APPENDIX C

Deed of donation, January 1913

Deed of Donatio Inter Vivos[1]

Be it hereby made known That on this the twenty-first (21st) day of January, One Thousand Nine Hundred and Thirteen (1913) before me,

JAMES JOHNSON HOYLE,

Notary Public, duly admitted and sworn, residing and practising at Johannesburg in the Transvaal Province of the Union of South Africa, and in the presence of the subscribing witnesses to his signature personally came and appeared

SIR LIONEL PHILLIPS, BARONET

of Johannesburg aforesaid, acting herein for himself and on behalf of his wife

FLORENCE PHILLIPS

of Johannesburg aforesaid, and also on behalf of

OTTO BEIT

and

MAX MICHAELIS

both of London, England (the Appearer, the said Lady Phillips, the said Otto Beit and Max Michaelis being hereinafter referred to as "the Donors")

AND THE APPEARER acting as aforesaid did declare:

THAT WHEREAS in or about the year 1910 the Donors did agree to unite themselves with other persons connected with the Town of Johannesburg with the object of acquiring pictures, statues and other works of art, including herein old furniture lace and other articles having an artistic value, to be used and applied for the general purposes of an Art Gallery and Museum of Industrial Art for the behoof and public benefit of the inhabitants of the said town and the neighbourhood thereof and of others resorting thereto:

AND WHEREAS the Municipal Council of Johannesburg by virtue of the powers vested in it under Section 24, Sub-Section 16 of Ordinance No. II (Private) of 1906, and with and under the consent of His Excellency the Governor-General of the Union of South Africa in Council, is about to erect and provide a building to

be used and employed as an Art Gallery and Museum of Industrial Art (hereinafter referred to as the said Art Gallery) and for other purposes:

AND WHEREAS the Donors have acquired for the purposes of the said Art Gallery the pictures statues and other works of art, furniture, lace and the like, all as described in the Inventory hereunto annexed and signed as relative hereto and referred to hereinafter as "the said pictures and other works of art" all of which shall be places in or about the said building:

AND WHEREAS the Donors are desirous of arranging for the continuance of the said Art Gallery and the securing of its general objects more efficiently and permanently and for that purpose of vesting the said pictures and other works of art in the Municipal Council of Johannesburg in trust for the ends used and purposes hereinafter mentioned, subject to the control of the body hereinafter referred to as the Art Gallery Committees:—

NOW THEREFORE THE APPEARER acting as aforesaid did declare that in pursuance of the desire above set forth the Donors do hereby give, grant and convey the whole of the said pictures and other works of art, all as described in the said Inventory to and in favour of the Municipal Council of Johannesburg, upon and for the trusts, intents and purposes and with and under and subject to the powers and provisions hereinafter expressed of and concerning the same, that is to say: UPON TRUST that the said Municipal Council shall maintain and keep in a proper state of repair and in good order and condition the said Art Gallery and its surroundings and the said pictures and other works of art, and shall hold and apply and keep the same in suitable and proper order for the general purposes of an Art Gallery and Museum of Industrial Art for the Town of Johannesburg for the promotion of the Arts and Artistic Crafts and in particular that the inhabitants of the Town of Johannesburg and of the neighbourhood thereof and other persons resorting thereto may have the benefit and enjoyment of the said pictures, and other works of art as they may be so used and applied for the purposes of an Art Gallery and Museum of Industrial Art, subject nevertheless to the proviso, as it is hereby agreed and declared, that the said Municipal Council shall do and perform no act, matter or thing with reference to the purchasing or acquisition of other works of art for the behoof of the public, or the removal, whether temporary or permanent, from the said Art Gallery of the said pictures and other works of art or any of them, before and until the said Municipal Council shall have consulted with and received the advice and consent of a Committee, to be styled the Art Gallery Committee, which shall be constituted as follows, that is to say, by the following seven persons, namely: the Mayor of Johannesburg, one person to be nominated and appointed from time to time by the Government of the Union of South Africa, one person to be nominated and appointed from time to time by the said Municipal Council, LADY FLORENCE PHILLIPS aforesaid, RAYMOND WILLIAM SCHUMACHER, Esquire, PATRICK DUNCAN, Esquire, C.M.G., M.L.A., Barrister at Law, and HERBERT BAKER, Esquire, F.R.I.B.A., Architect, all of Johannesburg aforesaid, PROVIDED ALWAYS that if any of the four members last above named or any other members to be appointed in their stead as hereinafter is mentioned or any of them shall die or be desirous of being discharged from or refuse or decline or be incapable to act on the said Art Gallery Committee then and

in such case and when and so often as the same shall happen it shall and may be lawful to and for the majority of the members for the time remaining from time to time to nominate and appoint any other person or persons to be a member or members in the stead or place of the member or members so dying, or desiring to be discharged or refusing or declining or becoming incapable to act as aforesaid and every person to be so nominated and appointed as aforesaid shall have all the powers and authorities of the member in whose room he shall be substituted; provided further and in the order to make provision for the temporary absence from Johannesburg or temporary inability to act of any one or more of the said Members it shall be competent for each of the Members other than the Mayor of Johannesburg and the Members to be appointed by the Government of the Union of South Africa and by the Municipal Council of Johannesburg by writing under his or her hand addressed to the Mayor of Johannesburg to nominate and appoint an alternate to act on the said Committee during the temporary absence or inability to act of such member subject to the approval of every such appointment by a majority of the remaining members of the Committee, and in the case of the Mayor of Johannesburg and the members appointed by the Government and by the Municipal Council of Johannesburg as aforesaid it shall be competent for the Government to nominate and appoint an alternate to the member by the said Government nominated and appointed as aforesaid and for the Municipal Council of Johannesburg to nominate and appoint alternates in place and stead of the Mayor and of the member by the said Municipal Council nominated and appointed as aforesaid, and all such nominations shall be communicated in writing by the person or persons making the same to the Mayor of Johannesburg and each of the said alternates shall by virtue of such appointment be empowered to act as and in place and stead of the member for whom he may be appointed as alternate during the temporary absence or inability to act of such member;

PROVIDED ALWAYS and it is hereby agreed and declared that the said Municipal Council shall not keep the said Art Gallery closed upon Sundays and Public Holidays nor by itself or through any person representing it remove, exchange or dispose of, varnish or repair the said pictures, statues and other works of art after the same shall have been placed in the said Art Gallery to be provided by the Council as aforesaid, nor shall the said Municipal Council add to the collection comprising the said pictures, statues and other works of art any other pictures, statues, casts, models, furniture, books or any other works of art or chattels whatsoever without first obtaining the consent of the said Art Gallery Committee nor shall the said Municipal Council appoint nor from time to time remove a Curator or Curators of the said Art Gallery without first obtaining the advice of the said Art Gallery Committee AND IT IS HEREBY FURTHER PROVIDED that four members shall constitute a quorum for the transaction of business by the said Art Gallery Committee that the Mayor of Johannesburg from time to time shall act as convener and shall be responsible for the proper and safe-keeping of the Minutes of the proceedings of every Meeting of the same, subject always to the said Art Gallery Committee having power to make rules and regulations for the conduct of its business.

ALSO personally came and appeared before me, the Notary, on the 22nd day of January, 1913, in presence of the subscribing witnesses to his signature,

WILLIAM RICHARD BOUSTRED

in his capacity as the Mayor of Johannesburg, who declared to accept the donation aforesaid on behalf of the Municipal Council of Johannesburg and to undertake on behalf of the said Council to carry out all and singular the obligations on the said Council imposed as conditions of the said gift.

IN WITNESS WHEREOF the Appearers, the said SIR LIONEL PHILLIPS, BARONET, and the MAYOR OF JOHANNESBURG have hereunto set their hands at Johannesburg on the respective dates hereinbefore written in the presence of the witnesses ALAN SMITH and ERNEST DEGENHART, JOHN ALEXANDER MOODIE and FRANK HOLLAND, who together with the Appearers and me (the Notary) have subscribed to the original hereof remaining filed in my Protocol.

QUOD ATTESTOR,

J. JOHNSON HOYLE,
NOTARY PUBLIC.

The Minute hereof has been duly stamped with a one shilling (1/-) stamp.
J. JOHNSON HOYLE,
Notary.

[Here follows the signed inventory, listing the items in the 1910 catalogue plus "Collection of Drawings and Pictures of the Pre-Raphaelite School" presented by Sir Sigismund Neumann, some more portraits (paintings and busts), "Seven Cases Laces and Fabrics, containing pieces 59" and "Case of Old Fans" from Lady Phillips, "One Cape Dutch Wardrobe" from A.E. Balfour, and an "Art Library" from Max Michaelis.]

[1] Transcript of the published deed of January 1913, based on the draft deed of trust tabled at council on 25 October 1910.