

# Agreement of Purchase and Sale of a Freehold Property

between  
The SELLER who is

Full names: .....

DOMICILIUM address: .....

and

The PURCHASER who is

Full names: .....

DOMICILIUM address: .....

## 1. SALE

The SELLER sells to the PURCHASER who buys the immovable PROPERTY situated at the following address:

.....  
and described in the title deeds as: Erf No. .... extent approximately  
..... square metres, together with all buildings and improvements and fixtures and fittings of a  
permanent nature thereon including the following movables which are also sold voetstoots and as part of the  
PROPERTY, namely: .....  
..... (“the PROPERTY”).

## 2. PURCHASE PRICE AND PAYMENT

2.1 The PURCHASE PRICE is R ..... payable as follows:

2.1.1 DEPOSIT to be paid in cash within ..... days  
of SELLER’S signature hereof to the CONVEYANCERS: R .....

2.1.2 MORTGAGE BOND to be obtained within ..... days  
of SELLER’S signature hereof: R .....

2.1.3 Proceeds from sale of PURCHASER’S property  
situated at .....  
to be sold within ..... days of SELLER’S signature hereof: R .....

2.1.4 Cash or GUARANTEES for balance of full PURCHASE PRICE: R .....  
Total PURCHASE PRICE R .....

2.1.5 GUARANTEES for the balance of the PURCHASE PRICE or the FULL PURCHASE PRICE as  
applicable, to be delivered within ..... days of SELLER’S signature hereof to the CONVEYANCERS.

2.2 The PURCHASE PRICE shall be paid in cash to the SELLER on the date of transfer of the PROPERTY to the  
PURCHASER (“the TRANSFER DATE”), in accordance with the instructions of the CONVEYANCER.

2.3 Any amounts paid in cash by the PURCHASER on account of the PURCHASE PRICE shall be held by the  
CONVEYANCER in trust in terms of Section 78(2A) of the Attorneys Act and the PURCHASER authorises the  
CONVEYANCER to invest all such monies in an interest bearing account with all interest accrued thereon to be for  
the benefit of the PURCHASER until the TRANSFER DATE.

2.4 If the PURCHASER requires the MORTGAGE BOND (refer to clause 2.1.2) is applicable then this entire  
AGREEMENT is subject to the suspensive condition that before the time limit specified in clause 2.1.2 expires, the  
PURCHASER is able to obtain written approval from a financial institution that a loan has been granted in principle,  
upon that financial institution’s standard terms and conditions currently applicable.

2.5 If the PURCHASER needs to sell his existing property (refer to clause 2.1.3) then this entire AGREEMENT is subject  
to the suspensive condition that before the time limit specified in clause 2.1.3 expires, the PURCHASER is able to  
conclude an agreement for the sale of the PURCHASER’S property for the amount specified.

- 2.6 All these suspensive conditions are for the benefit of the PURCHASER and can be waived by the PURCHASER prior to the expiry date of each of the suspensive conditions. Should a suspensive condition not be fulfilled prior to the specified expiry date, this entire AGREEMENT shall automatically lapse and shall be of no further force or effect. In this event, all payments made by the PURCHASER, excepting for any OCCUPATIONAL RENTAL that may have been paid in terms of clause 4, shall be refunded together with any interest that has accrued thereon.
- 2.7 All payments in terms of this AGREEMENT shall be made free of exchange directly to the CONVEYANCER, the PURCHASER being liable for all bank charges incurred.
- 2.8 Should the SELLER receive an acceptable written unconditional offer or offers to purchase the PROPERTY prior to the fulfilment of any suspensive conditions in terms hereof, a copy of the said further offer or offers shall be delivered to the PURCHASER who shall have 3 (three) days from receipt thereof to deliver to the SELLER a written waiver of all suspensive conditions and conditions precedent contained in this AGREEMENT. Should the SELLER not receive this written waiver timeously as aforesaid, the SELLER can elect to accept the said further offer or offers, whereupon this entire AGREEMENT between the SELLER and the PURCHASER shall immediately lapse and be of no further force or effect. In this event, all monies paid by the PURCHASER and being held in trust, including interest, shall be refunded to the PURCHASER.
- 2.9 Any VAT or TRANSFER DUTY payable on the PURCHASE PRICE plus any interest and penalties which may be levied thereon shall be payable by the PURCHASER.

**3. OCCUPATION AND POSSESSION**

- 3.1 Possession of the PROPERTY shall be given to the PURCHASER on the TRANSFER DATE.
- 3.2 Occupation of the PROPERTY shall be given to the PURCHASER on ..... (“the OCCUPATION DATE”).

**4. OCCUPATIONAL RENTAL**

- 4.1 If the OCCUPATION DATE does not coincide with the TRANSFER DATE then the party having occupation of the PROPERTY whilst registered in the other party’s name, shall pay an OCCUPATIONAL RENTAL of R ..... per month reduced pro rata for a period less than a calendar month, calculated inclusive of the OCCUPATION DATE and the TRANSFER DATE. The OCCUPATIONAL RENTAL shall be paid on the first day of each month, in advance.
- 4.2 Prior to the TRANSFER DATE, the PURCHASER shall not make any improvements or alterations to the PROPERTY without the prior written consent of the SELLER. Should this AGREEMENT be cancelled for any reason whatsoever, the PURCHASER shall immediately vacate the PROPERTY and shall have no claims against the SELLER for any compensation for any alterations, improvements or additions made to the PROPERTY whether made with or without the SELLER’S consent.

**5. RISK AND BENEFIT**

- 5.1 The risks in and benefit of the PROPERTY shall pass to the PURCHASER on the TRANSFER DATE, from which date the PURCHASER shall be entitled to all benefits flowing from the PROPERTY and shall be liable for all outgoing in respect of ownership of the PROPERTY.
- 5.2 As at the TRANSFER DATE, the CONVEYANCER shall account for the necessary adjustments in respect of the liabilities and entitlements of the PURCHASER and SELLER in respect of, but not restricted to, all income, outgoing, interest, rates and other charges relating to the PROPERTY and this transaction. The CONVEYANCER is hereby authorised to make any payment or deduction necessary in accordance with such adjustment from funds held by the CONVEYANCER.

**6. RATES, COSTS AND TRANSFER**

- 6.1 The conveyancers shall be ..... (“the CONVEYANCER”).
- 6.2 The PURCHASER shall be liable for payment of all rates as from the TRANSFER DATE and the PURCHASER shall on receipt of their account pay to the CONVEYANCER their estimate of the PURCHASER’S share of the rates and other charges payable for a clearance certificate from the local authority for the purposes of the transfer.

- 6.3 The transfer costs together with all and any transfer duties, penalty and interest, and pro rata share of the rates shall be borne and paid for by the PURCHASER.
- 6.4 The PURCHASER shall not be entitled to receive transfer of the PROPERTY until the CONVEYANCER is satisfied that the PURCHASE PRICE, rates and all interest and other charges relating to the PURCHASER'S obligations and liabilities have been paid in full or secured in terms of this AGREEMENT.
- 6.5 The SELLER shall be liable for the costs of cancelling any existing mortgage bonds registered over the PROPERTY.
- 6.6 Each party shall, within 7 days of being called upon to do so by the CONVEYANCER, sign all documents required to be signed, and furnish all documents required to be furnished, by that party to enable transfer of the PROPERTY to be given to the PURCHASER and registration of any mortgage bond required by the PURCHASER.
- 6.7 The SELLER undertakes prior to the TRANSFER DATE to settle all arrear rates payment, service charges and other municipal debt and comply with any other requirement in order for the local authority to issue the rates clearance certificate and both parties warrant that their tax affairs will be in order to enable the requisite transfer duty receipt to be issued by the Revenue authorities.

## 7. BREACH

- 7.1 In the event that either party commits a breach of any obligation under this AGREEMENT and remains in default and fails to remedy such breach within a period of 10 (ten) days after receipt of a written notice from the other party or the CONVEYANCER, to remedy the breach then the AGGRIEVED PARTY, at its sole discretion and without prejudice to any of its other rights in law, shall have the option of either enforcing performance of the DEFAULTING PARTY'S outstanding obligations, or cancelling this AGREEMENT without further notice to the DEFAULTING PARTY and to claim against the DEFAULTING PARTY for the recovery of damages.
- 7.2 In the event of cancellation where the DEFAULTING PARTY is:
  - 7.2.1 the PURCHASER, all payments made by the PURCHASER together with all the interest that has accrued thereon, and any improvements made by the PURCHASER to the PROPERTY, shall be forfeited and paid to the SELLER as rouwkoop, subject however, to any remedies at law available to the PURCHASER.
  - 7.2.2 the SELLER, the PURCHASER shall immediately upon cancellation of this AGREEMENT receive from the CONVEYANCER, all payments made by the PURCHASER, together with all the interest that has accrued thereon.
- 7.3 Any amount falling due for payment by either party in terms of this AGREEMENT and remaining unpaid after due date, shall bear interest thereon, at 2% above the legal rate and reckoned between the due date for payment and the actual date of payment thereof, both days inclusive.
- 7.4 The DEFAULTING PARTY will be liable to pay legal costs on the attorney and own client scale in addition to any collection charges.
- 7.5 In the event of either party being sequestrated or being placed under liquidation or judicial management prior to the TRANSFER DATE, the other party shall be entitled to cancel this AGREEMENT and to exercise its rights in terms of this clause *mutatis mutandis*.
- 7.6 *The parties consent to the jurisdiction of the Magistrates Court for the determination of any action or dispute which may arise between them under this AGREEMENT.*

## 8. VOETSTOOTS SALE

The PROPERTY is purchased voetstoots, absolutely as it stands, any difference as to quantity, quality, description or otherwise notwithstanding, and without any warranties whether express or implied. The PURCHASER acknowledges having inspected the PROPERTY including all the conditions of title, including the applicable rules and regulations relating thereto, servitudes, town planning regulations and government, provincial and local authority laws, rules and regulations, applicable thereto, and the buildings and fixed improvements of which the PROPERTY forms a part. The SELLER shall not be liable for any defects, latent or otherwise, which may exist in respect of the PROPERTY, nor for any damages suffered by the PURCHASER by reason of such defects.

## **9. DELIVERY OF NOTICES**

- 9.1 The parties choose their domicilium citandi et executandi (hereinafter referred to as DOMICILIUM) as specified in the preamble on page 1 above, where all processes at law may be served.
- 9.2 Notice in terms of this AGREEMENT must be given at :
- 9.2.1 the DOMICILIUM address on page 1 of this AGREEMENT; and
- 9.2.2 the postal addresses or fax numbers as specified in the information schedule attached.
- 9.3 Any of the parties shall be entitled from time to time, by written notice to the other to vary the DOMICILIUM to any other physical address within the Republic of South Africa at which legal process can be served.
- 9.4 Any notice which:
- 9.4.1 if posted by prepaid registered post shall be deemed to have been received on the fourth day after the date of posting;
- 9.4.2 if sent by telefax shall be deemed to have been received on the day following transmission.
- 9.4.3 Notwithstanding anything to the contrary contained in this AGREEMENT a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that such notice or communication was not sent to or delivered at the ADDRESSEE'S DOMICILIUM.

## **10. NO COMMISSION PAYABLE**

It is recorded that no estate agent or broker was involved in any way with this purchase and sale transaction and accordingly no estate agent commission is payable arising out of the purchase and sale of the PROPERTY.

## **11. MISCELLANEOUS CLAUSES**

- 11.1 This AGREEMENT constitutes the entire contract between the SELLER and the PURCHASER and no variation, amendment or cancellation of this AGREEMENT shall be of any force or effect unless reduced to writing and signed by both the parties.
- 11.2 No relaxation, extension of time or other indulgence which may be given or allowed by either the SELLER or the PURCHASER in respect of the performance of obligations in terms of this AGREEMENT, shall prejudice either party or be deemed to be a waiver of any rights in terms of this AGREEMENT.
- 11.3 The SELLER and the PURCHASER shall be entitled at any time to exercise its rights as though no indulgence was shown, extension given or right waived.
- 11.4 For the purposes of this AGREEMENT "day" means a calendar day and whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African public holiday in which case the last day will be the next succeeding business day.

## **12. INSURANCE**

The SELLER shall from acceptance hereof until the TRANSFER DATE insure all the improvements on the PROPERTY, including all fixtures, fittings and movables sold herewith, for the full replacement value thereof, against fire, theft, civil riot, accident, explosion, bursting of pipes and other reasonable risks, with a reputable insurance company. The SELLER shall ensure that the PURCHASER'S interest in the said insurance policy is noted.

## **13. TRUSTEE FOR COMPANY OR CLOSE CORPORATION TO BE FORMED**

If this AGREEMENT is entered into by the signatory for the PURCHASER in his capacity as trustee for a company or close corporation to be formed, then:

13.1 the said signatory, by his signature hereto, hereby binds himself in favour of the SELLER as surety and co-principal debtor, under renunciation of the benefits of division, exclusion and cession of action, for the due performance of all the obligations of the said company or close corporation in terms of or arising out of this AGREEMENT or any cancellation hereof; and

13.2 without prejudice to the provisions of clause 13.1, in the event of such company or close corporation not being formed within 30 days after the date of signature of this AGREEMENT, and/or failing within 14 days of incorporation to ratify and make the provisions of this AGREEMENT binding upon itself, and/or failing within the said 14 day period to deliver to the CONVEYANCER the originals or notarially certified copies of its incorporation documents and resolutions, then and in any such event, the said signatory shall be personally liable in terms hereof as if he had purchased in his own personal capacity.

**14. ELECTRICAL INSTALLATION AND ENTOMOLOGIST'S CERTIFICATES**

Notwithstanding the voetstoots clause above, once all suspensive conditions of this AGREEMENT have been fulfilled, the SELLER shall forthwith obtain and deliver to the CONVEYANCER prior to the TRANSFER DATE and at the SELLER'S sole expense, the following certificates, which shall be issued by the relevant accredited, registered and Government approved person, issued no earlier than the date of signature of this AGREEMENT:

14.1 a valid Certificate of Compliance for the entire electrical installations on the PROPERTY;

14.2 a valid Certificate of Clearance for all accessible timbers on the PROPERTY, certifying that there is no evidence of active infestation or damage caused by wood destroying insects, creatures or fungi.

**15. AUTHORITY TO SIGN AGREEMENT**

The PURCHASER and SELLER hereby warrant that all written consents, permits and/or resolutions required by law in order for this AGREEMENT to be signed and to bring about a lawfully binding contract, have been obtained prior to signature hereof and will be produced when called upon to do so.

**16. MORA INTEREST**

In the event of there being a delay in connection with the registration of transfer for which either party is responsible, the party delaying shall compensate the other party by way of an interest payment on the PURCHASE PRICE calculated at the rate of 15% per annum reckoned from the date upon which the party delaying receives written notice from the other party or their agent/CONVEYANCER as being in Mora, to the date upon which the delaying party ceases to be in Mora.

**17. PURCHASERS RIGHT TO TERMINATE AGREEMENT**

17.1 If the PURCHASE PRICE is R250 000,00 or less, the PURCHASER shall be entitled in terms of section 29A of the Alienation of Land Act No. 68 of 1981 to terminate this AGREEMENT within 5 working days after the AGREEMENT was entered into, except in circumstances where the PURCHASER is a company, close corporation or trust, has the right in this AGREEMENT to nominate another person or entity to acquire the PROPERTY, or is not entitled to do so in terms of the further provisions of the aforesaid section 29A.

17.2 Written notice to the SELLER advising the SELLER of the PURCHASER'S termination of the AGREEMENT must be signed by the PURCHASER or the PURCHASER's agent acting on the PURCHASER's written authority, must identify this AGREEMENT, and be unconditional.

**18. OFFER AND ACCEPTANCE**

Signature of this AGREEMENT by the PURCHASER constitutes an offer to purchase which shall remain open for acceptance by the SELLER by no later than

..... am/pm on the ..... day of ..... 20 .....

**19. ADDITIONAL CONDITIONS**

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

Signed by the PURCHASER at ..... on this ..... day of ..... 20 .....

.....  
as witness :-

.....  
PURCHASER

Signed and accepted by the SELLER at ..... on this ..... day of ..... 20 .....  
at ..... am/pm.

.....  
as witness :-

.....  
SELLER

<b>Buyer 1</b>			
Surname of Buyer 1:			
Full Names:			
ID No / Company Registration No:		Income Tax No:	
Physical Address:			
	Postal Code:		
Postal Address:			
	Postal Code:		
Tel (work):		Tel (home):	
Cell:		Fax:	
Email:			
Marital Status:	<input type="checkbox"/> Single	<input type="checkbox"/> COP	<input type="checkbox"/> ANC <input type="checkbox"/> Other
No of Dependants:		Permanent Resident:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Require Updates:	<input type="checkbox"/> SMS	Email <input type="checkbox"/>	None <input type="checkbox"/>

<b>Buyer 2</b>			
Surname of Buyer 2:			
Full Names:			
ID No / Company Registration No:		Income Tax No:	
Physical Address:			
	Postal Code:		
Postal Address:			
	Postal Code:		
Tel (work):		Tel (home):	
Cell:		Fax:	
Email:			
Marital Status:	<input type="checkbox"/> Single	<input type="checkbox"/> COP	<input type="checkbox"/> ANC <input type="checkbox"/> Other
No of Dependants:		Permanent Resident:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Require Updates:	<input type="checkbox"/> SMS	Email <input type="checkbox"/>	None <input type="checkbox"/>

<b>Seller 1</b>			
Surname of Seller 1:			
Full Names:			
ID No / Company Registration No:		Income Tax No:	
Physical Address:			
	Postal Code:		
Postal Address:			
	Postal Code:		
ERF No:			
Type of Property:	<input type="checkbox"/> Sectional Title <input type="checkbox"/> Vacant Land	<input type="checkbox"/> Ordinary Residential <input type="checkbox"/> Cluster	<input type="checkbox"/> Special Title <input type="checkbox"/> Smallholding/Farm
Sectional Title Only			
Managing Agent			
Current Bond Holder:		Current Bond Account No:	
Tel (work):		Tel (home):	
Cell:		Fax:	
Email:			
Marital Status:	<input type="checkbox"/> Single	<input type="checkbox"/> COP	<input type="checkbox"/> ANC <input type="checkbox"/> Other
No of Dependants:		Permanent Resident:	Yes No
Require Updates:	<input type="checkbox"/> SMS	<input type="checkbox"/> Email	<input type="checkbox"/> None
<b>Seller 2</b>			
Surname of Seller 2:			
Full Names:			
ID No / Company Registration No:		Income Tax No:	
Physical Address:			
	Postal Code:		
Postal Address:			
	Postal Code:		
ERF No:			
Type of Property:	<input type="checkbox"/> Sectional Title <input type="checkbox"/> Vacant Land	<input type="checkbox"/> Ordinary Residential <input type="checkbox"/> Cluster	<input type="checkbox"/> Special Title <input type="checkbox"/> Smallholding/Farm
Sectional Title Only			
Managing Agent			
Current Bond Holder:		Current Bond Account No:	
Tel (work):		Tel (home):	
Cell:		Fax:	
Email:			
Marital Status:	<input type="checkbox"/> Single	<input type="checkbox"/> COP	<input type="checkbox"/> ANC <input type="checkbox"/> Other
No of Dependants:		Permanent Resident:	Yes No
Require updates:	<input type="checkbox"/> SMS	<input type="checkbox"/> Email	<input type="checkbox"/> None