

**ADADI ESTATE**

**MEMORANDUM OF AGREEMENT OF SALE AND PURCHASE OF**

**A**

**SECTIONAL TITLE UNIT**

---

Entered into between:

**ADADI ESTATE CC**

Registration number 2009/211830/23

Herein represented by XUELING GAO, duly authorized hereto by a resolution by the  
members

of:

71 SCHOLTZ STREET, WITFIELD, BOKSBURG

Email: [adadigao@hotmail.com](mailto:adadigao@hotmail.com)

(Hereinafter referred to as "the SELLER/DEVELOPER")

And

1. \_\_\_\_\_  
Identity number \_\_\_\_\_

And

2. \_\_\_\_\_  
Identity Number \_\_\_\_\_

Of:

---

---

—

—

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

(Hereinafter collectively referred to as "the PURCHASER/SIGNATORY")

## 1. Definitions

In this agreement, unless inconsistent with the context:

1. **"Agent"** means the agent specified in paragraph 26 in schedule A of this agreement.
2. **"Attorneys"** means the transfer and bond attorneys specified in paragraph 5 in schedule A of this agreement;
3. **"Body corporate"** means the body corporate that will be established in respect of the sectional title scheme, as determined in section 36 of the Sectional Titles Act 95 of 1986;
4. **"Common property"** means the common property in the scheme that belongs to all owners, as provided for in the Sectional Titles Act and of which the Property (as described in paragraph 2 of this agreement) is part;
5. **"Completion date"** means the date upon which the unit is completed and ready for beneficial occupation. In the event of a dispute this date shall be as certified by the architect, whose decision as to that date shall be final and binding upon the parties;
6. **"Completion of the development"** means the date of transfer of the last unit or exclusive use area in the development or the date of completion of any outstanding works on any units or on the common areas in the development, as certified by the architect in the event of a dispute, whichever is the latest;
7. **"Developer"** means the Seller or its nominee/s carrying out the development from time to time and includes its successors in title;
8. **"Development"** means the proposed development of a sectional title scheme on Erf 75 Witfield Township that will be known as ADADI GARDENS, which development may take place in one or more phases. The situation of the development is indicated on the plan attached hereto as Annexure A.
9. **"Estimated occupation date"** means the estimated date of occupation of the unit being the date specified in paragraph 3 in Schedule A of this agreement;
10. **"Estimated transfer date"** means the estimated date of registration of transfer of the unit and the exclusive use areas , if applicable;

11. **“Exclusive use areas”** means such parts of the common property that has been reserved for the exclusive use and enjoyment of a particular owner of a unit in the scheme (in terms of section 27 or section 27A of the Sectional Titles Act). These may include parking bay/s, storeroom/s (if any); and garages, if any.
12. **“HCPMA”** means the Housing Consumers Protection Measures Act 95 of 1998;
13. **“Land”** means the land on which the development is to be established, being Erf 75 Witfield Township as indicated on the proposed plan annexed hereto as Annexure A.
14. **“Occupation date”** means the date upon which occupation of the unit and, if possible, the exclusive use areas is tendered to the Purchaser. Such date shall not be before the completion date;
15. **“Participation quota”** means the area of an owner’s section as a percentage of the total buildings erected comprising the development;
16. **“Plans and specifications”** mean the annexures to the sale agreement (marked A to F)
17. **“Property”** means the Property purchased by the Purchaser in terms hereof and described in paragraph 2 in schedule A of this agreement.
18. **“Sale agreement”** means the agreement of sale entered into between the Seller and the Purchaser which consists of schedule A of this agreement and all annexures attached herewith.
19. **“Sectional plan”** means the sectional plan/s to be prepared and registered in respect of the development;
20. **“Sectional Titles Act”** means the Sectional Titles Act 95 of 1986 (as amended from time to time) and includes the regulations made in terms thereof;
21. **“Seller”** means the seller as referred to in the heading of this agreement being ADADI ESTATE CC ,Registration number 2009/211830/23
22. **“Transfer date”** means the date of registration of transfer of the unit (together with the cession of the rights of exclusive use forming part of the Property, if possible) into the name of the Purchaser in the deeds registry. This date shall coincide with the date of occupation or shall occur as soon as possible thereafter;
23. **“Unit”** means the sectional title unit comprising the section, including an undivided share in the common property as apportioned to the section/s in accordance with the participation quota/s to be determined in accordance with the Sectional Titles Act;

24. “VAT” means Value-Added Tax at the applicable rate in terms of the Value-Added Tax Act 89 of 1991 (as amended from time to time).
25. Words importing the singular shall include the plural and vice versa; words importing the masculine gender shall include the female gender; and words importing persons shall include partnerships and bodies corporate and vice versa.
26. Reference to this agreement shall mean these standard conditions of sale and shall include schedule A of the sale agreement and all the annexures thereto.

## 2. Agreement

1. The Seller is the registered owner of Erf 75 Witfield Township.
2. The Seller intends to establish a sectional title residential development to be known as ADADI GARDENS on the Land.
- 2.3. The Seller has agreed to sell to the Purchaser who has agreed to purchase a sectional title unit in the development (together with the rights to the exclusive use of the parking bay/s, storeroom/s, and the garage (delete as applicable)), as described herein below, together with an undivided share in the common property, which will hereafter be referred to as the **Property**.
- 2.4. The Seller therefore hereby sells and the Purchaser hereby purchases the Property in accordance with the terms and conditions of this agreement.

## 3. SCHEDULE A:

### Conditions of the Agreement

#### 1. PROPERTY

- 1.1. The Seller hereby sells to the Purchaser who hereby purchases the property being Sectional Title Unit consisting of:
- 1.2. Certain Section No. \_\_\_\_\_ having an area and defined with reference to the floors, walls and ceiling thereof and shown and more fully described on draft Sectional Plan attached hereto in the building or buildings in the scheme known as, ADADI GARDENS of which section the floor area, according to the said Sectional Plan is approximately \_\_\_\_\_ (\_\_\_\_\_) square metres in extent, and situate on WITFIELD Registration Division I.R., The Province of GAUTENG; And
- 1.3. An undivided share in the common property in the land and buildings as shown

and more fully described in the draft Sectional Plan apportioned to the said section in accordance with the participation quota of the section and endorsed on the Sectional Plan, held by the Seller under Deed of Transfer; And

1.4. Sole utilization area/s : PARKING BAY no. \_\_\_\_\_/CARPORT no. \_\_\_\_\_'CARPORT NUMBER' /WALLED GARDEN / PARKING BAY/ GARAGES no.\_\_\_\_\_.

\* delete whichever is not applicable.

1.5. The total of the quotas allocated to the respective sections in phase 1 of the scheme is approximately 50%; and the participation quota of the unit hereby purchased is approximately \_\_\_\_\_.

1.6. It is hereby recorded that the purchaser is aware that the Seller is in the process of applying for the opening of a Sectional Title Register in regard to the Unit hereby purchased; that the draft Sectional Title Plans attached hereto are the preliminary plans; the parties hereto hereby irrevocably agree to be bound by the dimensions, etc., reflected on the draft Sectional Title Plans to be approved by the Surveyor General and in terms of which the register will be opened in the Deeds Registry in Johannesburg; provided that however in the event of the measurement of the section and sole utilization areas stipulated herein differing by not more than 10% (ten per centum) from the plan eventually registered by the Registrar of Deeds or in the event of the unit being allocated a different number in such plan, or in the event of the Purchaser's undivided share in the common property in the Registered Sectional Plan differing by not more than 10% (ten per centum) from that specified herein, the Purchaser shall nevertheless accept transfer of the unit in satisfaction of the obligations of the Seller, but the participation quota shall be amended accordingly.

2. **PURCHASE PRICE**

2.1. The Purchase price of the Unit and sole utilization area/s is the sum of R \_\_\_\_\_(\_\_\_\_\_) which includes VAT of R \_\_\_\_\_(\_\_\_\_\_) which purchase price shall be paid by the Purchaser to the Seller in the following manner:

2.1.1. A deposit of R \_\_\_\_\_(\_\_\_\_\_) shall be payable as follows to attorneys AC NOTNAGEL INC who shall hold it in an interest bearing trust account for the benefit of the Purchaser:

- 2.1.2. Compulsory securing cash deposit of R 10 000.00 (Ten Thousand Rand) is payable upon signature of this Agreement and payable as stated in 3.2.4 herein below.
- 2.1.3. The balance of the said deposit shall be payable in \_\_\_\_\_(\_\_\_\_\_) monthly instalments of R \_\_\_\_\_  
(\_\_\_\_\_) each, to the said attorneys as from \_\_\_\_\_. In the event of the balance of the deposit being paid in a lump sum, such payment shall be made within five days of the date of granting of the bond referred to in **Clause 18** herein below.
- 2.1.4. The balance of the purchase price of R\_\_\_\_\_ (\_\_\_\_\_)shall be paid on registration of transfer and shall not be less than 30 (thirty) days prior of the opening of the Sectional Title Register, either be paid to the transferring attorney to be kept in trust pending registration, or secured by a bank guarantee in favour of the Seller or its nominee/s and payable against registration of transfer of the unit and sole utilisation area/s into the purchaser's name.
2. Should for some unforeseen reason the scheme be cancelled, the deposit, if any, including the compulsory deposit referred to in 3.2.1.. above shall be refunded to the purchaser. No liability or claims for damages or compensation or any consequential damages in the event of the scheme being cancelled can be instituted against the seller.
3. All payments provided for herein will be paid into the following account:  
Bank name: NEDBANK  
Acc name: AC NOTHNAGEL TRUST ACCOUNT  
Bank Acc.: 193 908 7740  
Branch code: 193-942
4. In the event that the purchaser fails to pay the deposit referred to in clause 3.2.1. within a period of seven days after date of signature hereof, it will be a condition precedent of non-fulfilment of which the seller shall have the sole option to render this agreement null and void. In the event that a portion of

the deposit was paid the portion will be non-refundable in lieu of pre-estimated roukoop without giving any further written notice.

5. Notwithstanding anything to the contrary herein contained, the Purchaser shall not be entitled to possession and/or occupation of the property until such time as the full deposit shall have been paid and all transfer and bond documents (if Purchaser is obtaining a bond) have been signed at the conveyancers which full deposit must be paid at least one month prior to the projected date of occupation determined in terms of Clause 3.3.herein below.
6. The parties hereby authorise AC NOTNAGEL ATTORNEYS to invest in terms of Section 86(4) of the Legal Practice Act of 2014 any payments referred to in clause 3 they may hold in trust or receive on the purchaser's behalf with any Banking institution at such interest rates and upon such conditions as they may deem fit. The interest accruing thereon shall be for the credit of the party on whose behalf the money is being held.

### 3. POSSESSION AND OCCUPATION

- 3.1. Subject to clause 3.2. occupation of the property shall be given to the Purchaser/s on the date of registration, alternatively prior to registration on a date agreed upon between the parties, alternatively on the date of completion of the unit whichever occurs later.
- 3.2. Should the purchaser elects to take occupation of the property prior to registration then:
  - 3.2.1. The purchaser shall be liable for the monthly occupational interest being one (1) % percent per month, calculated on the full purchase price, from date of occupation to date of registration of the unit in the Purchaser's name.
  - 3.2.2. The occupational interest shall be payable monthly in advance, which payment shall be made to the transfer attorney into the trust account, the details of which are provided for in Clause 3.2.3.hereof.
- 3.3. The purchaser hereby acknowledges that occupation of the property in no way whatsoever creates a tenancy.
- 3.4. The Seller shall give one calendar months notice in writing to the Purchaser, of date of occupation of the Property by the Purchaser. If the section and the

sole utilization areas are not ready for beneficial occupation by the Purchaser within 10 (ten) months from date of signature of this agreement, then the Seller may, by giving notice at least 30 (thirty) days before such date to that effect to the Purchaser, extend such date for a further period of not more than 3 (three) months. The Seller shall not incur any liability of whatsoever nature by reason of the Seller's failure to give such notice as aforesaid, or the section not being ready for beneficial occupation on expiration of such notice. Notwithstanding anything to the contrary contained in the foregoing however, if the section is not ready for beneficial occupation 6 (six) months of the date of occupation referred to above, then either party shall be entitled to resile from this agreement and the Seller shall, in the event of either party so resiling, refund to the Purchaser the capital amounts paid by them in terms hereof plus accrued interest thereon.

- 3.5. The Purchaser shall be obliged to attend a pre-occupation inspection of the unit when requested by the Seller or its agent, which shall be at least 14 (FOURTEEN) days prior to the projected occupation date determined in Clause 3.3 above, in order to assist the Seller's representative to prepare a defects correction list (if any) and completion list for the building contractor to attend to.
- 3.6. The Purchaser shall be entitled to and obliged to accept occupation of the section on the occupation date.
- 3.7. The Purchaser shall within 7 (seven) days from date of occupation deliver to the Seller a single comprehensive list signed by themselves enumerating any items in the section requiring repair by the Seller and upon repair of such items as reasonably required repair, the Purchaser shall be deemed to have accepted that the section is in a fit and proper condition in all respects. If the Purchaser does not deliver such list to the Seller within the said 7 (SEVEN) days it shall be deemed that the section is in a fit and proper condition. The Purchaser is obliged to grant to the Seller access to the unit during normal working days and working hours, for a period of 2 (two) weeks for the purposes of effecting the repairs, failing which the Seller is absolved from effecting any repairs.
- 3.8. Any dispute as to whether the section is ready for beneficial occupation, or whether repairs referred to herein above have been satisfactorily carried out, shall be referred at the instance of either party to an expert nominated at the request of either the Seller or the Purchasers by the President in Chief for the time being of the Association of South African Quantity Surveyors and that expert, acting as expert and not as arbitrator, shall settle such dispute



immediately and without delay at the section and without formal pleadings or submissions and his award shall be final and binding upon both parties. For the purposes of this agreement the expression "beneficial occupation" means "reasonably habitable" by the Purchaser.

- 3.9. The Purchaser shall from the date of occupation:
- 3.9.1. Be liable for the payment of the levy due to the Body Corporate as if he was the registered owner of the Unit, which liability shall be determined in accordance with the participation quota.
  - 3.9.2. Comply with all the terms and provisions of the rules of the Body Corporate filed in the Deeds Registry, as if he was the registered owner of the Unit. The rules are deemed to be incorporated in and form part of this Agreement.
  - 3.9.3. Be entitled to the exclusive use and enjoyment of the Section and any sole utilization areas referred to in Clause 3.1.4 above.
  - 3.9.4. Be entitled and subject to all the rights conferred in the rules as if he was the registered owner of the Unit. (See annexure F for Rules).
- 3.10. Pending the establishment of a Body Corporate as envisaged in the Sectional Titles Act 95/1986 and/or in the event that the Purchaser should take occupation prior to transfer of the unit, he will not be entitled to make any alterations or additions to the section without the prior written consent of the Seller and shall be obliged to maintain the section and sole utilisation areas in a fit and proper condition and properly painted and shall also maintain the geyser and electrical fittings.
- 3.11. The Purchaser shall be liable for all rates payable to the local authority, electricity as well as any water (should separate water meters have been installed) used in the Unit/consumed in respect of the unit from the date determined in clause 3.3.1 hereof.
- 3.12. The Purchaser acknowledges that on date of occupation by the Purchaser of his section, construction of the building/s including infrastructure and roads in the development may not yet have been completed. The Purchaser accordingly hereby agrees that he will not have any claim against the Seller, its contractors, employees and invitees as a result of any damage done to the section and sole utilisation areas nor in respect of any nuisance, noise and

other inconvenience from whatsoever cause arising, nor in respect of public liability. These factors shall not entitle the purchaser to refuse to take transfer or to cancel or withdraw from this agreement or to claim damages from any person .or institute interdict proceedings. The seller shall not be responsible for any loss, damage or inconvenience suffered by the purchaser for reason of such building operations.

- 3.13. The Purchaser shall be entitled to use the section only as a dwelling.
- 3.14. The Seller either personally or through its servants or agents, shall be entitled at all reasonable times to have access to the section for the purpose of inspecting it or to carry out any maintenance or repairs which the Seller may in terms hereof be obliged or entitled to perform whether such repairs relate to the section or not, and the Purchaser shall have no claim against the Seller for any disturbance in their occupancy arising out of the exercise by the Seller of the rights hereby conferred.

#### **4. TRANSFER OF THE PROPERTY ,TRANSFER AND BOND ATTORNEYS**

1. Transfer of the section shall be effected by  
 Attorney name: AC NOTNAGEL ATTORNEYS  
 Address: 61 Hendrik Potgieter Avenue, Dalview, Brakpan  
 Telephone no.: 011 740-2220/2221

the Seller's attorneys/conveyancers, after the purchaser has paid and/or secured payment of the full purchase price INCLUSIVE OF VAT. The Seller shall pay the costs of and incidental to the registration of transfer of the unit into the name of the Purchaser, as well as the bond registration costs, provided the mortgage bond is registered by :

LOUWRENS COETZER & PARTNERS

15 Athlone Avenue , Dalview ,Brakpan  
for ABSA , STANDARD BANK AND FIRST NATIONAL BANK ,and

VHI INCORPORATED for NEDBANK ,  
C/O 15 Athlone Avenue , Dalview ,Brakpan .

The Purchaser shall be obliged to sign on demand by the said conveyancers all documents required for the registration of transfer of the Section into his name and any mortgage bond documents. The Seller shall be liable for the expenses incurred in the opening of the Sectional Title Register, as provided in terms of the Sectional Titles Act 95 of 1986. The Purchaser shall be liable for any bank charges and bank valuation fees in respect of the mortgage bond.

2. In the event of it becoming impossible in the discretion of the Seller and for any reason whatsoever for the Seller to pass transfer to the Purchaser the Seller shall advise the Purchaser of this fact in writing. In such event, either party shall be entitled to resile from this agreement and upon either party doing so the Seller shall refund to the Purchaser all amounts paid by the Purchaser in terms of Clauses 3.2. of this Agreement. In the event of the Purchaser having already taken occupation no amounts paid as rental in terms of Clause 3.3. shall be refundable. The Purchaser and all those claiming occupation through or under him shall vacate the unit at the end of the calendar month in which such refund is made. Save as aforesaid the parties shall have no further claims against each other.
3. The purchaser shall accept and comply with the management and conduct rules compiled by the developer and/or trustees of body corporate for the development , as proved for the Sectional Titles Act.

## 2. WHOLE AGREEMENT

The parties acknowledge that this Deed constitutes the entire Agreement between them and that no cancellation, alteration or addition shall be valid unless reduced to writing and signed by both parties and witnesses.

### **3. SPECIFICATIONS AND FINISHES**

- 3.1. The Seller undertakes to complete the unit, prior to date of occupation according to annexures D and E.
- 3.2. Variations to the schedule of finishes shall be for the purchaser's account including any professional fees occasioned by such variations.
- 3.3. Any extras over and above the specifications and finishes shall be for the purchaser's account including professional fees occasioned by such extras
- 3.4. Notwithstanding the provisions of clause 6, the Seller shall not be liable for any defects in the unit and/or the exclusive use areas in respect of the following:
  - 3.4.1. any damage or defects not having been caused by the Seller or any of its agents;
  - 3.4.2. touch up paint of any nature;
  - 3.4.3. hairline cracks in the plaster work;
  - 3.4.4. any shrinkage/movement and expansion cracks between different components/materials used or cracking which might appear in control movement joints;
  - 3.4.5. any mould growth caused by the Purchaser's failure to allow for proper ventilation and/or condensation;
  - 3.4.6. any doors and windows slamming in windy conditions or any damage caused thereby;
  - 3.4.7. wind and rain entering through the windows and doors left open.
- 3.5. The certificate of final completion issued by the architect shall be conclusive evidence as to the completion of the unit and/or the exclusive use areas, and that all patent defects have been made good.
- 3.6. Upon the issue of a certificate of final completion by the architect in respect of the unit and/or the exclusive use areas, the Purchaser shall have no claim

whatsoever against the Seller in respect of the unit and/or the exclusive use areas and/or any defects therein (whether patent or latent).

- 3.7. All warranties and undertakings given by the Seller to the Purchaser in terms of this agreement are personal to the Purchaser who shall not be entitled to cede, assign or make over its rights thereto.

#### **4. Communal Amenities and Common Areas**

- 4.1. The Purchaser acknowledges and agrees that the owner/occupier of a unit in the development shall be entitled to the use of the communal amenities and the common areas.
- 4.2. The Purchaser acknowledges and agrees that the communal facilities and/or the common areas may only be available for use by the owner/occupier of a unit upon completion of the development.
- 4.3. The use of the communal amenities shall be regulated by virtue of rules compiled by the developer and/or the Trustees of body corporate for the development, as provided for in the Sectional Titles Act.

#### **5. Body Corporate and Body Corporate Rule**

It is recorded that the Seller intends, when submitting the application for the opening of the sectional title register in respect of the scheme, to register special rules for the body corporate under section 10 of the Sectional Titles Schemes Management Act, in terms of which, amongst other things:

- 5.1. the Purchaser grants the Seller an irrevocable power of attorney (operative from the time the Purchaser becomes the registered owner of the unit), until such time as 80% of the units in the scheme have been transferred to purchasers thereof, to attend the necessary meetings of the Body Corporate and on behalf of the Purchaser, to vote at such meetings and furthermore to grant such consents as may be required to give effect to the import and intent of this agreement, and any contract concluded pursuant to these provisions.
- 5.2. Until such time as the Body Corporate comes into being, the term "Body Corporate" shall refer to the developer and the "Levy payable" shall refer to the levy imposed by the developer/seller. The "rules" of the Body Corporate shall be the rules as set out in Annexures 8 and 9 of the Sectional Title Regulations promulgated on 8th April 1988.

#### **6. DOMICILIA**

- 6.1. The Seller and the Purchaser choose as their *domicilia citandi et executandi* the addresses as set out in the heading of this agreement.

The Purchaser however shall be entitled to change his or her *domicilium citandi et executandi* to the specific Unit he or she occupies and/or owns.

- 6.2. Any letter or notices shall be deemed to be received by the Purchaser four days of posting thereof if posted by registered post to such domicilium or on the date of delivery if delivered at such domicilium or if faxed, immediately after transmission thereof.
- 6.3. Either party may from time to time change his *domicilium citandi et executandi* by delivery of a written notice to the other party to that effect.
- 6.4. Notice may also be given by the parties by facsimile transmission or e-mail transmission to the other party to a fax number or e-mail address provided for in the preamble and notice so given shall be deemed to have been received by the other party on the 1<sup>st</sup> business day following the date upon which the facsimile transmission or e-mail was transmitted.

## **7. JURISDICTION OF THE MAGISTRATE'S COURT**

- 7.1. The parties hereto bind themselves and submit to the jurisdiction of the Magistrate's Court having jurisdiction in terms of the provisions of Section 45 and 28 of the Magistrate's Court Act No. 32 of 1944, as amended, in respect of any dispute or difference or legal proceedings arising out of or in connection with this Agreement including action for payment of the price or ejection of the Purchaser from the unit whether or not such action is within the present or future jurisdiction of the said Court.
- 7.2. The Seller however at its sole discretion will be entitled to litigate in the High Court of South Africa at its sole discretion in terms of which High Court fees will be applicable.

## **8. BREACH OF THE AGREEMENT**

- 8.1. In the event of the Purchaser failing to make any payment or failing to fulfil any obligation in terms of this Agreement and failing to remedy such breach of default within 7 (SEVEN) days of written notice, by prepaid registered post, delivery or

facsimile addressed to the Purchasers' domicilium, or fax number, requiring such payment or the remedying of any other such breach, the Seller shall be entitled without further notice (in addition to and without prejudice to any other rights available at law):-

8.1.1. to claim immediate payment of the entire balance of purchase price outstanding, although not otherwise due by the Purchaser under this Agreement; or

8.1.2. to cancel this Agreement and claim payment of all arrear instalments due and retain any and all cash payments made under this Agreement by the Purchaser prior to cancellation, either as *rouwkoop* or by way of a penalty, or as liquidated damages or as payment in respect of the prejudice, which the parties hereby agree will be suffered by the Seller as a result of the Purchaser's breach aforementioned, excluding any payment made in advance of the date of cancellation in respect of rates and taxes and insurance premiums; or

8.1.3. in lieu of exercising his rights under Clause 11.1 above, to cancel this Agreement and claim and recover from the Purchaser such damages as the Seller is able to prove he has sustained and the Seller shall be entitled to retain in trust the cash payment and any other payments made by the Purchaser prior to cancellation, which amounts of money shall be deemed as pre-estimated damages and shall be non-refundable until the actual amount of damages has been determined by a court and thereupon set off such damages against the aforesaid amounts held in trust.

8.2. Notwithstanding the provisions of this clause, should the Purchaser not have paid the cash amounts hereinbefore referred to on the signing of these presents , and should the purchaser fail to make any other payments provided for herein on their due dates , the seller shall be entitled without notice and without prejudice to any other rights to sue for and claim payments of such amounts as have not been paid by the purchaser on due date thereof.

8.3. Upon cancellation for any reason whatsoever, the Purchaser and all other persons in occupation thereof claiming through or under the Purchaser shall be obliged to vacate the Unit immediately, it being recorded that any rights of occupation granted to the Purchaser flow only from this contract and are in no way to be interpreted as any form of tenancy.

8.4. Should the purchaser dispute the right of the seller to cancel this agreement , then pending the determination of the dispute , the purchaser shall be obliged to continue payment of all amounts payable by it in terms of this agreement on due dates

thereof and the seller shall be entitled to recover and accept those payments without prejudice to the seller's claim for cancellation of this agreement or any other rights of the seller whatsoever.

## **9. LETTING OF PROPERTY**

The Purchaser may lease or sublet the property prior to opening of a sectional title register in respect of the unit hereby purchased subject to the express condition that the purchaser hereby indemnifies the seller against any damages the Seller may suffer should any tenant invoke the provisions of section 10 of the Sectional Titles Act.

## **10. IRREVOCABLE OFFER**

This offer to purchase shall, subject to the provisions of Clause 22 below be irrevocable until noon on \_\_\_\_\_. Acceptance of this Agreement before the said time limited is binding on all the parties irrespective of notification of acceptance by the Seller and the Purchaser.

## **11. WARRANTIES**

- 11.1. The Purchaser further acknowledges that no warranties, undertakings or representations of whatsoever nature by or on behalf of the Seller have been made except as are recorded herein.
- 11.2. The Seller records that on opening of the Sectional Title Register it will be the registered owner of the Unit.
- 11.3. The Seller hereby warrants that it is registered, in terms of the Housing Consumers Protection Measures Act 95/1998 (hereinafter referred to as the Act) as a "home builder" and that the Sectional Title Unit (the home) to be erected is or shall be enrolled with the Council Established in terms of the aforesaid Act and that the prescribed fees shall be paid.
- 11.4. The warranties referred to in Section 13(2) of the Act set out hereunder are hereby incorporated in this Agreement and the time limits referred to in Section 13(2) of the Act set out hereunder are hereby incorporated in this Agreement and the time limits referred to in Section 13(2)(b)(l(ii) and (iii) of the Act shall in respect of this Agreement be the minimum periods referred to in the aforesaid Section:

The home, depending on whether it has been constructed or is to be constructed -



- (i) is or shall be constructed in a workmanlike manner;
- (ii) is or shall be fit for habitation; and
- (iii) is or shall be constructed in accordance with -
  - (aa) the NHBRC Technical Requirements to the extent applicable to the home at the date of enrolment of the home with the Council; and
  - (bb) the terms, plans and specifications of the Agreement concluded with the housing consumer (EMPLOYER) as annexed to this Agreement.

## **15.INDULGENCE**

No relaxation or indulgence which any party may show to the other shall in any way prejudice or be deemed to be a waiver of its/his/her rights hereunder.

## **16.MULTIPLE PURCHASERS**

Insofar as there is more than one Purchaser in terms of this agreement, the liability of each of the Purchasers shall be joint, several and in solidum.

## **17.COMPANY TO BE FORMED**

If the signatory/purchaser hereto is acting as a representative for a company to be formed then:

17.1.the Purchaser warrants and undertakes to the Seller that the Purchaser's company:

17.1.1. will be duly incorporated and registered in terms of the company's act and have issued to it a Certificate to Commence Business/Founding Statement within a period of 90 (NINETY) days from the date of signature of the Deed of Sale, or within such extended period as may be agreed upon in writing between the Purchasers and the Seller.

17.1.2. within 14 (fourteen) days of its incorporation will adopt, ratify and confirm the provisions of this Agreement in every respect;

17.1.3. will fulfil all the obligations imposed upon it as Purchasers in terms of this Agreement.

17.2. Should the signatory's company not be duly incorporated and/or have a Certificate to Commence Business/Founding Statement issued to it and/or fail to adopt, ratify and

confirm the provisions of this agreement in every respect, all in accordance with the provisions set out above, then the signatory, by his signature to this Agreement of Sale, shall be deemed to be the purchaser and is obliged in terms of this Agreement to fulfil all and sundry obligations imposed upon the Purchaser in terms of this Agreement.

- 17.3. In the event of the signatory's company being incorporated having a Certificate to Commence Business/Founding Statement issued to it and adopting, ratifying and confirming the provisions of this Agreement in every respect, then the signatory by his signature to this Agreement of Sale binds himself as surety for infaconof all its obligations in terms of this agreement.

## **18. SUSPENSIVE CONDITION**

The Agreement is subject to the suspensive condition that the Purchaser (or the Seller or the Agent or nominated bond originator being EVO GROUP on the Purchaser's behalf) are able to raise a loan upon the security of a First Mortgage Bond to be passed over the Unit for the sum of not less than R\_\_\_\_\_ (\_\_\_\_\_ ) at prevailing maximum Bank rates and conditions. The Purchaser undertakes to sign all necessary documents in connection herewith. Should such loan not be granted in principle within 45 (FORTY FIVE) days of date of signature of this Agreement then either party to this Agreement may resile therefrom by giving the other party written notice to this effect.

## **19. ONWARD SALE**

It is an express term of this agreement that whilst the Developer has an interest in any unit in the scheme which the developer intends selling, and/or developing the purchaser shall not be permitted to put up/or cause to be put up any "for sale", "sold" or "to let" sign at the purchaser's unit, the common property or on the pavement outside the sectional title complex.

## **20. COMPLIANCE CERTIFICATE**

The Seller will be obliged, prior to the registration of transfer of the property into the name of the Purchaser, or the date of occupation thereof by the Purchaser, whichever is the sooner, at the Seller's cost to make available to the Purchaser in the form specified in annexure 1 to the Electrical Installation Regulations 1992 or any amendment thereof ("the regulations") of the Occupational Safety and Health Act No. 85 of 1993 a valid certificate of compliance as contemplated in the regulation by an accredited person in respect of the electrical installation (both as defined in

Regulation 1) in or on the property hereby sold.

## 21. COSTS

- 21.1. The seller will pay the bond registration cost in respect of the bond to be registered (if applicable) . The Purchaser shall be liable for and on demand pay the Bank's initiation and valuation fees, electrical consumer deposit and any other costs incidental to obtaining insurance clearance certificates required by the Mortgagee.
- 21.2. The Seller shall be liable for the payment of the transfer costs of the property to the Conveyancers.

## 22. ANNEXURES TO AGREEMENT

The following annexures to this Agreement form an integral and indivisible part of this Agreement, and have been initialled by the parties for identification purposes:

Annexure A	Plan and Unit Location
Annexure B	Plan of Section
Annexure C	Specifications
Annexure D	Schedule of finishes
Annexure E	Body Corporate Rules
Annexure F	Sectional Title Plans

## 23. SPECIAL CONDITIONS

---



---



---

## 24. PHASED DEVELOPMENT

- 24.1. The Seller shall be entitled to carry out the development in such phases as the Seller may decide from time to time.
- 24.2. The Seller intends in its application for registration of the sectional plan to reserve the right in terms of section 25(1) of the Sectional Titles Act to erect and complete

from time to time, within a period of 15 (fifteen) years after the opening of the register, the building or buildings shown on the plans annexed to this agreement, on the common property, and to divide such building or buildings into sections and common property, and to confer the right of exclusive use over parts of such common property upon the owner or owners of one or more sections.

- 24.3. The Purchaser agrees to allow the Seller to exercise its right to proceed with the development/extension in the manner envisaged herein and shall not be entitled to interfere with or obstruct the Seller from erecting on the common property or any portion thereof, the common areas and communal amenities until such time as the aforesaid amenities or additional buildings have been completed.
- 24.4. The Purchaser undertakes to sign upon request by the Seller or its authorised agent all such documents as may be necessary to enable the Seller to proceed with the aforesaid phases and/or extension of the development.
- 24.5. Should the Purchaser fail or refuse to sign any such document, then the Purchaser hereby appoints the Seller as his attorney and agent to sign the same on the Purchaser's behalf.
- 24.6. It is hereby recorded that the Developer/Seller has served the right to extend the Sectional Title Scheme as envisaged in Section 25 of Act 95 of 1986, namely the right to erect and complete from time to time for its own account:
  1. A further building or buildings; and/or
  2. A horizontal extension of an existing building; and/or
  3. A vertical extension of an existing building on the specified part of the common property as indicated on the building plan contemplated in Section 25 of Act 95 of 1986 and to divide such building or buildings into a section or sections and common property as to confer the right of exclusive use over parts for sole utilisation over part of such common property upon the owner or owners of one or more of such sections of the buildings in the scheme known as ADADI GARDENS situate on WITFIELD TOWNSHIP Registration Division I.R., The Province of GAUTENG, as shown on the Sectional Plan which extension shall consist of further units.

The Seller and the Purchaser place on record that the Seller may develop the scheme in further phases and shall possibly have to deviate from or amend the plans filed (to be filed) in the Deeds Office, Johannesburg, in terms of Section 25(2) of Act 95 of 1986, which set out the building or buildings to be erected on part of the common property affected by the reservation; the siting, height and coverage of all

buildings; the entrances and exits to the land; the building restriction areas, if any; parking areas; and the typical elevation treatment of all buildings, are indicated; and showing the manner in which the building or buildings to be erected are to be divided into a section or sections and any exclusive use areas/sole utilisation areas. The deviation/amendment may be as a result of the Seller having to change the number of bedrooms per unit depending on the marketability of particular sized units. The parties further place on record that such deviation/amendment of the plans will affect the Purchaser's participation quota which determines the Purchaser's levy contribution to the levy fund; the Purchaser acknowledges that he/she is aware of the provisions of Section 25(13) of Act 95 of 1986 which reads as follows :

*'A Developer or his successor in title who exercises a reserve right referred in Sub-section (1) of Section 25, or a Body Corporate exercising the right referred to in Sub-section (6), shall be obliged to erect and divide the building or buildings into sections strictly in accordance with the documents referred to in Sub-section (2) of Section 25, due regard being had to changed circumstances which would make strict compliance impracticable, and an owner of a unit in the scheme is prejudiced by his failure to comply in this manner, may apply to the court, whereupon the court may order proper compliance with the terms of the reservation, or grant such other relief, including damages, as the court may deem necessary.'*

The Purchaser further places on record that despite being aware of the above, he/she has no objection to the Developer deviating or amending the plans for the further phase developments or altering the number of bedrooms per unit and/or increasing or decreasing the number of units to be erected in the further phases of the Sectional Title Scheme.

## **25.CONSUMER PROTECTION ACT**

- 25.1. It is recorded that the SELLER is a 'producer' as define in the CONSUMER PROTECTION ACT 2008 (No 68 of 2008) and that the PROPERTY is sold with an 'implied warranty of quality' as provided for in Section 56 of the act being a warranty that the PROPERTY complies with the requirements and standards contemplated in Section 55 of the act which Section provides that the PURCHASER

has a right to receive the PROPERTY on the basis that -

25.1.1. it will be reasonably suitable for the purposes for which it is generally intended;

25.1.2. it is of good quality, in good working order and free of any defects;

25.1.3. it will be useable and durable for a reasonable period of time, having regard to the use to which the PROPERTY would normally be put and to all the surrounding circumstances of its supply except to the extent that that the Buildings have been altered after having left the control of the SELLER.

25.2. The PURCHASER confirms that this transaction is not a result of direct marketing by the SELLER, The PURCHASER does accordingly not have the right to invoke the provisions of Section 16 of the Consumer Protection Act, 2008 (Act 68 of 2008), to have the agreement rescinded in terms of this section.

## 26. AGENTS COMMISSION

26.1. The Developer has appointed \_\_\_\_\_, duly represented by

\_\_\_\_\_

26.2. The Developer shall pay the Agent's commission together with any Value Added Tax thereon premised on **3% OF THE PURCHASE PRICE** (excluding VAT), in consideration of the introduction of the Purchaser by the Agent and the conclusion of this agreement. The Agents commission shall be deemed to have been earned upon conclusion of this agreement and upon grant of the mortgage finance and the fulfillment of any suspensive conditions herein contained (if applicable)

26.3. Both parties herein warrant that the Agent has been the effective cause of the sale concluded between the parties.

26.4. The transferring attorneys are hereby irrevocable instructed by the Developer to pay the Agents commission or any unpaid portion thereof to the Agent as a first charge against the nett proceeds realized from the sale of the property, upon registration of the property.

26.5. In the event of cancellation of the agreement of sale as a result of any fault or breach on the part of the Purchaser, on the happening of such event, the defaulting party shall become liable for the payment of Agent's commission

THUS DONE AND SIGNED BY THE PURCHASER AT \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_\_.

**AS WITNESS:**

1. \_\_\_\_\_ PURCHASER

2. \_\_\_\_\_ PURCHASER

THUS DONE AND SIGNED BY THE SELLER AT \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_\_.

**AS WITNESS:**

1. \_\_\_\_\_

2. \_\_\_\_\_ SELLER/DEVELOPER

We hereby accept the benefit of this contract (*stipulato alterii*)

\_\_\_\_\_  
q.q. AGENT

DETAILS OF PURCHASER  
THE FOLLOWING INFORMATION IS REQUIRED FOR THE PURPOSE OF TRANSFER AND  
REGISTRATION OF A MORTGAGE BOND

Full names:

\_\_\_\_\_

Date of birth:

\_\_\_\_\_

Identity number:

\_\_\_\_\_

Marital status i.e. married, single, divorced, widowed:

\_\_\_\_\_

How married, i.e. ANC/Married in community of property:

\_\_\_\_\_

Country of marriage:

\_\_\_\_\_

Date married:

\_\_\_\_\_

Present Physical address:

\_\_\_\_\_

Postal  
address: \_\_\_\_\_

Telephone: (home) \_\_\_\_\_ (work)

\_\_\_\_\_

Occupation: \_\_\_\_\_

\_\_\_\_\_



Business address:

\_\_\_\_\_

Telephone:

\_\_\_\_\_

Fax

No: \_\_\_\_\_

Email address:

\_\_\_\_\_

Cell phone no:

\_\_\_\_\_

Spouse's Full names:

\_\_\_\_\_

Date of

Birth: \_\_\_\_\_

I.D.

No: \_\_\_\_\_

Present physical address:

\_\_\_\_\_

Postal address:

\_\_\_\_\_

Telephone: (home) \_\_\_\_\_ (work)

\_\_\_\_\_

Occupation: \_\_\_\_\_

\_\_\_\_\_

Business

address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_

Fax

No: \_\_\_\_\_

Cell phone no:

\_\_\_\_\_

Name of bank to which application made for mortgage finance:

\_\_\_\_\_

Name and telephone number of bond consultant:

\_\_\_\_\_