

Rev no 3	2019/11/18
Unit #	
Contract Completed By	

# OBOE PARK

## AGREEMENT OF SALE

In respect of the scheme to be known as **OBOE PARK** to be built and developed on Erf 5324 The Reeds Ext 46 Township  
**("the PROPERTY")**

(which agreement, when accepted by the SELLER, constitutes an Agreement of Purchase and sale of a sectional title unit - off plan)

**RAUDEV (PTY) LIMITED**  
 Registration Number: 2007/024392/07

(herein represented by Francois Grobler duly authorised thereto by a resolution)

**("the SELLER/DEVELOPER")**

and

(1) \_\_\_\_\_ **("PURCHASER 1")**

ID Number: \_\_\_\_\_

(2) \_\_\_\_\_ **("PURCHASER 2")**

ID Number: \_\_\_\_\_

**("the PURCHASER/S")**

**CONTENTS OF AGREEMENT OF SALE:**

**ANNEXURE A:** DRAFT SITE PLAN

**ANNEXURE B:** UNIT FLOOR PLAN

**ANNEXURE C:** SCHEDULE OF FINISHES AND INFORMATION

**ANNEXURE D:** BODY CORPORATE RULES

**Office use**

<b>Unit #</b>	
<b>PURCHASER's Financial Institution (Bank)</b>	
<b>Securing Deposit (Deposit 1)</b>	
<b>Unit Price</b>	
<b>Voluntary Deposit (Deposit 2)</b>	
<b>Bond Amount</b>	
<b>Bond Shortfall Deposit (Deposit 3)</b>	

**TRANSFER AND BOND ATTORNEY**  
**DU PLOOY INCORPORATED**  
 BANK PANEL CODES:  
 ABSA 2621  
 FNB 4781  
 NEDBANK 2419 - 0001  
 STD BANK 8496  
 SA HOME LOANS 67

- The following documents are required when signing your Agreement of Sale:**
1. Copy of Identity Document.
  2. Copy of Marriage Certificate & Antenuptial Agreement.
  3. Proof of Residence (Eskom, Telkom, TV License, Rates Account).
  4. Tax number.
  5. 3 Months' pay slips / if self-employed, 6 months' pay slip.
  6. 3 Months' stamped original bank statements / if self-employed, 6 months'.
  7. Proof of additional income.
  8. Resolution letter from the legal entity authorizing the said person to act on behalf of the legal entity.

agent initial \_\_\_\_\_

PURCHASER 1 initial \_\_\_\_\_

PURCHASER 2 initial \_\_\_\_\_

witness initial \_\_\_\_\_

witness initial \_\_\_\_\_

SELLER initial \_\_\_\_\_

**PART "A"**

**PURCHASER'S Details/ Information for the Conveyancer**

I /We the PURCHASER warrant and confirm the following:

**NATURAL PERSON**

	PURCHASER 1				PURCHASER 2			
<b>Full Name &amp; Surname</b>								
<b>Identity Number</b>								
<b>Income Tax no.</b>								
<b>SA Resident?</b>	Yes		No		Yes		No	
<b>Marital Status</b>	Single	In Community of Property	Out of Community of Property	Other	Single	In Community of Property	Out of Community of Property	Other
<b>Married in other country?</b>	Yes		No		Yes		No	
<b>Physical Address</b>								
<b>Postal Address</b>								
<b>Telephone No</b>								
<b>Fax No</b>								
<b>Cell Phone No.</b>								
<b>Email Address</b>								
<b>Bank Account Details</b>								

**LEGAL ENTITY**

<b>Company, CC, Trust Name</b>			
<b>Registration Number</b>			
<b>Tax Number</b>			
<b>Name of Authorised Representative</b>			
<b>Identity Number</b>			
<b>Street Address</b>			
<b>Telephone Numbers</b>	<b>(w)</b>	<b>(f)</b>	<b>(Cell)</b>
<b>Email Address</b>			
<b>Auditor</b>			<b>(w)</b>

**PART "B"**

**MEMORANDUM OF AGREEMENT**

**1 SALE**

- A. Whereas the SELLER is the owner of the property, on which property the SELLER established the township known as **The Reeds Ext 46**.
- B. The SELLER intends establishing a residential sectional title development to be known as **OBOE PARK** on the Property in accordance with the terms and conditions and the appendices of this agreement. The parties record that the sectional title scheme is part of a greater development to be known as **Woodwind Estates**.
- C. The SELLER hereby sells to the PURCHASER who hereby wishes to purchase a sectional title unit for the purchase price on the terms and conditions set out in this agreement together with the appendices hereto. The unit is sold subject to all the conditions and servitudes applicable thereto, whether contained or referred to in or endorsed against the current, prior or future Title Deeds.
- D. This sale is in anticipation of the compliance by the SELLER with the conditions imposed/or to be imposed by the Municipality or any other relevant authority on approving the services installed and built by the SELLER in terms of the provisions of Chapter III of the Town Planning and Townships Ordinance 1965. Should the SELLER not be able to obtain the Services Certificate as contemplated herein this agreement will lapse and will be of no force or effect.

**2 INTERPRETATION**

In this agreement and in all annexures hereto, unless with or otherwise indicated by the context, the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings:

- 2.1 **"the Agreement or Contract"** means this agreement and the annexures hereto which are initialled by the parties for the purposes of identification;
- 2.2 **"the SELLER"**(and/or Developer) means **RAUDEV (PROPRIETARY) LIMITED, Registration number 2007/024392/07**, the SELLER being a registered VAT vendor in terms of the Value Added Tax Act;
- 2.3 **"the SELLER's address"** means the address chosen by the SELLER for all purposes under this agreement whether in respect of Court process, notices or other documents or communications of whatsoever nature, being:  
  
The Stables Office Park, Block B, 3 Ateljee Street, Randpark Ridge.  
Tel (011) 794 9390, Fax (086) 613 2097

agent initial \_\_\_\_\_

PURCHASER 1 initial \_\_\_\_\_

PURCHASER 2 initial \_\_\_\_\_

witness initial \_\_\_\_\_

witness initial \_\_\_\_\_

SELLER initial \_\_\_\_\_

- 2.4 "the PURCHASER/S" means the parties fully described on the first page of this Agreement;
- 2.5 "the PURCHASER/S' address" means the address chosen by the /SPURCHASER/S for all purposes under this agreement whether in respect of Court process, notices or other documents or communications of whatsoever nature, being the address as per Part "A" hereto;
- 2.6 "the Purchase Price" means R\_\_\_\_\_ (inclusive of VAT) \_\_\_\_\_ )
- 2.7 "VAT" means Value Added Tax at 15%. Should the VAT rate change before this Agreement comes into effect, then the SELLER reserves the right to adjust the Purchase Price accordingly;
- 2.8 "the unit" means unit number \_\_\_\_\_ together with the undivided share in the common property determined in accordance with the participation quota;
- 2.9 "the section" means the Section highlighted in annexure "B" to this agreement, indicated on the Floor Plan situated in the Scheme to be developed on the property, of which section the floor area is approximately: \_\_\_\_\_square metres in extent excluding all balconies and patios and porches (if applicable). The PURCHASER takes note that the size of the built unit may differ up to 7% (seven percent) from the Floor Plans, due to the difference in the method used to measure the unit by the Architect and the Surveyor;
- 2.10 "the scheme" means the sectional title development scheme in respect of the buildings to be known as OBOE PARK;
- 2.11 "the plans" means the draft site development plans relating to the unit annexed hereto marked Annexure "A";
- 2.12 "the bank" means any approved registered financial credit provider acceptable to the SELLER which will grant a mortgage loan to the PURCHASER to purchase the unit from the SELLER;

2.13 "the deposits"

2.13.1 (Deposit 1)

(Securing deposit)

2.13.2 (Deposit 2)

(Voluntary deposit)

2.13.3 (Deposit 3)

(Bond Shortfall)

2.14 "the bond"

means the amounts payable to the "Conveyancer" who is authorised to release such money to the SELLER when the SELLER is legally entitled to receive such deposit and amounts to:-

**R5 000,00 (FIVE THOUSAND RAND)**

shall be paid by the PURCHASER to the Attorneys in cash within 3 (three) days from date of signature by the PURCHASER (or such extended period as the SELLER in its sole discretion may decide);

R\_\_\_\_\_

(\_\_\_\_\_

\_\_\_\_\_)

shall be paid by the PURCHASER to the Attorneys in cash within 14 (fourteen) days from date of signature by the PURCHASER (or such extended period as the SELLER in its sole discretion may decide), or the PURCHASER shall furnish the Attorneys with an approved guarantee in favour of the SELLER, for this amount within the above said time period;

R\_\_\_\_\_

(\_\_\_\_\_

\_\_\_\_\_)

in cash, payable by the PURCHASER to the Attorneys within 14 (fourteen) days after the date of approval of the bond in principle, or the PURCHASER shall furnish the Attorneys with an approved guarantee in favour of the SELLER, for this amount. If the PURCHASER is securing this deposit by way of a guarantee, the guarantee shall be delivered to the Attorneys within 14 (fourteen) days after the date of approval of the bond in principle;

means the first mortgage bond in the amount of

R\_\_\_\_\_

agent initial \_\_\_\_\_

PURCHASER 1 initial \_\_\_\_\_

PURCHASER 2 initial \_\_\_\_\_

witness initial \_\_\_\_\_

witness initial \_\_\_\_\_

SELLER initial \_\_\_\_\_

( \_\_\_\_\_ )  
\_\_\_\_\_ )

or such lesser amount acceptable to the PURCHASER. The PURCHASER must, within **30 (thirty) days** (or such extended period as the SELLER in its sole discretion may decide) of signature hereof by the PURCHASER obtain written approval in principle of the bond to be registered against the unit by a bank as set out in paragraph 3, subject to the terms usually imposed by such financial institutions. The PURCHASER irrevocably appoints the SELLER (who hereby appoints the Originator on the SELLER'S behalf), in his stead, to apply and submit for the bond. Such application will be submitted to the financial institution of the PURCHASER'S choice, and the PURCHASER may negotiate the terms and conditions of the loan directly with the bank after submission of the application. If the PURCHASER is a staff member of a financial institution, the PURCHASER shall be entitled to apply to that financial institution without going through the SELLER. Supplementary documents accompanying the bond application should be provided by the PURCHASER within **3 (three) days** from signing this agreement. Failure to do so could result in cancellation of this agreement and forfeiture of the deposit.

2.15 "**occupation date**" means the date as determined by the SELLER on which the PURCHASER have to take occupation of the unit, of which date the SELLER shall give the PURCHASER at least 30 (thirty) days prior notice, which occupation date is expected by the SELLER to be approximately \_\_\_\_\_.

2.16 "**registration date**" means the date the unit shall be registered in the Deeds Office into the name of the PURCHASER.

2.17 "**occupational interest/rent**" means a monthly amount equal to 0,8% (zero comma eight percent) of the Purchase Price, payable to the SELLER monthly in advance on pro-rata basis from date of occupation to date of registration, as more fully set out in clause 12 below.

sign here

- 2.18 "**the Agent**" means Raudev Sales JV Woodwind (powered by YHC)  
Tel: 087 7000 347
- 2.19 "**the Agent's address**" means The Stables Office Park, Block B, 3 Ateljee Street, Randpark Ridge;
- 2.20 "**The Originator**" means Raudev Homeloans JV (powered by eHomeloans)  
Tel : 087 7000 347  
e-mail: janice@yourhousingcompany.co.za
- 2.21 "**the Attorneys/ Conveyancers**" means Du Plooy Incorporated  
Northcliff: Unit 7, Visiomed Office Park, 269 Beyers Naude Drive, Northcliff.  
Tel: (011) 431 3739, Fax: (011) 431 3829.
- 2.22 "**Bank details** for payments: *DU PLOOY INCORPORATED*  
Trust Account – First National Bank  
Account number: 6210 932 0698  
Sandton Branch  
Branch Code: 261251  
Ref. \_\_\_\_\_ No. \_\_\_\_\_
- 2.23 "**the Managing Agent**" means Hanco Management and Services, 3 Beulah Crescent, Helderkruijn, Roodepoort, who is appointed for a period of one year from date the Body Corporate comes into existence. Tel : (011) 768 6414.
- 2.24 "**the Body Corporate**" means the Body Corporate that will be established with the opening of the Scheme.
- 2.25 "**the Association**" means Woodwind Estates NPC, Registration No. 2014/142092/08.
- 2.26 "**NHBRC**" means the National Home Builders Registration Council.

**3 PURCHASE PRICE AND PAYMENT**

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

- 3.1 **Deposit 1** shall be paid as set out in 2.13.1 above, which amount shall not be invested by the Attorneys.
  - 3.1.1 Should the PURCHASER be unsuccessful in obtaining a Bond as per 2.14 above then the Attorneys shall refund this Deposit 1 to the PURCHASER.

3.1.2 Should the PURCHASER be successful in obtaining a Bond as per 2.14 above and the PURCHASER defaults and/or cancels this Agreement, then the SELLER will retain the full Deposit 1.

3.1.3 On date of transfer Deposit 1 shall be paid to the SELLER, except if this Agreement is cancelled due to the default of the SELLER, in which event Deposit 1 shall be refunded to the PURCHASER. This Deposit 1 will be applied to cover the costs as per clauses 8.4 and 12.3 below, after which any surplus remaining shall be refunded to the PURCHASER;

3.2 Deposit 2 shall be paid as set out in 2.13.2 above, which amount shall be invested by the Attorneys upon request by the PURCHASER in an interest bearing account in the name of the PURCHASER in terms of Section 78(2)(A) of the Attorneys Act, 1979. Subject to 3.5 below, interest on the deposit shall accrue for the benefit of the PURCHASER until the date of transfer. On date of transfer the deposit shall be paid to the SELLER and the interest to the PURCHASER;

3.3 Deposit 3, if applicable, shall be secured as set out in 2.13.3 above. If this amount is being secured by way of cash, the cash shall be paid to the Attorneys and invested by the Attorneys upon request by the PURCHASER in an interest bearing account in the name of the PURCHASER in terms of Section 78(2)(A) of the Attorneys Act, 1979. Subject to 3.5 below, interest on the deposit shall accrue for the benefit of the PURCHASER until the date of transfer. On date of transfer the deposit shall be paid to the SELLER and the interest to the PURCHASER;

3.4 The outstanding balance on the purchase price shall be secured by way of guarantees expressed to be payable against transfer, issued against the bond to be registered, as referred to in 2.13 above.

3.5 If the amount available on the bond is inadequate to cover the outstanding balance of the purchase price after the amounts available from Deposit 1, Deposit 2 and Deposit 3 have been taken into account, the PURCHASER shall pay the outstanding balance of the purchase price to the Attorneys in cash, which amount shall be invested as set out in 3.3 above. The cash payment to cover the outstanding balance of the purchase price shall be paid to the Attorneys within 14 (fourteen) days from the date on which the bond referred to in 2.14 above has been approved in principle.

**4 CONDITIONS OF SALE**

4.1 The sale is subject to the SELLER obtaining the required engineering and Local Authority clearance certificates. The sale will be regarded as a suspensive transaction until such time as the Local Authority issues a final occupation certificate for the unit.

**4.2 PURCHASER to obtain a Loan**

This agreement is subject to the suspensive condition that the PURCHASER is granted a **bond** for the amount and within the time period as stated in Clause 2.14 above.

4.3 Further to the provisions of clause 4.2 above, it is recorded that:

agent initial \_\_\_\_\_ PURCHASER 1 initial \_\_\_\_\_ PURCHASER 2 initial \_\_\_\_\_

4.3.1 The PURCHASER shall use his/her best endeavours to procure fulfilment of clause 4.2 above and, without limiting the generality of the afore-going, the PURCHASER undertakes to do all such things as are normally required by any bank to apply for the bond. It is the responsibility of the PURCHASER to follow up on the bond application progress, and to provide weekly feedback in writing.

4.3.2 Once the condition precedent referred to in 4.2 above has been fulfilled, the PURCHASER shall be obliged to sign such documentation as the bank may require within 7 (seven) days of having been called upon to do so by the attorneys.

4.4 If the conditions referred to in 4.1 and 4.2 above are not fulfilled, or waived timeously this agreement shall lapse and be of no further force or effect and the parties shall be restored to the positions in which they would have been had this agreement not been entered into. In this instance neither party shall have any claim against the other.

**5 SALES TARGET BY SELLER**

If the SELLER does not succeed in securing bankable pre-sales from individual members of the public of **50% (fifty percent)** of the total number of Units in the Scheme by no later than **31 March 2020 ("the target date 1")**, and/or **80% (eighty percent)** of the total number of Units in the Scheme by no later than **30 June 2020 ("the target date 2")** the SELLER shall have the right to cancel this agreement by giving the PURCHASER written notice of the SELLER'S election to cancel, which notice shall be given within 5 (five) days after the expiry of each of the target dates. For the sake of clarity it is recorded that a bankable pre-sale shall be a sale which is compliant with the requirements of a PURCHASER obtaining a loan from a bank and/or delivery of a cash guarantee to purchase the Property.

**6 DEFAULT BY THE PARTIES**

**6.1 Default by the SELLER**

If:

6.1.1 subject to 12.7 below, material changes have been made in the construction of the unit without the PURCHASER'S consent, causing the constructed unit to differ materially from the unit floor plan, or

6.1.2 the SELLER fails to fulfil any of the SELLER'S other obligations under this Agreement and fails to comply with his obligations within a reasonable time period, which time period shall be at least 7 (seven) business days after a letter, facsimile or e-mail has been sent to the SELLER at the SELLER'S address informing the SELLER of its failure and calling upon it to fulfil its obligations in question then the PURCHASER shall be entitled, without prejudice to any other rights the PURCHASER may have in law, to cancel this agreement, but, only if the

witness initial \_\_\_\_\_ witness initial \_\_\_\_\_ SELLER initial \_\_\_\_\_

dispute is related to quality of workmanship, after the PURCHASER has exhausted his remedies against the NHBRC as per clause 16 below.

**6.2 Default by PURCHASER**

If the PURCHASER fails to fulfil any of the PURCHASER'S obligations under this Agreement and fails to comply with his obligations within 7 (seven) business days after a letter, facsimile or e-mail has been sent to the PURCHASER, at the PURCHASER'S address informing the PURCHASER of his failure and calling upon him to fulfil his obligations in question, then the SELLER shall be entitled, without prejudice to any other rights the SELLER may have in law:

- 6.2.1 to claim immediate payment of all amounts owing under this Agreement which amounts shall be deemed to become due and payable forthwith; or
- 6.2.2 to cancel this sale, obtain immediate repossession of the unit and to evict the PURCHASER from the unit, and :
  - 6.2.2.1 to retain as "rouwkoop" and/or as liquidated damages and compensation, all amounts paid by the PURCHASER under this Agreement, or in lieu of such payments, to retain and/recover an amount equivalent to 10% (Ten Per Centum) of the purchase price, whichever is the greater, together with an amount equal to any agent's commission which may be payable to or have been paid by the SELLER; or
  - 6.2.2.2 to recover from the PURCHASER the actual damages sustained by the SELLER by reason of the PURCHASER'S default, and to retain all amounts paid by the PURCHASER pending the determination of such damages.

6.3 If transfer of the unit is delayed by the PURCHASER and the SELLER does not exercise its right to cancel as per clause 6.2.2 above, then the PURCHASER shall be liable to pay occupational interest to the SELLER from date of occupation to date of registration of the unit.

**7 AGENT'S COMMISSION**

The SELLER shall pay Agent's commission as per agreement between SELLER and Agent.

**8 TRANSFER, BOND AND COSTS**

- 8.1 It is the SELLER's intention that transfer of the unit shall be effected by the Conveyancers simultaneously with the opening of the sectional title register.
- 8.2 The SELLER shall pay:
  - 8.2.1 The legal costs of registering the transfer in the name of the PURCHASER and the legal costs of registering a bond in an amount no greater than the loan amount.
  - 8.2.2 Such costs will only be paid by the SELLER if the PURCHASER obtains, through the offices of the agent, a bond and the said institution nominates the SELLER'S attorney to attend to the bond registration.

8.2.3 The nominated banks are Nedbank Limited, Firststrand Bank Limited, ABSA Bank Limited, Standard Bank of South Africa Limited, HIP (Housing Investment Partners) and SA Home Loans.

- 8.3 The parties record that the term "legal costs" in 8.2 above excludes the following:
  - 8.3.1 administration, initiation and/or valuation fees charged or any other charges imposed by the financial institution granting the loan; and
  - 8.3.2 fees arising from the preparation and signature of any suretyship required by the financial institution granting the loan; and
  - 8.3.3 the costs of obtaining a sectional title insurance certificate for the unit; and
  - 8.3.4 the cost of the levy clearance certificate which may be required in terms of the Act.

- 8.4 In addition to the costs in 8.3 above, the parties record the following:
  - 8.4.1 PURCHASER shall pay to the SELLER's attorney, on demand and prior to transfer, the amount of **R500.00 (five hundred rand)** to serve as a contribution towards a Body Corporate start-up fund, which amount shall be paid by the SELLER's attorney to the bank account of the Body Corporate once opened, and the PURCHASER's first Body Corporate account in respect of levies and other charges shall be credited with this amount; and
  - 8.4.2 After transfer the SELLER shall be entitled to instruct a private municipal consultant to remove the unit from the SELLER's municipal account in respect of assessment rates and refuse removal and to procure that a new municipal account be opened in the name of the PURCHASER. The PURCHASER shall be liable for the costs and charges of the consultant, which shall not exceed **R900.00**, which shall be paid by the PURCHASER to the SELLER's attorneys on demand and prior to transfer. The SELLER's attorneys shall pay the consultant only upon completion of the process.
  - 8.4.3 The PURCHASER hereby agree that the SELLER'S attorney may use any deposit paid by the PURCHASER to the SELLER'S attorney for the payment of the costs and charges as described in paragraphs 8.3 and 8.4 above.

8.5 Should a bond be registered over the unit, the PURCHASER irrevocably elects the Attorneys to register the bond simultaneously with transfer of the unit into the PURCHASER'S name. The PURCHASER agrees that he/she shall instruct the bank to send the bond to the appointed herein Attorneys to register the bond so as not to cause any delay in registration. In the event that another Attorney, for whatever reason, receive instructions to register a bond over the unit, then the PURCHASER shall be responsible for payment of all the costs / fees payable in connection with the registration of the transfer and the bond. The PURCHASER shall be liable for the initiation fee charged by the financial institution.

- 8.6 The PURCHASER shall upon request by the Attorneys sign all the necessary documents relating to the transfer and bond registration (if any).
- 8.7 In addition to any rights the SELLER may have, it will be entitled to payment of interest by the PURCHASER on all amounts due and/or for any delay occasioned by the PURCHASER in terms of this Agreement at an interest rate equal to prime rate charged from time to time by Standard Bank. In the event of such delay, the PURCHASER shall be liable for the payment of the rates and taxes and/or levies, pro-rata for the time period of such delay.

**9 CONSUMER PROTECTION ACT 68 OF 2008**

- 9.1 It is recorded that the SELLER is a "supplier" as defined in the CPA and that the unit is sold with an "implied" warranty of quality as contemplated in Section 56 of the CPA to the extent that the unit shall meet the standards described in Section 55 of the CPA and that the PURCHASER has the right to receive the unit:
  - 9.1.1 reasonably suitable for the purpose for which it is generally intended;
  - 9.1.2 of good quality, in good working order and free of any material defects;
  - 9.1.3 useable and durable for a reasonable period of time.
- 9.2 Since the buildings in the scheme still need to be erected, it is recorded in terms of Section 55(6) of the CPA that the PURCHASER agrees to accept the unit as it stands, provided that the buildings are erected in a workmanlike fashion and substantially in accordance with the plans and specifications.
- 9.3 **Acknowledgments by the PURCHASER**  
The PURCHASER acknowledges that the sectional plan of the scheme has not yet been prepared or approved and that accordingly the exact and final boundaries and area of the Section will be that shown on the Sectional Plan/s as approved (from time to time).

**9.4 Representations**

It is recorded that the SELLER or its Agents may have used models and brochures and other advertising material in marketing and presenting the proposed development to the PURCHASER and the public at large. **The furniture, finishes and fittings shown in the advertising material were for advertisement purposes only and the PURCHASER acknowledges that the finishes and fittings to this Section will comply with the finishing schedule that the PURCHASER has chosen.**

**9.5 Severability**

The SELLER has made every effort to incorporate the PURCHASER's consumer rights, as provided for in the CPA, into this Agreement. In the event that any provision in this Agreement is found to contravene the CPA, the parties agree that such provision shall be severed from this Agreement

agent initial \_\_\_\_\_ PURCHASER 1 initial \_\_\_\_\_ PURCHASER 2 initial \_\_\_\_\_

and be treated as if it were not part of this Agreement.

**9.6 Guarantees and Conditions**

- 9.6.1 The SELLER does not furnish any explicit or tacit guarantees in regard to the unit. The PURCHASER acknowledges that he was not persuaded into entering this Agreement by any representations made to him by the SELLER or any representative of the SELLER, other than what is contained in this Agreement.
- 9.6.2 The PURCHASER shall be required to inspect and agree by conducting an inspection of the unit and signing a defects list of the unit as provided for in clause 13 below.
- 9.6.3 If the PURCHASER fails to attend the inspection at the date and time agreed upon, then the unit will be considered free from defects and in good condition.
- 9.6.4 The PURCHASER should take note that in addition to patent (visible) defects in the unit, there may be latent (not visible) defects in the unit.
- 9.6.5 In the event that the CPA does not apply to the transaction between the parties it is hereby recorded, despite any other provision to the contrary, that clauses 9.1 to 9.5 above will not apply and that the unit is sold *voetstoots* to the PURCHASER and that the PURCHASER shall have no claims of any nature against the SELLER or Contractor for any defects in the unit.

**9.7 Appointment of transferring attorney**

The PURCHASER hereby acknowledges that owing to the complexities and interrelated steps involved in opening this development and registering title to it for all the prospective PURCHASERS, it is beneficial and is in the best interests of the PURCHASER that the Transferring Attorney attend to the registration of the transfer and any bond over the unit which may be required by the PURCHASER.

**10 JURISDICTION**

- 10.1 The parties hereby consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under Section 28 of the Magistrate's Court Act of 1944, as amended.
- 10.2 Notwithstanding that such proceedings are otherwise beyond this jurisdiction, this clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrate's Court Act of 1944, as amended.

**11 SITE VISITS**

- 11.1 The PURCHASER acknowledges that, until completion of the unit and issue of the Occupation Certificate, the site is a construction area, and as such, is potentially dangerous. It is therefore imperative that the PURCHASER does not attend the site unaccompanied, and the PURCHASER hereby indemnifies the SELLER (as well as the SELLER'S employees, sub-contractors, etc) against any injury or damage suffered, should the PURCHASER visit the site before the occupation date.

witness initial \_\_\_\_\_ witness initial \_\_\_\_\_ SELLER initial \_\_\_\_\_

12 OCCUPATION AND SPECIAL PROVISIONS RELATING TO SALES IN BUILDING UNDER CONSTRUCTION

12.1 Provided the PURCHASER has complied with his obligations, occupation of the unit shall be given to and taken by the PURCHASER on the occupation date. Notwithstanding anything to the contrary contained in this Agreement and pending the establishment of a Body Corporate the risk in the unit shall pass to the PURCHASER on occupation date.

12.2 From the occupation date the PURCHASER shall:

12.2.1 be entitled to the occupation of the section as if he were the owner of the section and even though the body corporate might not have come into being; and

12.2.2 be entitled to the use and enjoyment of the common property in conjunction with the PURCHASERS of other units in the scheme as per phase completion.

12.3 With effect from the occupation date until the date of registration of transfer the PURCHASER shall pay to the SELLER, monthly in advance on the first day of each and every month:

12.3.1 the occupational interest; and

sign here

12.3.2 estimated Body Corporate levy of R \_\_\_\_\_ per month,

12.3.3 irrespective of whether the PURCHASER takes occupation of the unit or not, which amounts shall be pro-rated on the date of transfer.

12.3.4 The PURCHASER hereby agrees that the SELLER'S attorney may use any deposit paid by the PURCHASER to the SELLER'S attorney for the payment of the costs and charges as described above.

12.4 If the SELLER foresees that the unit will not be ready for occupation by the approximate date provided for in 2.15 above, then the SELLER shall give written notice at least **30 (thirty) days** prior to the said approximate date to the PURCHASER to advise the PURCHASER of the extended approximate date.

12.5 The SELLER shall not incur any liability of whatsoever nature by reason of the SELLER's failure to give notice in terms of 12.4 above, or by reason of the Unit not being ready for occupation on the occupation date. In the event of any dispute as to when or whether occupation of the section has been given or tendered either in terms hereof, a certificate by the SELLER's architect or certified valuer (acting as an expert and not as an arbitrator) certifying that the section is suitable for occupation shall be final and binding on the parties, notwithstanding that the building as a whole or the common property may not have been completed or might not be suitable for occupation at such date.

12.6 The occupation date shall under no circumstances be deferred or the section considered unsuitable for occupation by reason of any improvements, additions or alterations to be effected to the section by or at the request of the PURCHASER not having been completed.

12.7 The SELLER shall have the right at its sole discretion to vary the layout, design of the building and finishes, provided that the SELLER may only exercise such discretion in such a way that:

12.7.1 the layout and design of the buildings as erected remains substantially the same as reflected in the plans;

12.7.2 the finishes of the section remain substantially the same as the samples which the PURCHASER acknowledges having seen;

12.7.3 the location and design of the section remains substantially the same as in the plans;

12.7.4 the participation quota and area of the section as finally reflected in the sectional title plans is within 7% (seven per centum) of the participation quota or area as reflected in the draft sectional title plans; and

12.7.5 the SELLER shall have the sole discretion to determine all levels, dimensions, depths of excavations, and heights of plinths on site, once the site has been cleared.

12.8 If there is any dispute between the SELLER and the PURCHASER as to whether the buildings, any part thereof, the finishes or specifications are substantially the same as set out in the specifications, as the case may be, then the specifications annexed hereto as Annexure "C" will be binding on both parties, subject to 12.7 above.

12.9 It is agreed that, should the PURCHASER wish to visit the building site prior arrangements must be made with the SELLER or his agent for such visit. It is agreed that the PURCHASER shall not be entitled to enter the building premises unless such arrangement has been made. The PURCHASER shall not be entitled to give any instructions to the builder or any other of the SELLER'S contractors. It is further recorded that the SELLER shall not be liable for any injury or damage suffered by the PURCHASER or any other person accompanying the PURCHASER, when visiting the building site.

12.10 In the event of the SELLER being unable to transfer the unit to the PURCHASER by reason of either destruction or expropriation or for any other reason whatsoever save such reason as may be attributed to the fault of the SELLER, or in the event of destruction of the unit to the extent that the PURCHASER is deprived of beneficial occupation thereof, either party shall thereupon be entitled to resile from this Agreement and upon either party so doing, the SELLER shall refund to the PURCHASER all amounts paid by the PURCHASER. Immediately upon such refund having been made, the PURCHASER shall vacate the unit unless he has already vacated or been deprived of possession thereof and save as aforesaid shall have no further claim against the SELLER.

agent initial \_\_\_\_\_

PURCHASER 1 initial \_\_\_\_\_

PURCHASER 2 initial \_\_\_\_\_

witness initial \_\_\_\_\_

witness initial \_\_\_\_\_

SELLER initial \_\_\_\_\_



**13 DEFECTS LIST AND WARRANTIES BY THE PURCHASER AND SELLER**

- 13.1 The PURCHASER shall, within 7 (seven) business days from obtaining a notice to occupy, deliver to the SELLER in writing **one pre-inspection snag list** (happy letter), signed by the PURCHASER, listing all snags in the unit to be repaired. The SELLER or its contractor shall repair all reasonable snags that appear on the pre-inspection snag list as soon as reasonable possible.
- 13.2 The PURCHASER shall, within 10 (ten) business days from the date of occupation, deliver to the SELLER in writing **one defects list**, signed by the PURCHASER, listing all the fixtures or fittings in the unit to be repaired. The SELLER or its contractor shall repair all the reasonable defects that appear on the **defects list** as soon as reasonably possible. The PURCHASER shall give the SELLER or its contractor reasonable access to the unit for these repairs to be done.
- 13.3 If there is a dispute as to whether an item on the **defects list** can be classified as a defect or not, a certificate by the SELLER'S agent certifying whether the item is a defect or not. The SELLER shall only repair the items on the **defects list** that have been certified by the agent as being true defects. All decisions by the said agent, including any decision as to costs, shall be final and binding upon the parties and shall not be open to dispute by either of the parties.
- 13.4 If any work of a minor nature is still required to be done to the unit, the PURCHASER may not withhold, set off or retain any amounts owing by the PURCHASER to the SELLER nor shall the PURCHASER refuse to sign the Authorisation for Payment required by the Conveyancer.
- 13.5 Before the opening of the sectional title register and the establishment of the body corporate, the SELLER shall have insurance in place to insure the buildings against such risk and for such amounts as the SELLER may in its sole discretion determine. The parties hereby agree that this insurance shall not include the PURCHASER's household contents and that the PURCHASER shall obtain his own insurance to cover his household contents from date of occupation.
- 13.6 At the date of registration of transfer of the unit into the name of the PURCHASER, the PURCHASER may obtain a copy of the 5 (five) year NHBRC warranty on the structural integrity of the building from the SELLER. The original warranty shall be held by the financial institution holding a bond over the unit.
- 13.7 The PURCHASER shall advise the SELLER, in writing, of any latent or patent defects in the structure of the unit within a period of 90 (ninety) days from the date on which the Builder was given a Practical Completion Certificate for the unit. The SELLER shall rectify only those latent or patent defects reported to the SELLER within this 90-day period.

**14 PROVISIONS PENDING ESTABLISHMENT OF BODY CORPORATE**

- From date of occupation of the unit until the body corporate is established the PURCHASER shall:
- 14.1 on demand pay the account for the electricity and water consumed as shown on the sub-meters of the unit.
  - 14.2 It is recorded that the SELLER intends, until the body corporate comes into existence to insure the buildings against such risk and for such amounts as it may in its sole discretion determine.

**15 BODY CORPORATE**

- 15.1 Each owner of a unit in the scheme shall automatically become a member of the Body Corporate and shall be bound by the rules of the Body Corporate.
- 15.2 Each owner of a unit in the scheme shall be liable for and shall pay a monthly levy to the Body Corporate.
- 15.3 The parties record that the DEVELOPER shall not be liable to pay levies to the Body Corporate in respect of unsold units in the scheme.

**16 NATIONAL HOME BUILDERS REGISTRATION COUNCIL**

- 16.1 The SELLER warrants that the builder instructed by the SELLER to construct the buildings on the property shall be enrolled and admitted at the NHBRC as a certified home builder as required by the NHBRC under the terms of the Housing Consumer Protection Act of 1998 and that the PURCHASER is entitled to all the benefits flowing therefrom.

**17 ELECTRICITY COMPLIANCE CERTIFICATE**

- 17.1 The SELLER hereby undertakes to deliver to the PURCHASER at least 10 (ten) days prior to the occupation date and electrical compliance certificate as provided for in the Occupational, health and Safety Act, 1993.

**18 THE ASSOCIATION**

- 18.1 The **DEVELOPER** has established the Association, to promote, advance and protect the communal interests of the owners and occupiers of the properties comprised in the development known as **Woodwind Estates**, which includes the **PROPERTY**.
- 18.2 The PURCHASER hereby agrees, with effect from the occupation date, to be bound to the Memorandum of Incorporation and the Rules of the Association, the contents of which the PURCHASER has familiarised himself with.
- 18.3 From the occupation date, irrespective of whether or not the PURCHASER has taken physical occupation of the section, the PURCHASER shall be liable for and pay, monthly in advance to the Association, the levy due to the Association as determined from time to time.

