

# OFFER TO PURCHASE OF IMMOVABLE PROPERTY

## (CONSTITUTING A DEED OF SALE UPON ACCEPTANCE BY THE SELLER)

### TABLE OF CONTENTS

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|   |    |
|---|----|
| 1. PARTICULARS OF SALE .....  | 2  |
| 2. OFFER AND ACCEPTANCE OF OFFER TO PURCHASE .....                              | 5  |
| 3. COOLING-OFF PERIOD.....  | 5  |
| 4. INTERPRETATION .....   | 5  |
| 5. PURCHASE PRICE .....   | 7  |
| 6. SUSPENSIVE CONDITION: LOAN.....  | 8  |
| 7. TRANSFER.....  | 9  |
| 8. COSTS ASSOCIATED WITH TRANSFER .....   | 9  |
| 9. CERTIFICATES OF COMPLIANCE.....  | 10 |
| 10. BENEFIT AND RISK.....   | 11 |
| 11. *HOME OWNERS' ASSOCIATION/BODY CORPORATE.....                               | 12 |
| 12. FIXTURES AND FITTINGS.....  | 12 |
| 13. CONDITION OF PROPERTY AND CONDITIONS TO WHICH THE PROPERTY IS SUBJECT ..... | 12 |
| 14. OCCUPATION AND OCCUPATIONAL RENT .....                                      | 13 |
| 15. BREACH .....  | 13 |
| 16. JURISDICTION .....  | 14 |
| 17. DOMICILIUM CITANDI ET EXECUTANDI AND NOTICES .....                          | 14 |
| 18. ESTATE AGENT'S COMMISSION .....   | 15 |
| 19. GENERAL .....   | 16 |

Disclaimer: Each commercial activity carries with it its own set of facts and needs, meaning that in most cases the use of a basic contract such as this is not appropriate. It is therefore strongly recommended, unless you are experienced and able to adjust this contract to meet your specifications, that you seek legal advice before using this contract. Please note that Bruno Simão Attorneys are not rendering advice (legal or financial) by virtue of the download of this contract. By downloading and using this contract, you acknowledge the above and agree that you shall not hold Bruno Simão Attorneys liable for any liability, loss, damage, charges, costs, expenses, and/or any demands or claims against you, from any cause whatsoever, including their negligence, that you may be held liable for, incur, suffer, sustain and/or pay, as a direct or indirect result of the purchase and use of this contract, and hereby agree that you shall at all times indemnify and hold Bruno Simão Attorneys harmless against any and all liability, loss, damage, charges, costs, expenses, and/or any demands or claims against them, from any cause whatsoever, including their negligence, that they may be held liable for, incur, suffer, sustain and/or pay, as a direct or indirect result of the purchase and use of this contract.

## DEED OF SALE OF IMMOVABLE PROPERTY

## 1. PARTICULARS OF SALE

| Purchaser no. 1:           |   |
|----------------------------|---|
| Registered/Full Name:      |   |
| Registration/Identity no.: |   |
| Physical Address:          |   |
| Postal Address:            |   |
| e-Mail Address:            | @ |
| Representative/s:          |   |
| *Purchaser no. 2:          |   |
| Registered/Full Name:      |   |
| Registration/Identity no.: |   |
| Physical Address:          |   |
| Postal Address:            |   |
| e-Mail Address:            | @ |
| Representative/s:          |   |

(hereinafter referred to as "the Purchaser")

\*please complete the particulars of Purchaser no.2 only if more than 1 person is jointly purchasing the Property, otherwise delete.

| Seller no. 1:              |   |
|----------------------------|---|
| Registered/Full Name:      |   |
| Registration/Identity no.: |   |
| VAT Registration no.:      |   |
| Physical Address:          |   |
| Postal Address:            |   |
| e-Mail Address:            | @ |
| Representative/s:          |   |
| *Seller no. 2:             |   |
| Registered/Full Name:      |   |
| Registration/Identity no.: |   |
| VAT Registration no.:      |   |
| Physical Address:          |   |

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

Postal Address:

e-Mail Address:

@

Representative/s:

(hereinafter referred to as "the Seller")

*\*please complete the particulars of Seller no.2 only if more than 1 person is jointly selling the Property, otherwise delete.***\*Immovable Property with Full Title Ownership:**

Remaining Extent or Portion no.:

Erf no.:

Township:

Measurement:

Home Owners' Association:

Street Address:

Together with all improvements thereon and all fixtures and fittings of a permanent nature

(hereinafter referred to as "the Property")

*\*please delete if not applicable.***\*Immovable Property with Sectional Title Ownership:**

Unit no.:

Measurement:

Garage no.:

Parking no.:

Sectional Scheme Name:

Sectional Scheme no.:

Erf no.:

Township.:

Door no.:

Building:

Street Address:

Together with all improvements thereon and all fixtures and fittings of a permanent nature, and including an undivided share in the common property of this Sectional Scheme

(hereinafter referred to as "the Property")

*\*please delete if not applicable.***Figures:**

Deposit:

R

(

Rand)

(plus) Balance of the Purchase Price:

R

(

Rand)

(equals) Purchase Price:

R

(

Rand)

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

## Loan:

\*Loan Amount:

R

(

Rand)

Period of Time (calculated from the Signature Date):

To Pay the Deposit (clause 5.3.1 below):

\*To Receive Approval of a Loan (clause 6.1 below):

To Deliver the Guarantee/s (clause 5.3.2 below) and/or Pay  
the Balance of the Purchase Price (clause 5.3.3 below):

\*please complete the Loan Amount and the Period of Time to Receive Approval of a Loan only if the Purchaser intends applying for a Loan from a bank or other Credit Provider for the purpose of financing the Purchase Price, otherwise delete.

Conveyancing Attorneys:

Bruno Simão Attorneys

## Fixtures and Fittings:

Specifically Including:

Specifically Excluding:

|    |    |
|----|----|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |
| 4. | 4. |
| 5. | 5. |

## Warranties:

1. The Seller warrants that all alterations, additions and improvements to the Property have been approved by the local authority and that all plans which are required have been submitted to and approved by such local authority.

2.

3.

4.

5.

Occupational Rent (clause 14.2 below):

R

per month

(

Rand) per month

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

| Estate Agent's Commission: |         |
|----------------------------|---------|
| Estate Agent:              |         |
| Estate Agency:             |         |
| Representative Principal:  |         |
| Commission:                | R       |
|                            | ( Rand) |

\*please delete if not applicable.

| Special Terms: |
|----------------|
| 1.             |
| 2.             |
| 3.             |
| 4.             |
| 5.             |

## 2. OFFER AND ACCEPTANCE OF OFFER TO PURCHASE

The Purchaser hereby offers to purchase from the Seller the Property, which offer the Seller hereby accepts, therefore constituting this Agreement which is entered into by and between the Purchaser and the Seller, the Seller hereby selling the Property to the Purchaser who hereby purchases the Property upon the following terms and conditions of this Agreement.

## 3. COOLING-OFF PERIOD

If the Purchaser is a natural person who has not reserved the right to appoint a nominee and where the Property herein purchased is a residential property being sold for a purchase price of R 250,000.00 or less, the Purchaser may revoke this offer or terminate this Agreement, as contemplated in Section 29A of the Alienation of Land Act, no. 68 of 1981, as amended. The Purchaser must exercise this right by giving the Seller written notification of his revocation or termination within 5 (five) days of the Signature Date.

## 4. INTERPRETATION

4.1. In this Agreement, unless the context clearly indicates a contrary intention:

|                            |   |                         |  |   |
|----------------------------|---|-------------------------|--|---|
| Initial of Purchaser no. 1 | *Initial of Purchaser no. 2<br>*if applicable | Initial of Seller no. 1 | *Initial of Seller no. 2<br>*if applicable | *Initial of Estate Agency<br>*if applicable |
|----------------------------|---|-------------------------|--|---|

- 4.1.1. an expression which denotes:
- 4.1.1.1. any gender includes the other genders;
- 4.1.1.2. a natural person includes an artificial or juristic person and *vice versa*; and
- 4.1.1.3. the singular includes the plural and *vice versa*,
- 4.1.2. the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings unless otherwise indicated from the context:
- 4.1.2.1. "this Agreement": This Deed of Sale of Immovable Property, together with all of its annexures, as amended from time to time;
- 4.1.2.2. "Credit Provider": A party who advances money or credit to another, including a party registered as a Credit Provider in terms of the National Credit Act, no. 34 of 2005;
- 4.1.2.3. "Signature Date": The date upon which this Agreement is signed by the signatory that signs it last in time;
- 4.1.2.4. "Transfer": The registration of the Transfer of the Property into the name of the Purchaser in accordance with the provisions of the Deeds Registries Act, no. 47 of 1937, as amended;
- 4.1.3. any reference to any Act, regulation or other legislation shall be a reference to that Act, regulation or other legislation as at the Signature Date, and as amended or substituted from time to time;
- 4.1.4. if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Agreement;
- 4.1.5. where any term is defined within a particular clause other than this clause 4, that term shall bear the meaning ascribed to it in that clause wherever it is used in this Agreement;
- 4.1.6. where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a business day, the last day shall be deemed to be the next succeeding day which is a business day;
- 4.1.7. any reference to days (other than a reference to business days), months or years shall be a reference to calendar days, months or years, as the case may be;
- 4.1.8. the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule (a rule of interpretation that states that any general wording is restricted to example/s of the same type as the listed example/s) shall not be applied in the interpretation of such general wording or such specific example/s; and
- 4.2. Clause headings are for convenience and shall not be used in the interpretation of this Agreement.

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

- 4.3. The terms of this Agreement having been negotiated, the *contra proferentem* rule (a rule of interpretation that states that any clause considered to be ambiguous should be interpreted against the interests of the party that requested that the clause be included) shall not be applied in the interpretation of this Agreement.

## 5. PURCHASE PRICE

- 5.1. The Seller sells the Property to the Purchaser who purchases the Property for the Purchase Price stipulated in clause 1 above.
- 5.2. The Seller hereby confirms that:
- 5.2.1. if in terms of the Value-Added Tax Act, no. 89 of 1991, as amended, the Seller is registered as a Value-Added Tax (hereinafter referred to as "VAT") vendor and/or if the Property is sold as a supply that is subject to VAT, the Purchase Price is inclusive of any VAT that may be payable and the Seller shall pay the VAT to the South African Revenue Service;
- 5.2.2. in the alternative to clause 5.2.1 above, if the Seller is not registered as a VAT vendor and/or if the Property is not sold as a supply that is subject to VAT, the Purchaser shall pay transfer duty to the South African Revenue Services, if payable.
- 5.3. The Purchaser shall:
- 5.3.1. within the Period of Time stipulated in clause 1 above to Pay the Deposit (calculated from the Signature Date), pay to the Conveyancing Attorneys in trust a Deposit on the Purchase Price in the amount stipulated in clause 1 above, if any, which sum shall be invested by the Conveyancing Attorneys, pending Transfer, in an interest-bearing account with a bank or financial institution on the basis that all interest earned thereon shall accrue to the Purchaser;
- 5.3.2. within the Period of Time stipulated in clause 1 above to Deliver the Guarantee/s (calculated from the Signature Date), deliver to the Conveyancing Attorneys a Guarantee or Guarantees issued by a recognised bank or financial institution, reasonably acceptable to the Seller and in accordance with the Conveyancing Attorneys' instructions in terms of the provisions of this Agreement to secure the payment of the Purchase Price or the Balance of the Purchase Price in the amount stipulated in clause 1 above or the outstanding Balance of the Purchase Price not paid or to be paid in terms of clause 5.3.3 below;
- 5.3.3. in the alternative to or in conjunction with clause 5.3.2 above, within the Period of Time stipulated in clause 1 above to Pay the Balance of the Purchase Price (calculated from the Signature Date), pay to the Conveyancing Attorneys in trust the Purchase Price or the Balance of the Purchase Price in the amount stipulated in clause 1 above or the outstanding Balance of the Purchase

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

Price not secured or to be secured by a Guarantee or Guarantees in terms of clause 5.3.2 above, which sum shall be invested by the Conveyancing Attorneys, pending Transfer, in an interest-bearing account with a bank or financial institution on the basis that all interest earned thereon shall accrue to the Purchaser.

- 5.4. This Agreement constitutes the written authority of the parties to the Conveyancing Attorneys, as contemplated in section 78(2A) of the Attorneys Act, no. 53 of 1979, as amended, and Section 86(4) of the Legal Practice Act, no. 28 of 2014, as amended, to give effect to clauses 5.3.1 above and 5.3.3 above.
- 5.5. The Purchase Price is payable to the Seller on the date of Transfer.
- 5.6. The Guarantee/s referred to in clause 5.3.2 above shall be payable, free of exchange, upon Transfer and written confirmation from the Conveyancing Attorneys that:
- 5.6.1. any existing mortgage bonds over the Property have been cancelled;
  - 5.6.2. Transfer has been effected; and
  - 5.6.3. the necessary new mortgage bonds (if any) have been registered over the Property, and shall not be conditional on the happening of any other event.

## 6. SUSPENSIVE CONDITION: LOAN

- 6.1. If a Loan Amount and a Period of Time to Receive Approval of a Loan is stipulated in clause 1 above, this Agreement is subject to the fulfilment of the suspensive condition that the Purchaser receives final written approval from a bank or other Credit Provider, within a period not exceeding the Period of Time stipulated in clause 1 above to Receive Approval of a Loan (calculated from the Signature Date), that the said bank or other Credit Provider shall loan to the Purchaser, against the registration of a mortgage bond over the Property, the Loan Amount stipulated in clause 1 above, on such terms and conditions as are ordinarily imposed by banks or other Credit Providers, at a rate of interest acceptable to the Purchaser, for the purpose of financing the Purchase Price.
- 6.2. The Purchaser shall do everything that is necessary in order to procure the timeous fulfilment of this suspensive condition. As such, the Purchaser must apply for the Loan from a bank or other Credit Provider within 5 (five) days from the Signature Date.
- 6.3. Notwithstanding anything to the contrary stipulated in this Agreement, in the event that the Loan is not approved within the stipulated Period of Time, the Seller shall have the right, exercisable within the Seller's sole discretion, to unilaterally extend the Period of Time by no longer than 14 (fourteen) days, provided that the Seller does so in writing and before the lapse of the stipulated Period of Time.

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable



- 6.4. This suspensive condition shall be deemed to be fulfilled upon receipt by the Purchaser of the bank's or other Credit Provider's written Loan quotation, or similar documentation, approving a Loan of the Loan Amount.
- 6.5. Notwithstanding anything to the contrary stipulated in this Agreement, If the Purchaser receives final written approval that the said bank or another Credit Provider shall loan to the Purchaser an amount less than the Loan Amount stipulated in clause 1 above, the Purchaser may, within the Purchaser's sole discretion, unilaterally waive the suspensive condition in full or partially, provided that the Purchaser does so in writing and before the lapse of the stipulated Period of Time.
- 6.6. If the Loan is not approved as provided for in this clause, then this Agreement shall lapse in its entirety and shall be of no force and effect.

## 7. TRANSFER

- 7.1. Transfer shall be affected by the Conveyancing Attorneys stipulated in clause 1 above as soon as reasonably possible after:
- 7.1.1. the Signature Date;
  - 7.1.2. fulfilment of the suspensive condition stipulated in clause 6 above, if applicable; and
  - 7.1.3. compliance by the parties with their obligations in terms of this Agreement.
- 7.2. As such, the parties shall immediately, upon request by the Conveyancing Attorneys, provide all information and documentation, including all information and documentation prescribed in terms of the Financial Intelligence Centre Act, no. 38 of 2001, and sign all documentation in order for cancellation of the existing mortgage bonds, if any, Transfer of the Property and the registration of the new mortgage bond/s, if any, to take place.

## 8. COSTS ASSOCIATED WITH TRANSFER

- 8.1. The Purchaser shall be responsible for and shall pay within 7 (seven) days of request thereof:
- 8.1.1. by the Conveyancing Attorneys all costs of Transfer required to effect Transfer of the Property, including the Conveyancing Attorneys' fees, Municipal clearance fees, incidental costs, survey costs, if any, and any Transfer Duty that may be payable; and
  - 8.1.2. by the Bond Attorneys all costs required to effect registration of the new mortgage bond, if applicable, including the Bond Attorneys' fees and incidental costs.
- 8.2. The Seller shall be responsible for:

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

- 8.2.1. all costs required to cancel any existing mortgage bond/s, if any, and hereby authorises the Conveyancing Attorneys to recover such costs from the proceeds of the Transfer;
- 8.2.2. maintaining all loan accounts, municipal accounts and levy accounts up-to-date and paid in full until Transfer;
- 8.2.3. and shall pay within 7 (seven) days of request thereof by the Conveyancing Attorneys all amounts due in connection with the Property for, *inter alia*:
- 8.2.3.1. Municipal service fees, surcharges on fees, property rates and other Municipal taxes, levies and duties due to the Municipality in terms of Section 118(1)(b) of the Local Government: Municipal Systems Act, no. 32 of 2000, for the issuing of a clearance certificate in order to effect Transfer; and
- 8.2.3.2. Levies, special levies, interest, penalties, legal costs and other fees and surcharges due to the Home Owners' Association/Body Corporate, for the issuing of a clearance certificate in order to effect Transfer.
- 8.3. The Seller further records that the Purchase Price is sufficient, after any deductions, to pay any loans in full together with the costs required to cancel any existing mortgage bond/s. If the purchase price is not sufficient, the Seller shall be responsible for and shall pay within 7 (seven) days of request thereof by the Conveyancing Attorneys, the shortfall into the loan account, alternatively, make the necessary provisions in order for Transfer to be affected.

## 9. CERTIFICATES OF COMPLIANCE

### 9.1. Electrical Certificate of Compliance

The Seller shall at his cost provide an Electrical Certificate of Compliance as required by the Electrical Installation Regulations of 2009, issued under the Occupational Health and Safety Act, no. 85 of 1993, as amended from time to time, to the Conveyancing Attorneys before Transfer. Should the electrician indicate that remedial or rectification electrical work be carried out as a precondition of the issue of an Electrical Certificate of Compliance, this shall be for the costs of the Seller. No alterations or installations shall be effected after the Certificate is issued.

### 9.2. Electrical Fence System Certificate of Compliance

The Seller shall at the Seller's expense provide the Conveyancing Attorneys with an Electrical Fence System Certificate of Compliance prior to the date of Transfer, if applicable. Such Certificate shall confirm that the electric fence installation and system are deemed to be reasonably safe when properly used and shall be issued by an approved electrical fence installer in accordance with the provisions of the Electrical Machinery Regulations of 2011, issued under the Occupational Health and Safety Amendment Act, no.

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

181 of 1993, as amended from time to time. Should remedial work be required prior to the issuing of the Certificate, it shall be attended to at the Seller's expense. No alterations or installations shall be effected after the Certificate is issued.

### 9.3. Gas Installation Certificate of Compliance

If there is a gas installation on the property, the Seller shall, at its own cost, deliver a Gas Installation Certificate of Compliance (Gas Certificate of Conformity) to the Conveyancing Attorneys before the date of transfer. The Certificate shall be issued by an authorised person as defined in the Pressure Equipment Regulations of 2009, issued under the Occupational Health and Safety Amendment Act, no. 181 of 1993. The Seller undertakes not to alter, install or remove the gas installation after the Certificate was issued. Insofar as the authorised person requires corrective work to be carried out as a precondition to the issue of such Certificate, the Seller will ensure that such work is carried out and it will be for the Seller's cost and expense.

### 9.4. \*Water Installation Certificate of Compliance

The Seller shall furnish to the Conveyancing Attorneys prior to Transfer and at the Seller's cost, with a Water Installation Certificate of Compliance together with a Plumbing Certificate of Compliance, issued by an accredited plumber for the Municipality, certifying that the water supply to the Property conforms with the requirements stipulated in Section 14(1) of the City of Cape Town: Water By-Law of 2010, as amended from time to time. Upon the Seller furnishing the Conveyancer with such a Certificate no further liability in this regard shall rest upon the Seller.

*\*this Certificate is prescribed by law. Specific local authorities may have such requirements, for example, the City of Cape Town Municipality requires a Water Installation Certificate of Compliance to be obtained in respect of Properties within its jurisdiction. If the Property is not located within such jurisdictions, this clause may be deleted.*

### 9.5. \*Beetle Certificate of Compliance

The Seller shall arrange, at the Seller's cost, for the accessible portions of the Property to be inspected by a contractor that is a member of the South African Pest Control Association for infestation by notifiable beetles and for the replacement of any infested timber with properly treated timber. Thereafter the Seller shall have no further responsibility in this regard. The Seller shall provide a Clearance Certificate issued by the contractor to the Conveyancing Attorneys prior to Transfer, which Certificate may not pre-date the Signature Date of this Agreement.

*\*this Certificate is not prescribed by law. This is often a term written into a Deed of Sale of Immovable Property located in coastal areas and is not usually required for Properties with sectional title ownership or where the Property is situated inland where beetle and wood borer infestations are less common. This clause may be deleted*

## 10. BENEFIT AND RISK

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

Ownership, including the benefit and risk in the property, will pass to the Purchaser upon Transfer and the Purchaser shall from then on be liable for the risk of loss and profit in the Property and for all amounts due in connection with the Property, including all debt associated with the municipal accounts and levy accounts.

## 11. \*HOME OWNERS' ASSOCIATION/BODY CORPORATE

The Purchaser acknowledges that the Property falls under the authority of a \*\*Home Owners Association/Body Corporate and that the Purchaser and his successors in title will become and remain a member of the Home Owners Association/Body Corporate for as long as the Purchaser is the owner of the Property. The Purchaser further acknowledges that it will be obliged to pay a contribution to the Home Owners Association/Body Corporate and that the Purchaser will be bound by, amongst others, the Constitution, Memorandum of Incorporation and the Rules of the Home Owners Association/the Management and Conduct Rules of the Body Corporate.

*\*Delete this clause if it is not applicable.*

*\*\*Whether this clause refers to a Home Owners Association or a Body Corporate is subject to whether the Property is subject to full title ownership (and whether under the authority of a Home Owners Association) or sectional title ownership, stipulated in clause 1 above.*

## 12. FIXTURES AND FITTINGS

Subject to clause 1 above, the Property is sold together with all fixtures and fittings of a permanent nature, which the Seller guarantees are paid up in full and that the Seller is the sole owner of, including, but not limited to the electrical fittings, intercoms, fitted aerials and satellite dishes, swimming pool cleaning equipment (including automatic appliances), alarms, security gates, pelmets, blinds, keys and remote controls.

## 13. CONDITION OF PROPERTY AND CONDITIONS TO WHICH THE PROPERTY IS SUBJECT

13.1. The Property is sold in the condition that it stands, *voetstoots*, and the Seller gives no Warranty with regard thereto, whether express or implied, unless expressly contained in this Agreement. The Seller thus cannot be held liable for any defects, patent or latent or otherwise (whether visible or not), in the Property nor for any damage or injury occasioned to or suffered by the Purchaser by reason of such defect.

13.2. It is recorded that the Purchaser has thoroughly inspected the Property and accepts the Property in the condition the Property is as at the Signature Date and is satisfied and confirms that the Seller did not provide any guarantees or Warranties of any nature regarding the condition or quality of the Property or

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

any of the improvements thereon or accessories thereto, unless such guarantees or Warranties are expressly set out in this Agreement.

13.3. The Property is furthermore sold subject to such conditions, including any servitudes, as may be reflected or referred to in the Title Deed and/or the relevant Diagram or General Plan. The Seller shall not be responsible to point out any survey beacons or boundaries of the Property to the Purchaser. The Seller shall not be responsible to the Purchaser for any deficiency in the extent of the Property that may be found upon the measurement thereof and in like manner the Purchaser shall be entitled to the benefit or any excess.

13.4. The Seller and Purchaser acknowledge that the Warranties stipulated in clause 1 above were given to each other with regard to the Property and apart from such Warranties, the Seller and Purchaser acknowledge that no other Warranties were made.

## 14. OCCUPATION AND OCCUPATIONAL RENT

14.1. Vacant occupation of the Property will be given to the Purchaser on Transfer unless otherwise agreed to between the parties in writing.

14.2. If the date of occupation does not coincide with the date of Transfer, the party enjoying occupation of the Property whilst it is registered in the name of the other party, shall pay the other party occupational rent in the amount stipulated in clause 1 above per month, *pro rata* and in advance on or before the 1<sup>st</sup> (first) of every month until the date of Transfer. This amount is to be paid to the Conveyancing Attorneys, without any deductions or bank charges.

14.3. Notwithstanding anything to the contrary contained in this Agreement, if the Purchaser takes occupation of the Property prior to the Transfer, the Purchaser takes responsibility for the payment of all water and electricity consumption from such date of occupation.

14.4. Whilst the Purchaser is in occupation of the Property prior to Transfer, the Purchaser undertakes not to effect any improvements or alterations to the Property, save with the written consent of the Seller. No compensation will, however, be claimable from the Seller for any improvements or alterations the Purchaser may have caused to the Property, whether with or without the Seller's consent.

14.5. Should this Agreement be void, cancelled or otherwise terminated for whatever reason, the Purchaser shall immediately vacate the Property and return the Property to the Seller.

## 15. BREACH

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

If either party commits a breach of any of the provisions of this Agreement and fails to remedy such breach within 7 (seven) days after receipt of written notice from the other party calling upon it to remedy such breach, then the aggrieved party shall be entitled, without prejudice to any other rights which it may have in terms of this Agreement or at law, to –

- 15.1. Insofar as the Seller exercises its rights herein, cancel this Agreement and retain all amounts paid by the Purchaser as *rouwkoop* or a genuine pre-estimate of damages suffered by the Seller. The Purchaser acknowledges the reasonableness of this term and agrees that the Purchaser is not entitled to any reduction thereof; or
- 15.2. cancel this Agreement and claim such damages as it may have sustained from the defaulting party as a result of the breach; or
- 15.3. claim immediate performance by the defaulting party of all of its obligations in terms of this Agreement whether or not the due date for performance shall otherwise have arrived.

## 16. JURISDICTION

For the purpose of resolving any dispute between the parties, the parties consent to the jurisdiction of the Magistrates' Court that would otherwise have competent jurisdiction, despite the fact that such proceedings are otherwise beyond its jurisdiction. This clause will be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to Section 45 of the Magistrates' Courts Act, no. 32 of 1944, or any amendments thereto. The parties will have the right to institute proceedings in any other competent Court for any claim which would exceed the jurisdiction of the Magistrates' Court.

## 17. DOMICILIUM CITANDI ET EXECUTANDI AND NOTICES

- 17.1. The parties choose their respective *domicilium citandi et executandi* (hereinafter referred to as "*Domicilium*") for all purposes relating to this Agreement, including the giving of any notice and the serving of any process, as their respective Physical Address (hereinafter referred to as "the Physical *Domicilium*"), Postal Address (hereinafter referred to as "the Postal *Domicilium*") and e-Mail Address (hereinafter referred to as "the e-Mail *Domicilium*") stipulated in clause 1 above.
- 17.2. Either party shall be entitled from time to time, by giving written notice to the other, to vary its Physical *Domicilium* to any other Physical Address (not being a post office box or *poste restante*) within the Republic of South Africa, to vary its Postal *Domicilium* to any other Postal Address within the Republic of South Africa and to vary its e-Mail *Domicilium* to any other e-Mail Address.

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

- 17.3. Any notice given by either party to/on the other (hereinafter referred to as "the Addressee") which is:
- 17.3.1. delivered by hand between the hours of 08h00 and 17h00 on any business day to the Addressee's Physical *Domicilium*, for the time being, shall be deemed to have been received by the Addressee at the time of delivery;
  - 17.3.2. posted by prepaid registered post to the Addressee's Postal *Domicilium*, for the time being, shall be deemed (unless the contrary is proved by the Addressee) to have been received by the Addressee on the 4<sup>th</sup> (fourth) day after the date of posting; and
  - 17.3.3. successfully transmitted by e-mail to the Addressee's e-Mail *Domicilium*, for the time being, shall be deemed (unless the contrary is proved by the Addressee) to have been received by the Addressee at the time of successful transmission thereof.
- 17.4. This clause 17 shall not operate so as to invalidate the giving or receipt of any written notice which is actually received by the Addressee other than by a method referred to in this clause.
- 17.5. Any notice in terms of or in connection with this Agreement shall be valid and effective only if in writing and if received or deemed to be received by the Addressee.

## 18. ESTATE AGENT'S COMMISSION

- 18.1. Should the section titled 'Estate Agent's Commission' in clause 1 above be completed, then the parties confirm that the Estate Agent of the Estate Agency stipulated in clause 1 above was the effective cause of this sale.
- 18.2. The Estate Agency shall be entitled to the Commission stipulated in clause 1 above upon the following terms, namely, the Commission:
- 18.2.1. shall be deemed to be earned by the Estate Agency upon the fulfilment of all the suspensive conditions contained in this Agreement; and
  - 18.2.2. shall be due by the Seller; and
  - 18.2.3. shall be payable to the Estate Agency upon the registration of the Transfer of the Property to the Purchaser.
- 18.3. As such, this shall serve as an irrevocable instruction to the Conveyancing Attorneys to pay the Commission to the Estate Agency in terms of clause 18.2 above.
- 18.4. In the event of the sale being terminated (including cancelled) post-clause 18.2.1 above, for any reason whatsoever, the Commission shall be immediately due and payable to the Estate Agency:
- 18.4.1. by the Seller, should the termination be as a result of any breach by the Seller to fulfil its obligations in terms of this Agreement; or

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

- 18.4.2. by the Purchaser, should the termination be as a result of any breach by the Purchaser to fulfil its obligations in terms of this Agreement; or
- 18.4.3. by the Seller and the Purchaser, jointly and severally, the one paying and the other to be absolved, should the Parties mutually agree to cancel this Agreement.
- 18.5. The agent may display a sign outside the Property indicating that the Property has been sold, from the date of fulfilment of all the suspensive conditions contained in this Agreement until a period of 1 (one) month after the Transfer.
- 18.6. By virtue of the Estate Agency's Principal's signature hereof, the Estate Agency accepts all benefits deriving from this Agreement and becomes a party hereto.
- 18.7. Should the section titled 'Estate Agent's Commission' in clause 1 above not be completed, then the parties acknowledge that no Estate Agent was the effective cause of this sale and therefore that no Estate Agent's commission is payable. The Purchaser specifically confirms that he was not introduced to the Property or to the Seller by the intervention in any way of an Estate Agent and indemnifies the Seller should an Estate Agency succeed with a claim for commission with regard to this sale.

## 19. GENERAL

- 19.1. The respective costs (together with VAT thereon, if applicable) of and incidental to the negotiation and preparation of this Agreement incurred by each party shall be borne and paid by that party, each party effectively paying their own costs.
- 19.2. This Agreement constitutes the sole record of the Agreement between the parties in relation to the subject matter hereof. Neither party shall be bound by any express, tacit or implied term, representation, Warranty, promise or the like not recorded herein. This Agreement supersedes and replaces all prior commitments, undertakings or representations, whether oral or written, between the parties in respect of the subject matter hereof.
- 19.3. Without prejudice to any other provision of this Agreement, any successor-in-title, including any executor, heir, liquidator, judicial manager, curator or trustee, of either party shall be bound by this Agreement.
- 19.4. Should any provision of this Agreement be, or be retrospectively, rendered unlawful, then that unlawful provision shall only be deemed to be modified and interpreted to the extent and in the manner necessary to render it consistent with the enactment rendering it unlawful or if such modification or interpretation is impossible, then such provision shall be deemed to be severable from the remaining provisions hereof and thereby considered *pro non scripto*, while the remainder of the terms and conditions of this Agreement will remain valid and binding.

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable



- 19.5. The nullity, cancellation or other termination of this Agreement shall not affect those provisions of this Agreement as expressly provide that they will operate after such nullity, cancellation or other termination or which of necessity must continue to endure after such nullity, cancellation or other termination, notwithstanding that the relevant clause may not expressly provide for such continuation.
- 19.6. No amendment, variation, addition to, deletion from, novation, consensual cancellation, or waiver of this Agreement or any provision of this Agreement shall be binding upon the Parties unless reduced to writing and signed by or on behalf of the Parties, and any such waiver will only be effective in the specific instance and for the given purpose.
- 19.7. No indulgence or extension of time which either party may grant to the other, nor any failure or delay on the part of either party in exercising any right, nor any single or partial exercise of any right by either party, shall, in any way, prejudice the grantor, constitute a waiver of or, whether by estoppel or otherwise, limit any of the existing or future rights of the grantor in terms hereof, save in the event and to the extent that the grantor has signed a written document expressly waiving or limiting such right.
- 19.8. The Seller and Purchaser warrant that each of them has the necessary legal capacity to enter into this agreement and that any consent that may be necessary, has been obtained.

**THUS** done and signed at \_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_ in the presence of the undersigned witnesses for and on behalf of the Purchaser no. 1, the signatory hereby warranting his/her authority to do so,

*As witnesses:*

1.

\_\_\_\_\_  
**PURCHASER NO. 1**

2.

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
\*if applicable

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
\*if applicable

\*Initial of  
Estate  
Agency  
\*if applicable

**\*THUS** done and signed at \_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_ in the presence of the undersigned witnesses for and on behalf of the Purchaser no. 2, the signatory hereby warranting his/her authority to do so,

*As witnesses:*

1.

\_\_\_\_\_  
**PURCHASER NO. 2**

2.

*\*Delete if not applicable*

**THUS** done and signed at \_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_ in the presence of the undersigned witnesses for and on behalf of the Seller no. 1, the signatory hereby warranting his/her authority to do so,

*As witnesses:*

1.

\_\_\_\_\_  
**SELLER NO. 1**

2.

**\*THUS** done and signed at \_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_ in the presence of the undersigned witnesses for and on behalf of the Seller no. 2, the signatory hereby warranting his/her authority to do so,

*As witnesses:*

1.

\_\_\_\_\_  
**SELLER NO. 2**

2.

*\*Delete if not applicable*

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
*\*if applicable*

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
*\*if applicable*

\*Initial of  
Estate  
Agency  
*\*if applicable*

**\*THUS** done and signed at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ in the presence of the undersigned witnesses for and on behalf of the Estate Agency, the signatory hereby warranting his/her authority to do so,

*As witnesses:*

1.

\_\_\_\_\_  
**ESTATE AGENCY**

*\*Delete if not applicable*

2.

Initial of  
Purchaser  
no. 1

\*Initial of  
Purchaser  
no. 2  
*\*if applicable*

Initial of  
Seller no. 1

\*Initial of  
Seller no. 2  
*\*if applicable*

\*Initial of  
Estate  
Agency  
*\*if applicable*

**IMMOVABLE PROPERTY CONDITION REPORT IN RELATION TO THE SALE OF ANY IMMOVABLE PROPERTY****1 Disclaimer**

This condition report concerns the Property. This report does not constitute a guarantee or warranty of any kind by the owner of the Property or by the property practitioners representing that owner in any transaction. This report should, therefore, not be regarded as a substitute for any inspections or warranties that prospective purchasers may wish to obtain prior to concluding an agreement of sale in respect of the Property.

**2 Definitions**

In this document

- 2.1 "to be aware" means to have actual notice or knowledge of a certain fact or state of affairs; and  
 2.2 "defect" means any condition, whether latent or patent, that would or could have a significant deleterious or adverse impact on, or affect, the value of the property, that would or could significantly impair or impact upon the health or safety of any future occupants of the property or that, if not repaired, removed or replaced, would or could significantly shorten or adversely affect the expected normal lifespan of the Property.

**3 Disclosure of information**

The owner of the Property discloses the information hereunder in the full knowledge that, even though this is not to be construed as a warranty, prospective purchasers of the Property may rely on such information when deciding whether, and on what terms, to purchase the Property. The owner hereby authorises the appointed property practitioner marketing the Property for sale to provide a copy of this statement, and to disclose any information contained in this statement, to any person in connection with any actual or anticipated sale of the Property.

**4 Provision of additional information**

The owner represents that to the best of his or her knowledge the responses to the statements in respect of the Property contained herein have been accurately noted as "yes", "no" or "not applicable". Should the owner have responded to any of the statements with a "yes", the owner shall be obliged to provide, in the additional information area of this form, a full explanation as to the response to the statement concerned.

**5 Statements in connection with Property**

|  | YES | NO | N/A |
|--|-----|----|-----|
| I am aware of the defects in the roof  |     |    |     |
| I am aware of the defects in the electrical systems  |     |    |     |
| I am aware of the defects in the plumbing system, including in the swimming pool (if any)  |     |    |     |
| I am aware of the defects in the heating and air conditioning systems, including the air filters and humidifiers   |     |    |     |
| I am aware of the defects in the septic or other sanitary disposal systems   |     |    |     |
| I am aware of any defects to the property and/or in the basement or foundations of the property, including cracks, seepage and bulges. Other such defects include, but are not limited to, flooding, dampness or wet walls and unsafe concentrations of mould or defects in drain tiling or sump pumps |     |    |     |
| I am aware of structural defects in the Property   |     |    |     |
| I am aware of boundary line dispute, encroachments or encumbrances in connection with the Property   |     |    |     |
| I am aware that remodelling and refurbishment have affected the structure of the Property  |     |    |     |

Initial of  
Purchaser  
no. 1\*Initial of  
Purchaser  
no. 2  
\*if applicableInitial of  
Seller no. 1\*Initial of  
Seller no. 2  
\*if applicable\*Initial of  
Estate  
Agency  
\*if applicable

|  |  |  |  |
|--|--|--|--|
| I am aware that any additions or improvements made to or any erections made on the property, have been done or were made, only after the required consents, permissions and permits to do so were properly obtained. |  |  |  |
| I am aware that a structure on the Property has been earmarked as a historic structure or heritage site  |  |  |  |

**ADDITIONAL INFORMATION**

- 6 **Owner's certification**  
The owner hereby certifies that the information provided in this report is, to the best of the owner's knowledge and belief, true and correct as at the date when the owner signs this report.
- 7 **Certification by person supplying information**  
If a person other than the owner of the property provides the required information that person must certify that he/she is duly authorised by the owner to supply the information and that he/she has supplied the correct information on which the owner relied for the purposes of this report and, in addition, that the information contained herein is, to the best of that person's knowledge and belief, true and correct as at the date on which that person signs this report.
- 8 **Notice regarding advice or inspections**  
Both the owner as well as potential buyers of the property may wish to obtain professional advice and/or to undertake a professional inspection of the property. Under such circumstances adequate provisions must be contained in any agreement of sale to be concluded between the parties pertaining to the obtaining of any such professional advice and/or the conducting of required inspections and/or the disclosure of defects and/or the making of required warranties.
- 9 **Buyer's acknowledgement**  
The prospective buyer acknowledges that he/she has been informed that professional expertise and/or technical skill and knowledge may be required to detect defects in, and noncompliant aspects concerning, the property.  
The prospective buyer acknowledges receipt of a copy of this statement.
- 10 **Signatures**

Signed at ..... on .....

Signature of owner .....

Signature of purchaser .....

Signature of property practitioner .....

|                            |   |                         |  |   |
|----------------------------|---|-------------------------|--|---|
| Initial of Purchaser no. 1 | *Initial of Purchaser no. 2<br>*if applicable | Initial of Seller no. 1 | *Initial of Seller no. 2<br>*if applicable | *Initial of Estate Agency<br>*if applicable |
|----------------------------|---|-------------------------|--|---|