

AGREEMENT	UNIT



Oostvallei

Oostvallei
RETIREMENT VILLAGE
AGREEMENT



AGREEMENT

TO OBTAIN THE RIGHT OF LIFE-LONG OCCUPATION IN TERMS OF THE ACT ON HOUSING DEVELOPMENT SCHEMES FOR RETIRED PERSONS NO. 65 OF 1988, AS AMENDED, AND THE REGULATIONS ISSUED IN TERMS OF SECTION 11 OF THE ACT.

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN THE DEVELOPER:

OOSTVALLEI® (PROPRIETARY) LIMITED

REGISTRATION NUMBER 1987/ 05884/ 07

Business address:

657 COLEY STREET
GARSFONTEIN
PRETORIA

(Hereafter called the "**OWNER**")

AND

THE PERSON OR PERSONS AS STATED IN ANNEXURE "A" ATTACHED, BEING THE HOLDER(S) OF THE RIGHT OF OCCUPATION IN TERMS OF THIS AGREEMENT.

(Hereafter called the "**RESIDENT(S)**")

THE ABOVE-MENTIONED PARTIES HEREWITH AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1 **"ACT"** shall mean the **act** on Housing Development Schemes for Retired Persons No. 65 of 1988, as amended, and the Regulations issued in terms of section 11 of the **act**.
- 1.2 **"ANNEXURE"** shall mean the attached and fully signed annexures that form part of this **agreement**.
- 1.3 **"DATE OF OCCUPATION"** shall mean seven (7) working days after the **payment date** as per **annexure "B"**, on which day the keys to the **unit** will be handed over – which day shall under no circumstances (irrespective of the agreed **payment date** in **annexure "B"**) be before the full **loan** amount has been settled.
- 1.4 **"ENTRANCE FEE"** shall mean the amount mentioned in **annexure "B"**, which amount shall be applied by and at the discretion of the **owner** for amongst other the repair of the **unit** before occupation by the next **resident**. The entrance fee, after payment thereof, shall under no circumstances be refundable.
- 1.5 **"EQUIPMENT"** shall mean the fixed and movable **equipment** and any vehicles at the **village** financed or provided by the **owner**.
- 1.6 **"FACILITIES"** shall mean the common buildings, rooms and open spaces at the **village** that may be utilised by all.
- 1.7 **"INTEREST"** shall mean **interest** on any amount due or in arrears in terms of this **agreement** (including levies and special contributions), at the rate of 20% per year, from the date on which payment should have taken place to the date on which such amount is recovered.
- 1.8 **"LEVY"** shall mean the monthly contributions to the **levy** fund instituted by **management** for covering the costs of any repairs, maintenance, control, management and administration to and of the **village**, including a reasonable provision for future maintenance, repairs and improvements; for paying rates and taxes calculated in proportion to the area of and number of occupants in each **unit**; for providing electricity, telephone line rental, water, fuel, sanitary and other services for the common use of the **residents**, as well as insurance premiums, security services and other collective financial obligations that **management** may have.
- 1.9 **"LOAN"** shall mean the amount lent by the **resident** to the **owner** without **interest** in compensation for the right to occupy and utilise the **unit** and **village** with its **facilities**.
- 1.10 **"MANAGEMENT"** shall mean, for the purposes of this **agreement**, the **management association** and/or the **management committee** and/or the managing agent, who may be a person or a company, appointed by the **management association** in terms of the **act** and authorised to handle the **management committee's** affairs.
- 1.11 **"MANAGEMENT ASSOCIATION"** shall mean the association of which each **resident** and the **owner**, if he holds a **unit** that has not been alienated, shall be a member.

- 1.12 **"MANAGEMENT COMMITTEE"** shall mean the **committee** of the **management association** consisting of members elected by the **management association** at a General Meeting and who have been appointed to manage, control and administer the **village**.
- 1.13 **"OWNER"** shall mean the company Oostvallei® (Proprietary) Limited, as the developer and registered **owner** of the **property**, who has developed the village, brought it to operation and provided the **equipment**.
- 1.14 **"PROPERTY"** shall mean Erf 4137, situated on Coley and Serene streets in the town Garsfontein Extension 17, Pretoria, Gauteng, measuring 5,1093 hectare; held by deed of transfer T20558/1992.
- 1.15 **"PAYMENT DATE"** shall mean the date as agreed upon in **annexure "B"**.
- 1.16 **"RESIDENT"** is a reference to the person or persons as stated in annexure "A" attached in this agreement.
- 1.17 **"REPAYMENT ACCOUNT"** shall mean the bank account as described in annexure "B", of which the details can only be amended in writing by all the residents who are still alive at that stage.
- 1.18 **"REPAYMENT DATE"** shall mean six (6) calendar months after **termination date**.
- 1.19 **"RULES"** shall mean the internal rules laid down for the control, management, administration and maintenance of the **village** in terms of the act and the **management association's** constitution as amended from time to time.
- 1.20 **"SPECIAL CONTRIBUTION"** shall mean the monthly or once-off cost contribution for services and amenities which are not equally used by all the **residents**, such as household electricity (basic and consumption), a special contribution for units adjacent the water streams and nature reserve, telephone call costs, additional domestic help and gardening services, refreshments, compulsory meals, refreshments, contribution to the health care plan and emergency communication system, electrical, water and telephone connection fee, transport with the **village's** minibus and other extraordinary cost contributions as determined by **management** from time to time.
- 1.21 **"SUBTRACTIONS"** shall mean any arrears in **levies** or **special contributions**, debt, **interest** and any remuneration for damage caused to the **property, village** or **unit**.
- 1.22 **"TERMINATION DATE"** shall mean either the last day of the calendar month in which the **unit** is **vacated** and returned in a clean and good state of repair with the signed return keylist including all keys, and as accepted by the **owner**, or the last day of the third calendar month following receipt of notice of cancellation or the death of the **resident**, whichever day is the latter.
- 1.23 **"UNIT"** shall mean the house and garage, if applicable, which the **resident** will occupy in terms of this **agreement**.
- 1.24 **"VACATE"** shall mean to vacate the **unit** in an empty and clean condition with the handing in of the signed return keylist.

- 1.25 "**VILLAGE**" shall mean the Oostvallei® Retirement Village that was erected and commenced operation on the **property**, with its **facilities** and **equipment**.

Take note that all words appearing in bold writing in this **agreement** refer to words as described in clause 1. under definitions.

2. JOINT CONFIRMATION

- 2.1 The parties confirm that the basis of this **agreement** is primarily to offer the **resident** a life-long right of occupation against compensation in the form of an interest-free **loan** by the **resident** to the **owner**. This **agreement** by no means signifies a deed of sale or that a lease agreement shall be concluded or may arise herefrom.
- 2.2 Words defined in the **act** carry corresponding meanings in this **agreement**, unless otherwise stipulated.
- 2.3 Any reference in this **agreement** to one gender shall include the other, and any reference to the singular shall include the plural, and vice versa.

3. CONFIRMATION BY THE OWNER

The **owner** confirms and guarantees that;

- 3.1 subject to the conditions of this **agreement**, the **rules** and the constitution, the **resident** has the right to occupy the **unit** and utilise and enjoy the common **facilities** at the **village** from the **date of occupation** until the **termination date**;
- 3.2 apart from the **levy** and **special contribution**, the **resident** shall not be liable for any further running expenses;
- 3.3 only life-long right of occupation in respect of any **unit** shall be granted to at the most two legally married or blood related people per **unit**, of which both must be between 50 and 80 years of age at signing of this **agreement**;
- 3.4 the title deed of the **property** has been endorsed at the deeds-office to signify that the **property** is the subject of a housing development scheme. The **act** stipulates that, as the **resident's** security, this endorsement shall take precedence over any other possible creditor. The housing interest therefore need not be registered and in fact can not be registered.
- 3.5 additional **facilities** include a main building with an assembly-hall and stage, dining-hall with a serving area, kitchen with store rooms, lounge area, library, committee room, administrative offices, additional equipment, parking areas, additional store rooms, servants' quarters and landscaping.
- 3.6 the **village** includes a care unit consisting of a reception area, consulting room, eight rooms with beds and additional **equipment**.
- 3.7 the **owner** is responsible for the costs of the drawing up of this **agreement** in its standard printed form. In the event of the **resident** desiring changes to be made, the **resident** shall be responsible for the costs of such changes, including his own legal expenses and that of the **owners** attorney for consultations, negotiations, correspondence, attendance at signing, etc.

4. THE RESIDENT'S LIABILITY

- 4.1 If the **resident** in terms of this **agreement** comprises two people, then;
- 4.1.1 each one of them shall be jointly and severally liable for the **resident's** obligations and the rights and obligations shall not be divisible;
 - 4.1.2 both confirm that, by signing this **agreement**, they have entered into an agreement between them to the effect that, should one of them pass away, the surviving resident shall acquire the rights and obligations of the deceased in terms of this **agreement**, and that the **loan** shall only be repayable upon cancellation by or the death of the surviving **resident**;
 - 4.1.3 any written or verbal **agreement** or undertaking made by one of them with the **owner** or **management** shall be binding on the other person and fulfilment by the **owner** and **management** of their obligations towards one person shall be deemed to also be fulfilment towards the other;
 - 4.1.4 one **resident** shall be personally liable by signing this **agreement** supported by the other **resident**, and shall be deemed to **act** as surety and co-principal debtor in solidum for the fulfilment by the **resident** of all his obligations in terms of this **agreement**.
- 4.2 The **resident** hereby waives all claims of whatever nature against the **owner** or **management** for any defect, loss, damage or consequential damage to his property or his person which may occur at the **village**. Including any damage or loss he may incur with providing any personal details as well as any details of family, friends, guardians or institutions which will be stored electronically or otherwise by the **owner**, the **management** or the care unit. All the information will be handled confidentially and will not be handed to a third party without prior notice to the **resident**.
- 4.3 The **resident** shall be obliged to make sure that he and everyone living at or visiting the **village** on his behalf shall at all times obey the internal **rules**. The **resident** shall further be liable for any failure on the part of his visitors and employees to obey the **rules** and regulations of the **village**.
- 4.4 The **resident** confirms that he, or both of them if the **resident** comprises two people, are not physically frail and that at the date of signature both of them are capable of taking care of themselves.

5. THE RESIDENT'S OBLIGATIONS

- 5.1 The **resident** has the following financial obligations and shall;
- 5.1.1 upon signing this **agreement** pay the **owner** an **entrance fee** as stated in **annexure "B"**, which **entrance fee** shall not be refundable under any circumstances;
 - 5.1.2 before or on the **date of occupation** mentioned in **annexure "B"**, grant the **owner** the **loan**, which shall be repayable after the **termination date** as stipulated in clause 9.1; if the loan has not been paid before or on the **payment date**, it shall be dealt with as stipulated in clause 1.7 and 5.1.3.

- 5.1.3 from the **payment date** mentioned in **annexure "B"** until the **termination date**, pay **management** the **levy** and the **special contribution**;
- 5.1.4 from the **termination date** until the **repayment date**, pay the **management** the normal **levy** calculated as on **termination date**, excluding the **special contribution**, before or on the **termination date**, which **levy** is being calculated as on **termination date**.
- 5.1.5 pay a monthly **special contribution** to the **management** per **unit** that is situated adjacent the water stream or the nature reserve;
- 5.1.6 pay the cost of six weekday meals per **resident** per month to the **management** regardless whether the meals are taken or not;
- 5.1.7 participate in the health care plan and pay the monthly charges for it per **resident** to the **management**;
- 5.1.8 pay a once off amount to the **management** in respect of the emergency communication system, manuals and other documentation;
- 5.1.9 pay a once off amount in respect of the electrical and water connection to the **unit** which is not refundable;
- 5.1.10 pay a once off amount in respect of the telephone connection to the **unit** which is not refundable;
- 5.1.11 be liable for the payment of **interest** on any amounts that are, in conflict with this **agreement**, outstanding or in arrears for whatever reason;
- 5.1.12 at his own cost maintain and repair, to the reasonable satisfaction of the **owner**, the interior of the **unit** and the doors, skylights and windows, also on the outside, the patios, awnings, patio roofs, gates, hot water geysers - inside or outside on the roof, lights, satellite dishes and any other fixtures, as well as sewerage and water installations attached to the **unit** or draining away from it.
- 5.2 If the **resident** neglects and/or fails to meet his obligations with regard to repairs and maintenance as stated in clause 5.1.12 above, or to return the **unit** in a proper condition after the **termination date**, the **owner** shall be entitled to have the necessary work done at his discretion and reclaim from or discount against the **resident** the cost of such work, together with **interest** thereon.
- 5.3 The **resident** may not without prior written permission from the **owner** in any way change the **unit**, or add to it, attach to it, damage it or remove anything, including plants and trees. In the case of removing, replanting or relocating, or even the intentional damage of plants or trees, the **resident** will be held responsible for the cost of the replacement thereof. Despite such permission any changes or additions shall become the sole **property** of the **owner** on the **termination date**, without any compensation payable.
- 5.4 The **resident** may not let the **unit** or allow other people to occupy it.

6. THE OWNER'S RIGHTS

- 6.1 The **property** with all buildings, structures, **equipment** and plants financed or installed by the **owner**, the **management** or the **resident** as well as any other improvements and fixtures to the buildings and **units** installed with or without permission, shall become and at all times remain the property of the **owner**.
- 6.2 The **owner** takes no responsibility for the actions of **management** or its employees or contractors. If any action or decision by **management** is or will be in conflict with the terms and contents of this **agreement**, the provisions of this **agreement** shall take precedence and both the **owner** and the **resident** shall first and foremost be responsible and liable to one another in terms of this **agreement**.
- 6.3 The **owner**, his representatives and labourers shall at all times be entitled to enter the **unit**, the **property**, the **village** and its **facilities** and to add, improve or remove any additions.

7. MANAGEMENT'S OBLIGATIONS

- 7.1 **Management**, and not the **owner**, is responsible for the control, management and administrative matters of the **village**. **Management's** duties are explained in detail in the **act**, and include the following:
- 7.1.1 to once a year or more often, if required, draw up a budget for expected expenses and on this basis submit for approval to the General Meeting the amounts calculated for the **levy** and the **special contribution**;
- 7.1.2 to continuously adapt the **rules** where reasonably required so that **residents** may enjoy the maximum benefit from the **village**;
- 7.1.3 to institute on behalf of the **management association** any legal or other action or to recover in any legal way from the **resident** any **levy** amounts in arrears plus **interest**, or to suspend or deny services and **facilities** to a **resident** who is in default;
- 7.1.4 to undertake or have done the functional and financial management, operation, administration and the maintenance of the **village** and its **facilities, equipment** and the exterior only of the **units**, to have the buildings and vehicles insured and to pay all associated expenses from the income obtained from the **levies** and **special contributions**;
- 7.1.5 to, in giving effect to the instructions contained in minuted resolutions of the **management association's** meetings and subject to the availability of funds, provide or have provided certain services for security, domestic help, garden maintenance (excluding privately planted plants, plant pots and gardens such as flowers, roses, etc.), maintenance of common **facilities** and the exterior of **units** (excluding those aspects which are the responsibility of the **resident**, as stipulated in clause 5.1.12).

- 7.2 In carrying out the aforementioned duties, **management**, being the **management association** and **management committee**, consisting of **residents** bound in terms of this **agreement**, shall be obliged for the sake of good cooperation to meet the reasonable requirements of the **owner** and especially the terms of this **agreement** between the **owner** and the **resident**. The election to and membership of the **management committee** shall not indemnify a **resident** against the terms of this **agreement**. Any illegal act or action that is in conflict with the terms of this **agreement**, or any incitement thereto shall constitute a breach of contract.

8. DEFAULT

- 8.1 If the **resident**, after signature hereof, should neglect to promptly pay the **owner** or **management** any obligatory amounts due in terms of the **loan, entrance fee, levies, special contribution** or other, the **owner** and/or **management** shall be entitled to charge **interest** on such amounts in arrears.
- 8.2 If the **resident** should neglect to meet any obligations or any provisions of this **agreement** or these **rules**, or to promptly pay the **levies** or **special contribution**, and still has not rectified such neglect after seven (7) days of having been requested in writing to do so, the **owner** or **management** shall be entitled but not obliged to –
- 8.2.1 demand active fulfilment plus any damages, or have a summons issued to him or obtain a court order against him for fulfilment, or
 - 8.2.2 terminate the **agreement** in terms of clause 9.4 and deduct from the paid portion of the **loan** any debt plus **interest**, as well as damages, and retain this amount in order to offset the debt.
- 8.3 If the **owner** and/or **management** deem it necessary to take any action or legal proceedings against the **resident** to implement their rights and obligations according to this **agreement** or to enforce the rules and regulations, the **resident** will be liable for the Attorney-and-Client costs charged by the legal representatives of the **owner** or **management**, which includes a collection commission as well as any costs pertaining to the remuneration of collecting the amount, which are not normally recoverable from the guilty party.

9. TERMINATION OF OCCUPATION

9.1 REPAYMENT OF LOAN:

In any case of termination stipulated below, the **owner** shall repay the capital amount of the **resident's loan**, less any **subtractions**, into the **repayment account** on the **repayment date**.

9.2 *TERMINATION BY DEATH:*

The **agreement** will be terminated upon the death of the surviving **resident**. The **owner** shall repay the **loan** as stated in clause 9.1 only by order of the executor of the estate of the surviving **resident**.

9.2.1 The **owner** shall only be obliged to act on an order by a properly appointed executor who needs to provide the **owner** with his/her originally certified letter of executorship.

9.3 *TERMINATION BY NOTIFICATION:*

Any party to the **agreement** may cancel the **agreement** by notifying the other party in writing at least three (3) calendar months in advance that he or she wishes to terminate the **agreement**.

9.4 *TERMINATION DUE TO DEFAULT:*

If the **resident** is in default in terms of clause 8.2, the **owner** may give him written notice of cancellation, and it is hereby agreed that in that case, the **resident** shall vacate the **unit** and leave the **village** within three (3) months.

9.5 Any cancellation shall take place by means of written notification delivered by hand or per registered mail to the other party and the parties shall at all times uphold the terms of the **agreement** and in addition to his claim for repayment in terms of clause 9.1 the **resident** shall have no other or further claims against the **owner** or **management**.

10. GENERAL

10.1 No other person shall be entitled to provide information, submit data or make statements that will be binding and enforceable in terms of this **agreement**, except a director of the **owner** company, which director is also solely authorised to sign on behalf of the **owner**.

10.2 The **resident** confirms that, except as stated herein, he has entered into no other contracts, **agreements** or verbal arrangements with the **owner** in respect hereof, or has not obtained any sureties, whether explicit or tacit.

10.3 No changes or additions to this **agreement** are valid or enforceable unless it has been done in writing and signed by all the parties herto.

10.4 No extension or other indulgence granted by the **owner** or **management** shall in any way signify the surrender of the **owner** or **management's** rights in terms of this **agreement**.

10.5 The **resident** acknowledges and declares that he has examined the **property**, the **unit** and the **facilities**, and that at the time of signing this **agreement** is satisfied and has ascertained that it suits his needs and purpose.

10.6 If the loan has not been paid on the agreed date and the suspensive condition as contained in **annexure "B"** can not be fulfilled on the due date, this **agreement** will automatically be cancelled.

10.6.1 Any **entrance fee** already paid as described in clause 1.13 shall be dealt with accordingly.

10.6.2 Any deposit that has already been paid on the **loan** shall be reimbursed by the **owner** thirty (30) days after the date of the suspensive condition and deposited into the **repayment account**.

10.7 The parties choose their domicilia citandi et executandi for all purposes in terms of this **agreement** as follows:

10.7.1 The **owner** as mentioned in the preamble to this **agreement**.

10.7.2 The **resident** before the **date of occupation** as mentioned in **annexure "A"** and after the **date of occupation** at his **unit** in the **village**.

10.8 The **resident** chooses English as the official language in which this **agreement** should be concluded.

10.9 The parties agree to the jurisdiction of the Magistrate's court for any action or legal proceedings that may arise from this **agreement** regardless of whether such proceedings or action normally falls outside the jurisdiction of a magistrate's court.

Example © Oostvallei

AGREEMENT	UNIT

ANNEXURE "A" – PARTICULARS OF RESIDENT(S)

PARTICULARS OF RESIDENT 1

Surname			
Full names			
Nickname		Title	
Identity number		OV ID	
Previous occupation			

PARTICULARS OF RESIDENT 2

Surname			
Full names			
Nickname		Title	
Identity number		OV ID	
Previous occupation			

CONTACT DETAILS

Tel (Home)			
Tel (Work)			
Cellular (Resident 1)			
Cellular (Resident 2)			
E-mail address			
Physical address			
		Code	
Postal address			
		Code	

PAYMENT DATE:

AGREEMENT	UNIT

ANNEXURE "B" – FINANCIAL DETAILS

UNIT DETAILS & PAYMENT DATE

Unit number

Area (m²)

Payment date

Telephone number

FINANCIAL DETAILS

Entrance fee - (Payable together with deposit on signature to this **agreement** - not refundable)

<input type="text"/>	<input type="text"/>
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FULL LOAN AMOUNT - (Payable before or on **payment date**)

Deposit (Payable on signature)

21%

<input type="text"/>	<input type="text"/>
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Final payment

<input type="text"/>	<input type="text"/>
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Initial levy (Payable from **payment date**)

SUSPENSIVE CONDITIONS:

This **agreement** is subject to the sale of the property of which the **resident** is currently the owner and which is situated at:

The sale of the above-mentioned property will be completed before: _____

REPAYMENT ACCOUNT DETAILS:

Account Holder

Bank

Branch Name

Code

Account Number

Type

Oostvallei

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AGREEMENT	UNIT

AGREEMENT	UNIT

11. SIGNATURES

THE OWNER:

Signed at _____ on the _____ day of _____ 20 08

On behalf of Oostvallei® (Pty) Ltd.

Witness 1:

Name: _____

Surname: _____

ID number: _____

Witness 2:

Name: _____

Surname: _____

ID number: _____

THE RESIDENT:

Signed at _____ on the _____ day of _____ 20 08

Resident 1

Name: _____

Resident 2

Name: _____

Witness 1:

Name: _____

Surname: _____

ID number: _____

Witness 2:

Name: _____

Surname: _____

ID number: _____