pursuant to section 45 of the Magistrate's Court Act of 1944, or any amendment thereof, provided that the Seller shall have the right at its sole option and discretion to institute proceedings in any other competent Court in respect of any claim which, but for the foregoing, would exceed the jurisdiction of the Magistrate's Court.

21. ACKNOWLEDGEMENT

The Purchaser by his signature hereto acknowledge he has read the Deed of Sale and Annexure thereto and is satisfied with the contents thereof.

22. SPECIAL CONDITION

This agreement is subject to the Seller successfully taking transfer of the property from Gondwana Game Reserve (Proprietary) Limited either prior or simultaneously with this transfer.

SIGNED at _____ this day of _____

AS WITNESSES:

1. _____

2. _____

on behalf of the SELLER

SIGNED at _____ this day of _____

AS WITNESSES:

1. _____

2. _____

the PURCHASER