

# OFFER TO PURCHASE

ENTERED INTO BY AND BETWEEN:

Registration No. \_\_\_\_\_

Represented by **Lourens Andries Cilliers** in his capacity as Director

And duly authorized thereto by a resolution

OF

**Farm "Kromrivier"**

**District Rustenburg**

**0300**

(hereinafter referred to as the "**SELLER**")

AND

.....  
Identity Number: .....

and

.....  
Identity / Registration Number: .....

(full names of **PURCHASER**)

OF

.....  
.....  
.....

(address **PURCHASER**, as per clause 15)

(hereinafter referred to as the "**PURCHASER**")

THE **PURCHASER** HEREBY OFFERS TO PURCHASE "THE **PROPERTY**" AS DESCRIBED IN CLAUSE 1. HEREUNDER:

## 1 **DEFINITIONS**

In this Agreement, unless otherwise indicated, or inconsistent with the content, the following words and expressions shall have the meaning assigned to them hereunder, namely:

1.1 "the **ACT**" means the Sectional Title Act, 1986 and any regulations made there under; as amended from time to time;

1.2 "the **SECTION**" means the Section highlighted in Annexure "**C**" in the complex known as "....." situated on ....., with floor area approximately ..... square meters as well as the exclusive use area allocated to the unit.

1.3.1 "the **UNIT**" means the section number ..... together with its undivided share in the common property apportioned to the section in accordance with the participation quota of the section , as will be fully set out on the Land Surveyor/or general plans;

1.3.2 this "**exclusive use**" area meant that part of the common property for the exclusive use of the **PURCHASER** allocated to the section described as Garden No. \_\_\_\_\_ measuring approximately \_\_\_\_\_ square meters.

1.4 "the **PROPERTY**" means the unit as well as the exclusive use area;

- 1.5 "the **PLAN**" means the floor plan relating to the unit attached to this Agreement marked Annexure "**A**" read with the schedule of finishes marked Annexure "**B**" and layout plan of the developments, also attached, marked Annexure "**C**" list of extras marked Annexure "**D**".
- 1.6 "the **ATTORNEYS**" means; VON WIELLIGH INCORPORATED, 38 South Block, @ Office, 67 Brink Street, Rustenburg.
- 1.7 "**BODY CORPORATE**" means that the group of persons who all are or are to be owners of units in the complex, and of which body the **PURCHASER** will automatically become a member once the unit is transferred into his/her name, and which body corporate's functions and duties are described in the Act;
- 1.8 "**COMMON PROPERTY**" means the area as defined in the Act, which are owned and used by the owners jointly;
- 1.9 "**MANAGING AGENT**" means a person who may be appointed by the **SELLER** or body corporate to manage and/or to be a caretaker of the complex;
- 1.10 "**PARTICIPATION QUOTA**" means that part or portion of the owner's rights and obligations regarding the scheme, as described in terms of the Act and as recorded against the section title plan;
- 1.11 "**SECTIONAL TITLE PLAN**" means a plan of the scheme which plan is to be finally approved and registered in terms of the Act;
- 1.12 "**SECTIONAL TITLE REGISTER**" means that register to be opened in the Deeds Office, after which transfer of units can be given to individual purchasers;
- 1.13 "**APPROVAL IN PRINCIPAL**" of the bond shall mean the approval of a bond as contemplated in clause 18 hereof, subject only to the

inspection of the building, taking place as soon as possible;

1.14 "**FINAL APPROVAL**" of the bond shall mean the approval by the bank's building inspector of the completed unit;

1.15 In this Agreement and its annexures, unless contrary to the subject or context, the following shall apply: words signifying the singular numbers shall include the plural and vice versa; reference to the masculine gender shall include the female and vice versa; reference to a person shall include reference to a company, close corporation or an association or persons.

2 **SALE**

2.3 The **SELLER** hereby sells the **PROPERTY** to the **PURCHASER** who hereby purchases the **PROPERTY**.

2.4 The **PROPERTY** is sold subject to all the conditions and servitudes applicable thereto whether contained or referenced to in or endorsed against the current and/or prior Title Deeds.

3 **PURCHASE PRICE**

The total and final purchase price of the property is  
R.....  
(..... **RAND**)

## **TERMS OF PAYMENT**

The purchase price shall be paid by the **PURCHASER** free of exchange as follows:

### **4.1 R..... (..... RAND)**

(initial deposit) in cash within 2 days from signing of this offer to be deposited with the ATTORNEYS who shall hold the money in a trust account, and pay these amounts to the **SELLER** when the **SELLER** is legally entitled to receive the deposit. The **PURCHASER** authorizes the said Attorneys to invest these monies on his behalf as soon as they receive a letter from the financial Institution confirming that the loan has been granted to him in principle, or in the case of a cash transaction, on receipt of the initial deposit on the specific understanding that the interest on this initial deposit, when so invested, shall accrue for the **PURCHASER'S** benefits,

### **4.2R..... (..... RAND) (bond**

amount as contemplated in Clause 17 hereof) is to be secured by means of a guarantee or guarantees to be provided by the Building Society or Bank approving such bond. Subject only to final building inspection, to the said Attorneys within TWENTY ONE (21) days after the principle approval of such bond.

**4.3** Should the **PURCHASER** obtain his finance as contemplated in Clause 4.2 the **PURCHASER** shall within TWENTY ONE (21) days after the approval of such bond, lodge with the Attorneys a guarantee or guarantees which shall:

**4.3.1** be issued by an Institution or Institutions, the terms and conditions of which shall be reasonably acceptable to the **SELLER** (or the Attorney on his behalf); and

**4.3.2** secure payment of the said balance to the **SELLER** and/or his nominee/s on registration of transfer of the **PROPERTY** in the name of the **PURCHASER** and registration of a mortgage bond, if applicable;

**4.4** Should this be a cash transaction, the full amount after the deposit referred to in Clause 4.1 has been deducted ("the cash amount") or alternatively, a guarantee for the full balance outstanding, should be paid or lodged with the Attorneys within 21 days of signature of this Agreement.

**4.4.1** In the case of the cash being paid to the Attorney the **PURCHASER** authorizes the said Attorneys to invest these monies on his behalf upon receipt by them of the cash amount, on the specific understanding that the interest on this cash amount, when so invested, shall accrues for the **PURCHASER'S** benefit; and

**4.5** In event of this Agreement being cancelled, and the **PURCHASER** is the effective cause of such cancellation then the **PURCHASER** shall forfeit all rights of whatever nature against the **SELLER** for the refund of the deposit paid by the **PURCHASER** in terms of clause 4.1 and the **SELLER** shall be under no obligation whatsoever to repay the said deposit. Should the **PURCHASER** not be able to effect a loan as referred to in Clause 4.3, the deposit already paid shall be retained by the **SELLER**.

## **5 TRANSFER**

**5.1** Transfer of the **PROPERTY** shall be effected by the Attorneys, within a reasonable time after the **PURCHASER** has complied with the terms of Clause 4 hereof.

**5.2** The **PURCHASER** shall be liable and obliged to pay VAT, and all other costs of transfer and matters incidental thereto.

**5.3** The **PURCHASER** shall be liable for bond attorney registration fees with the understanding that the Attorneys as per Clause 1.6 shall be attending to the bond registration, failing which the **PURCHASER** shall be liable for payment of

bond registration costs and costs incidental thereto.

**5.4** The **PURCHASER** acknowledge that transfer will not be given until the sectional title register has been opened and he shall not be entitled on the strength of such register not having been opened to cancel this agreement.

## **6 DEFAULT OF PURCHASER**

**6.1** Should either party breach any of their terms of this Agreement and fail to remedy that breach within SEVEN (7) days after posting to him by prepaid registered post, a written notice addressed to him requesting him to do so, the aggrieved party shall be entitled, without prejudice to another right which he may have on account of such breach, either

**6.1.1** to claim immediate payment of all payments payable in terms of this Agreement, irrespective of whether such amounts are then due or not, or

**6.1.2** to cancel this Agreement with immediate effect by notice in writing to the defaulting party and claim damages.

**6.2** Should the **SELLER** cancel the Agreement in terms of 6.1:

**6.2.1** The **PURCHASER** shall, at the **PURCHASER'S** own costs, restore possession and occupation of the **PROPERTY** to the **SELLER** in the same condition as it was when the **PURCHASER** first took occupation together with any improvements thereon and shall have no claim for compensation in respect of any improvements.

**7 COOLING OFF PERIOD** (delete if not applicable)

7.1 Cooling off period. (Only applicable if the purchase price is below R250 000-00)

"The parties attention is drawn to the fact that Section 29A of the Land Act of 1981 to this agreement, if the **PURCHASER** is a natural person. Under such circumstance, notwithstanding any other clause in this contract, the **PURCHASER** has the right to revoke this offer or terminate this agreement by written notice to be delivered to the **SELLER**, or his or her agent, on or before midnight on .....

7.2 the notice is signed by the **PURCHASER** or his or her agent acting on his/her authority; and

7.3 refers to this offer or agreement as the offer or agreement that is being revoked or terminated as the case may be; and

7.4 is unconditional.

**8 POSSESSION AND RISK**

Possession of the **PROPERTY** shall be given to the **PURCHASER** on transfer, and from which date -

8.1 The benefits and risk of ownership of the **PROPERTY** shall pass to the **PURCHASER**.

8.2 Pending transfer and payment of the purchase price, the **PURCHASER** shall maintain the unit in a thorough state of repair and in a clean and tidy condition from date of occupation.

## 9 OCCUPATION AND OCCUPATIONAL RENTAL

9.1 The **PURCHASER** shall take occupation of the property on the date he has signed a certificate of satisfaction with the financial institution which approved his loan or, on date of registration of the property which ever is the earliest.

9.2 If the **PURCHASER** takes occupation prior to the date of registration of the property, he shall pay the Developer R..... (..... **RAND**) per month FROM DATE OF OCCUPATION TO DATE OF TRANSFER. Such amount to be paid monthly in advance and shall be abated pro rata for any fraction of a month.

9.3 If the **PURCHASER** fails to pay occupational rental referred to above, the **SELLER** shall, without prejudice to any rights in terms of this Agreement, be entitled to pay such amounts and forthwith to recover from the **PURCHASER** the amounts disbursed with interest thereon at the rate of TWENTY PERCENTRUM (20%) per annum from date of paying such amounts to the date of repayment.

9.4 The **SELLER** either personally or through its servants or agent, shall be entitled at all reasonable times to have access to the section for the purpose of inspecting it or carry out any maintenance or repairs which the **SELLER** may in terms hereof be obligated 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 of his occupation arising out of the exercise by the **SELLER** or Developer of the rights hereby conferred.

9.5 Notwithstanding anything contained herein to the contrary, should the sale not proceed or the bond not be granted as set out in Clause 18 hereof, the **PURCHASER** shall be liable for occupational interest if occupation of the unit was taken.

9.6 The **PURCHASER** shall within FOURTEEN (14) days from the date of occupation deliver to the **SELLER** ONE FINAL LIST signed by himself

enumerating any items in the section requiring repair by the **SELLER** and upon repair of such items as reasonably require repair, (the **PURCHASER** shall be deemed to have accepted that the section is in a fit and proper in all respects.

**9.7** Should the **SELLER** for any reason beyond his control not be in a position to give the **PURCHASER** occupation of the unit by the date of registration, the **PURCHASER** shall have no claim of any kind against the **SELLER** arising from late occupation, or be entitled to claim cancellation.

## **10 MANAGEMENT AND CONDUCT RULES**

**10.1** The buildings and the land shall be controlled and managed by the Management Rules prescribed by regulation in terms of the Sectional Titles Act for which other rules may be submitted by the **SELLER** to the extent prescribed by such regulation when submitting the application for the opening of the Sectional Title Register. The **PURCHASER** undertakes to strictly adhere to these rules while he is in occupation of the unit, even if such rules have not yet been formally approved and adopted by the body corporate. They will also apply to anyone residing or being present in the section or the complex.

**10.2** The **PURCHASER** agrees that the **SELLER** be entitled to put him out of the unit, claim repossession and cancel the Agreement if he does not act in accordance with the draft management rules prior to taking transfer of the unit.

**10.3** After transfer of the unit, the **PURCHASER** understand that by law the management and conduct rules will be adopted by the body corporate and that these rules will apply to him as well as all residents in the complex.

## **11 CESSION**

During the subsistence of this Agreement, the **PURCHASER** shall not cede, assign, make over or otherwise alienate any of his rights under this Agreement, nor shall he sell, alienate, lease or in any other way deal with the **PROPERTY** or any portion thereof without the **SELLER'S** consent, which shall not be unreasonably withheld.

## **12 SECTIONAL TITLE REGISTER AND TRANSFER OF UNITS**

- 12.1** The Sectional Title Register has not yet been opened at the time when the **PURCHASER** is making this offer and the **SELLER** shall take all steps necessary for the opening of the Sectional Title Register. The **SELLER**, however, warrants that the Sectional Title Register shall be opened as soon as possible.
- 12.2** The **PURCHASER** understands and agrees that it will not be possible for the **SELLER** to give transfer of the **PURCHASER'S** unit until the Sectional Title Register has been opened and the **PURCHASER** accepts that he will not be entitled to claim cancellation of this Agreement or damages from the **SELLER** should the opening of the Sectional Title Register, for whatever reason, be delayed.
- 12.3** Once the Sectional Title Register has been opened and all of the amounts in Clause 4 have been paid or secured, the **SELLER**, through the Attorneys shall transfer ownership of the unit to the **PURCHASER**. The **PURCHASER** undertakes to, on request, promptly sign all documents prepared by the Attorneys for transfer.
- 12.4** A reasonable variation of the total area or size of the section shall be allowed, by comparing the size and description of the section as depicted in terms of the site development plan and, schedules attached hereto, and the actual section (building) when completed, and no

compensation shall be payable by the **SELLER** to the **PURCHASER** or vice versa, should such a reasonable variation of difference in size occur.

- 12.5** The **PURCHASER** also agrees and undertakes that the **SELLER** may change and vary the number of the different types of section (i.e. the number of bedrooms, pertaining to each section, etc.) according to market demand as is reflected in the site development plan, and that such variations shall not entitle the **PURCHASER** to have any claim against the **SELLER**. However, it is understood that the actual number of units in the phase shall remain the same or may be reduced only as specifically described on the draft sectional title plan as and when such plan is submitted to the (surveyor-general) for approval. Such variations shall specifically apply and influence the **PURCHASER'S** participation quota.
- 12.6** Once the unit has been transferred into the **PURCHASER'S** name, he will have to pay levies based on his participation quota. This is his pro rata share of the body corporate expenses pertaining to the complex and also entitles the **PURCHASER** to his share of a vote/s as a member of the body corporate and which may be modified from time to time in accordance with the Act.
- 12.7** The **PURCHASER** confirms that he will not have a claim against the **SELLER** for any problem regarding access, disturbance of service, of service, damages or delays caused by the building operations. The **PURCHASER** further acknowledges and takes cognizance of the fact that the **PROPERTY** description of the **PROPERTY** or the name of the development, may be changed by the (Local Authority) or the Surveyor General, which would result in an amendment of the **PROPERTY** description in this Agreement.

### **13 VARIATIONS**

- 13.1** Any latitude or extension of time, which may be allowed by the **SELLER** to the **PURCHASER** in respect of any payment provided for herein, or any matter or thing, which the **PURCHASER** is bound to perform or observe in terms hereof, shall not in any circumstances be deemed to be a waiver of the **SELLER'S** rights at any time. To require strict and punctual compliance with each and every provision or terms hereof.
- 13.2** Any agreement between the **PURCHASER** and the **SELLER** to cancel, alter or add to this agreement, shall not be binding and shall be of no force or effect, unless reduced to writing and signed by the parties hereto before witnesses.

### **14 DOMICILIUM**

- 14.1** The parties hereby choose *domicilium citandi et executandi* for the delivery of all notices and/or processes arising here from at the addresses set out by them in the preamble hereto, provided that after the date of occupation, the section shall be the domicilium citandi et executandi of the **PURCHASER**..

### **15 FIXTURES AND FITTINGS**

The **PROPERTY** is sold inclusive of all the finishes as set out in Annexure "B" attached hereto.

### **16 WARRANTIES**

Subject to the provisions hereunder set out, the **PURCHASER** agrees that the **PROPERTY** is sold "voetstoots" to him. The **SELLER** shall not be liable for any

defect, latent or patent, except in terms of the hereinafter-mentioned conditions. The **SELLER**, however, gives the following undertakings:

- 16.1** The **SELLER** shall make good or cause to be made good at the cost of the **SELLER** any leakage in the roof of the building arising from faulty materials or workmanship occurring within TWELVE (12) months after the date of completion, as per the general standards and requirements laid down by the National Home Builders Registration Council (NHBRC).
- 16.2** The **SELLER** will on date of registration, make available to the **PURCHASER** a five year NHBRC warranty on structural integrity.
- 16.3** The **SELLER** agrees to take such steps as may be necessary to apply for and shall obtain the approval of the scheme and the establishment of a Sectional Title Register and to take all steps necessary to effect transfer of the freehold title of the unit to the **PURCHASER** in the manner provided in the Sectional Title Act,
- 16.4** The **SELLER** undertakes to make available the warranties on the geysers, ovens and hobs to the respective **PURCHASER'S** on registration of transfer.
- 16.5** The **SELLER** reserves the right to make minor alterations, which will not affect the value of the **PROPERTY** negatively, if he so deems fit.

## **17 BOND FINANCE**

- 17.1** The Offer to Purchase shall be subject to the suspensive condition that the **PURCHASER** (or **SELLER** or his agent) is able to have an in principal loan approved upon the security of a First Mortgage bond over

the **PROPERTY** for the sum not less than R.....  
 (..... **RAND**) at market related  
 Building Society or bank rates and conditions within FOURTEEN (14)  
 days after the date of acceptance of this Agreement (which time may be  
 extended by the **SELLER** at the **SELLER'S** sole option).

- 17.2** By affixing his signature to this offer to purchase the **PURCHASER** also, without detracting from his own obligations in any way whatsoever, irrevocably appoints the **SELLER** and/or its appointed agent to act on his behalf to make application for a loan as described in Clause 18.1 above. In this regard, the **PURCHASER** specifically agrees to sign all documents and do all that is necessary to be done to complete such allocation as may be required by the financial institution to which includes, but not limited to, the disclosures of his banking details, his salary/income and any other credit related details pertaining to his financial affairs. Failure on the **PURCHASER'S** part to cooperate in this respect will specifically entitle the **SELLER** to claim retention and ownership of the **PURCHASER'S** deposit, as being the **SELLER'S** agreed fair and reasonable costs and damages suffered by him as a result of the **PURCHASER'S** failure to perform and he hereby waives, and shall not be entitled, to claim his deposit. The condition shall be deemed to have been fulfilled if advice is given by the **SELLER**, or the **PURCHASER** in the case where the **SELLER** or his agent applied for the loan on the **PURCHASER'S** behalf, that the loan within the meaning of this clause has been approved in principle by the proposed Mortgage and the advance will be made subject to the availability of the necessary funds to the proposed Mortgagor.

## **18 ACCELERATION**

In the event of any one payment not being paid on due date, then and in that event, the full amount then outstanding will immediately become due and payable.

## **19 CERTIFICATE**

A certificate signed by the **SELLER** (whose qualifications need not be proved) in terms of which the **PURCHASER'S** indebtedness as set out shall, together with this document, constitute prima facie evidence of the **PURCHASER'S** indebtedness unto the **SELLER**, and shall serve as a legal document in any competent court having jurisdiction for the purposes of judgment and/or summary judgment.

## **20 OBLIGATIONS**

Notwithstanding anything contained herein or otherwise, the **SELLER** shall not be obliged to give the **PURCHASER** occupation of the **PROPERTY** or transfer of the property into the name of the **PURCHASER** if any obligation of nature has not been met by the **PURCHASER** in terms of this Agreement.

## **21 MAGISTRATE'S COURT JURISDICTION**

Should any legal action arise from this Agreement, that is, should the **PURCHASER** or the **SELLER** for some reason or another take the matter to Court, then the **PURCHASER** consents to the jurisdiction of the Magistrate's Court to deal with this matter irrespective of the amounts involved. The consent is made in terms of section 45 of the Magistrate's Court Act as amended.

## **22 SCHEDULES**

All schedules attached hereto form an integral part of this Agreement.

## **23 PURCHASER'S CAPACITY AND RESPONSIBILITY**

Should the **PURCHASER** be:

- 23.1** a married person, the **PURCHASER** warrants that his/her spouse shall forthwith countersign this Agreement where indicated at the foot hereof if needs be, and thereby contractually assist the **PURCHASER** herein as far as may be necessary, if at all. The **PURCHASER'S** spouse shall also sign as surety and co-principal debtor in solidum in respect of the loan referred to under Clause 18, if such signature is required by the Mortgage/s granting the said loan;
- 23.2** a plurality of persons, their obligations arising from this Agreement shall be joint and several;
- 23.3** a company, close corporation, trust or a principal represented herein by an agent or a ward represented by a guardian or tutor; the person signing this offer on behalf of the **PURCHASER** hereby interposes and binds himself as surety for a co-principal debtor with the **PURCHASER** for the due and proper discharge of all the **PURCHASER'S** obligations arising from this Agreement, and further hereby undertakes to sign all documents of surety-ship, co-principal debtor-ship, or otherwise which may be required by any mortgage/s contemplated in this Agreement so as to ensure the fulfillment of any condition/s which this Agreement may be subject;
- 23.4** signing on behalf of a nominee and the nominee fails to accept nomination, and then the signatory hereto binds himself to this Agreement;
- 23.5** a person in his capacity as trustee for a company or close corporation to be formed, such persons in his personal capacity shall:

- 23.5.1** until the proposed company or close corporation is formed and **PROPERTY** adopts and ratifies this Agreement be and have the rights and obligations of the **PURCHASER** hereunder, and
- 23.5.2** bind himself (and by his signature hereto does so) as surety for a co-principal debtor in solidum, jointly and severally, with such company or close corporation in favor of the **SELLER** for all the obligations of such company or close corporations arising herefrom; and
- 23.5.3** sign all documents of surety-ship, co-principal debtors, or otherwise which may be required by any mortgage/s contemplated in this Agreement so as to ensure the fulfillment of any condition/s to which this Agreement may be subject.

**24. EXTENSION OF SCHEME** (only applicable to phased developments)

It is hereby recorded that the developer has a real right to extend the Scheme pursuant to the provisions of Section 25 of the Sectional Title Act of 1986.

**25. PURCHASER ON BEHALF OF A LEGAL ENTITY**

Should the **PURCHASER** purchase the **PROPERTY** on behalf of a Close Corporate or Company which at time of signing this Agreement is not yet formed, then such Close Corporation or Company (or Trust) must be registered within 60 (sixty) days from signing of this offer, if not, the **PURCHASER** shall be obliged to take transfer of the **PROPERTY** in his personal capacity and arrange all finance accordingly.



**SELLER/S AND/OR SPOUSE**

THUS DONE AND SIGNED BY THE SELLER at \_\_\_\_\_ ON  
\_\_\_\_\_ in the year **2010**.

**AS WITNESSES:**

1. \_\_\_\_\_  
\_\_\_\_\_ duly authorized **SELLER**

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