

OFFER TO PURCHASE IMMOVEABLE PROPERTY

(Sectional title unit in South Africa)

Summary

The Seller ¹	Name:
	Address:
	Email:
	Telephone:
If Seller is married in community of property	Spouse's name and ID. no.:
The Purchaser ²	Name:
	Address:
	Email:
	Telephone:
If Purchaser is married in community of property	Spouse's name and ID. no.:
The Property	Description: A unit consisting of: (a) Section No. _____ as shown and more fully described on Sectional Plan No. SS ____ in the scheme known as _____, situate at _____ in the City of _____, measuring _____ square metres; and (b) An undivided share in the common property in the scheme apportioned to the section in accordance with the participation quota endorsed on the said sectional plan.
	Garage/parking bay: (a) an exclusive use area _____ as shown and more fully described on Sectional Plan No. SS ____ in the scheme known as _____, situate at _____ in the City of _____, measuring _____ square metres; and (b) An undivided share in the common property in the scheme apportioned to the section in accordance with the participation quota endorsed on the said sectional plan.
	Storeroom ³ :
Price	Full purchase price:
	Deposit:
Date of transfer	
Date of occupation/possession ⁴	

¹ If more than 1 seller ... / the seller is an entity / a person signing on behalf of another/an entity (see authorised signatory clause below)?

² If more than 1 purchaser ... / the purchaser is an entity (see authorised signatory clause below)?

³ Or other exclusive use area

⁴ Date of occupation may be different from the date of possession.

Rent (if occupation happens before transfer) ⁵	
Conditions ⁶	If sale of own (Purchaser's) property, by when: If obtaining a bond, for what amount:
Offer period ⁷	From: _____ To: ⁸ _____
The lawyers for the transfer (the "Conveyancers")	Name:
	Telephone/email:

1 Sale

The Seller sells to the Purchaser and the Purchaser buys from the Seller the Property on the terms described in this agreement.

2 Purchase Price

2.1 The purchase price is the amount on the first page of this agreement and it is payable as follows:

2.1.1 the deposit, if any, is paid to the Conveyancers within 7 days of the signature of this agreement by both parties (the "Signature Date"), and it will be held in trust until registration of transfer. The Conveyancers will deposit, and are instructed to do so by the Purchaser, the deposit in an interest-bearing account, the interest to be for the benefit of the Purchaser;

2.1.2 the Purchaser pays the balance of the purchase price to the Conveyancers, against registration of transfer.

2.2 As security for the payment of the balance of the purchase price, the Purchaser must within 10 business days after the Signature Date or after fulfilment of any conditions, or otherwise at the written request of the Conveyancers, provide a guarantee for payment of the balance of the purchase price. This guarantee may take the form of a bank guarantee from the Purchaser's bank or the Purchaser may make a cash payment to the Conveyancers, or it may take any form acceptable to the Conveyancers; this must happen within 10 business days of the Conveyancers request.

⁵ If the Seller transfers the property but remains in occupation/possession, then it must pay rent to the Purchaser; but if the purchaser moves in before the date of transfer, then it must pay rent to the Seller.

⁶ Bond approval/sale of own property ... or do we say 'yes/no' then depending on answer, options come up? We have alternatives in the 'Conditions' clause

⁷ Is this necessary?

⁸ Insert date AND time

- 2.3 The Purchaser may not withhold any payments due in terms of this agreement and all payments must be made on demand, free of set-off, deduction or exchange.

3 Offer

The signature by the Purchaser of this agreement makes this an irrevocable offer (an offer that cannot be withdrawn except where the purchase price is less than R250'000.00 and the Purchaser has a cooling-off period in terms of clause _____ below). The offer expires on the date and at the time stated on the first page of this agreement. If it is accepted by the Seller (by the Seller signing this agreement), then this agreement will become a deed of sale.

4 Voetstoots ("as is")

- 4.1 The Property is sold as described in the existing title deed, subject to all conditions, restrictions and servitudes (if any) in such deed, as well as the conditions filed with the Sectional Title Register in terms of Section 11(3)(b) of the Sectional Titles Act and the rules of the Body Corporate.
- 4.2 The Property is sold voetstoots or "as it stands", without any warranties, express or implied. The Purchaser acknowledges that it has examined the Property and that it is satisfied with the condition of the Property.
- 4.3 If upon a resurvey, the size of the Property differs from that set out in the title deed or in the diagram in respect of the property, the Seller will not be liable for any shortfall (the Property being smaller), nor shall it claim compensation for any surplus (the Property being bigger).

5 Warranties

The Seller warrants that:

- 5.1 there is no impending expropriation of the Property and the Seller is not aware of any facts or circumstances that may cause this to happen;
- 5.2 it is the registered owner of the Property and it is able to pass transfer of the Property to the Purchaser;
- 5.3 the Seller has disclosed to the Purchaser all information relating to the Property which is, or reasonably likely to be, material to a buyer of the Property; and
- 5.4 no other party has a valid option or a right of pre-emption in respect of the Property.

6 Transfer and Further Actions

- 6.1 The Conveyancers will be responsible for the transfer of the Property from the Seller to the Purchaser. They will liaise with both parties during the process of transfer (this may take months) and they will instruct the parties on what they need to give to the Conveyancers.
- 6.2 The Purchaser and Seller undertake to do all things necessary to fulfil the provisions of this agreement and must timeously sign documents as and when required. Both parties must promptly comply with all the requests or instructions of the Conveyancers; this means within 7 business days of telephonic or written request by the Conveyancers do call at their offices to sign or complete or provide documentation.

7 Possession

Possession of the Property will be given to the Purchaser on the date stated on the first page of this agreement. On this date, the Property will not be occupied so that the Purchaser is able to take vacant occupation of it.

8 Risk and Insurance

- 8.1 From the date of transfer or possession, whichever is the earlier, all risk and benefit of ownership in the Property passes to the Purchaser. This means that if there is revenue being earned from the Property, it will go to the Purchaser from this date; but also all expenses in respect of the Property (excluding any amounts owing under the Seller's mortgage bond) will be paid by the Purchaser from this date.
- 8.2 The Seller will ensure that the Property is adequately insured until the date of transfer; the Purchaser should ensure that it has adequate insurance arranged for the Property from this date.

9 Occupational Rent

Should the date of possession or occupation not be the same as the date of transfer, the party who possesses or occupies the Property while it is registered in the name of the other party, will pay to the other party the amount stated on the first page of this agreement. This amount is a monthly amount and it is paid in advance to the Conveyancers. Should the period in question be less than a month or for not an exact number of months, then the amount will be calculated on the number of days in which the Property is actually possessed/occupied.

10 Maintenance of Property

The Seller undertakes to maintain the Property in the same condition from the Date of Signature to the date of occupation by the Purchaser. The Purchaser, where it occupies the Property before the date of registration, undertakes to maintain the Property in the same condition from date of occupation by it to the date of transfer. This means that the Purchaser cannot make any changes or alterations to the Property unless it has the prior written consent of the Seller.

11 Costs and apportionment of levies

- 11.1 The Purchaser will pay all ordinary costs of transfer including conveyancer's fees, transfer duty, the registration of any mortgage bond that may be required, and the cost of any rates or clearance certificates.
- 11.2 The Purchaser shall refund to the Seller upon request that portion of the monthly levies paid by the Seller in advance, in respect of any period beyond the date of registration of transfer of the property, into the name of the Purchaser.

12 Conditions

There are no conditions.

Alternatively

- 12.1 This agreement is conditional on the Purchaser getting a bond for the amount stated on the first page of this agreement. The bond must be obtained from a bank within 15 business days of the Signature Date, or any longer period which the Seller may agree to. Until the bank approval is obtained, this agreement will be suspended; once the bond has been obtained (and this will have to be in writing from the relevant bank), then this agreement is considered to be valid and binding on both parties. Should the Purchaser's application for a bond not be granted in time or at all, this agreement lapses and all monies paid in relation to it will be refunded.
- 12.2 This clause is for the benefit of the Purchaser and it may unilaterally waive the benefit of this clause by communicating this in writing to the Seller.

Alternatively/and

- 12.3 This Agreement is conditional on the sale of the Purchaser's own property within the time period stated on the first page of this agreement. The sale of the Purchaser's property must also be unconditional for this condition to be fulfilled and this agreement

to be valid. The Purchaser undertakes that the transfer of its property will take place before or simultaneously with the transfer of the Property. Should the sale of the Purchaser's own property not take place within the time period stipulated, or any longer time period that the Seller may allow, this agreement lapses and all monies paid in relation to it will be refunded.

12.4 The Seller may, during this conditional period, continue to market the Property. If the Seller gets another acceptable, unconditional offer for the Property, the Seller must inform the Purchaser in writing and give the Purchaser 3 business days in which to make its offer unconditional. If the Purchaser does not make its offer unconditional, then the Seller may accept the other offer, and this agreement will lapse and be null and void.

12.5 This clause is for the benefit of the Purchaser and it may unilaterally waive the benefit of this clause by communicating this in writing to the Seller.

13 Electricity Certificate⁹

The Seller shall, prior to registration of transfer, provide the Purchaser with a valid "Electrical Certificate of Compliance" (as prescribed by law) covering the Property. All expenses incurred in meeting the criteria for the issue of such Certificate, including the Certificate itself, shall be borne by the Seller. The Seller warrants that no additions or alterations will be made to the electrical installations on the Property after the issue of such Certificate and before transfer. Upon the Seller furnishing the Purchaser with the said Certificate, the Purchaser shall have no claim whatsoever in this regard against the Seller and no further liability therefor shall rest upon the Seller.

14 Beetle Inspection¹⁰

Prior to the registration of transfer, the Seller shall at its expense arrange to have the Property, excluding "Wendy" Houses and picket fences, inspected by a contractor registered with the South African Pest Control Association for infestation by *Oxupleuris Nodieri* and *Hylotrupes Bajulus*, and shall treat or replace with pre-treated timber any timber found to be so infested.

15 Plumbing Certificate (only applicable to properties within the jurisdiction of the City of Cape Town, Western Cape Province)

15.1 The Seller shall, at his expense, submit a certificate from an accredited plumber to the City of Cape Town Municipality, certifying that the water supply to the Property

⁹ Plumbing & gas certificate/s may be required

¹⁰ May not be applicable for sectional titles

confirms with the requirements stipulated in Section 14 of the City of Cape Town: Water By-law, 2010, namely that:-

- 15.1.1 the water installation conforms to the National Building Regulations and this By-law;
 - 15.1.2 there are no defects which can cause water to run to waste;
 - 15.1.3 the water meter registers; and
 - 15.1.4 there is no discharge of stormwater into the sewer system.
- 15.2 The Seller undertakes to submit this certificate to the City of Cape Town via fax or email, and to furnish proof of such submission to the transferring attorneys.
- 15.3 Insofar as the accredited plumber appointed by the Seller to provide such certificate requires corrective work to be carried as a precondition to the issue thereof, the Seller will procure such work is carried out at his cost and expense.

16 Certificate of Conformity for Gas Appliances

- 16.1 The Seller will obtain, at its own expense, from an accredited person, a Certificate of Conformity confirming that any gas installations on the Property comply with section 17(3) of Government Notice R734 of 15 July 2009, Government Gazette 32395. The Certificate shall be delivered to the Purchaser prior to the date of occupation or within five (5) days of demand for delivery.
- 16.2 The parties agree that the Certificate of Conformity certifies that any gas installation on the Property complies with the safety standards as determined by the relevant legislation and is not to be regarded as a general guarantee covering all aspects of any gas installation present on the Property. The Purchaser shall have no further claims against the Seller with regard to any gas installation on the Property.

17 Fixtures

- 17.1 The Property is sold with all fixtures and fittings of a permanent nature (which the Seller warrants are paid for), as viewed by the Purchaser on the date that the Purchaser signed this agreement, including all light fittings, blinds, curtain rails, built-in cupboards, built-in kitchen units, built-in bathroom fittings, keys and remotes, wall to wall carpets, built-in kitchen appliances, TV aerials and satellite dishes, pool cleaning equipment (including automatic pool cleaner, pool pump and filter), automatic garage door mechanism, burglar alarm system, garden irrigation system, fitted burglar bars and security gates

(delete whatever inapplicable), as well as the fittings listed in the annexure at the end of this agreement.

- 17.2 Those fixtures and fittings excluded from the sale and which will be removed by the Seller from the Property prior to occupation of the Property by the Purchaser are listed in the annexure.

18 Agent's Commission

- 18.1 It is recorded that no estate agent initiated or was the effective cause of the sale, and that no agent's commission is accordingly payable. The Purchaser indemnifies the Seller against any claim for agent's commission relating to this transaction.
- 18.2 This transaction is a private sale between the parties and in the circumstances the provisions of the Consumer Protection Act 68 of 2008 are not applicable to this transaction.

19 Marital Status

The parties warrant that all written consents required in terms of the Matrimonial Property Act in respect of this agreement have been or will be given. This means that if any of the parties are married in community of property, their spouses must consent to the sale of the Property and the spouse must sign at the place provided for on the next page.

20 Authorized signatories

The persons signing this agreement warrant that they are duly authorized to sign this agreement on behalf of the entities whom they represent and that they shall be personally bound in the event of non-compliance with any of the said entities obligations under this agreement.

21 Right of extension

The Seller records that real right of extension, as contemplated in Section 25 of the Sectional Titles Act 95 of 1986, is applicable to the scheme of which this property forms part.

22 Tax warranty

The parties warrant that their respective tax obligations have been discharged and are fully up to date.

23 Body corporate rules

The Purchaser acknowledges that the Property forms part of a sectional title scheme and is bound by the body corporate and their conduct rules. Furthermore, this scheme falls under the jurisdiction of the Sectional Titles Act as amended.

24 Value added tax¹¹

- 24.1 The parties record that they are both registered as vendors under the Value Added Tax Act and that the sale constitutes the sale by the Seller to the Purchaser of a business as a going concern. The business will accordingly comprise an income earning activity from the date of transfer of the assets comprising the business and which make up the enterprise. The assets necessary for the carrying on of the said enterprise have been disposed of by the Seller to the Purchaser in terms hereof and it is contemplated that the transaction will be zero rated for the purpose of value added tax.
- 24.2 Should this not be the case for whatsoever reason, the Purchaser undertakes to pay the applicable transfer duty on the transfer in the ordinary course

25 Breach

- 25.1 Should the Purchaser fail to comply with any of its obligations or commit a breach of this agreement and fail to remedy such default or breach within 5 business days after having received a written notice to do so, the Seller is entitled either:
- 25.1.1 to hold the Purchaser to the contract, in which case the Seller may claim interest from the date of the breach up to the date upon which the breach is remedied, or
- 25.1.2 to cancel the contract and to retain all the amounts paid on account of the Purchase Price as liquidated damages in respect of any breach of contract without prejudice to any further or other legal rights the Seller might have.
- 25.2 Should there be a delay in the registration of transfer for which the Purchaser is responsible, the Purchaser shall, without prejudice to the Seller's rights set forth above, be liable to pay the Seller interest on the full purchase price. This interest will be at prime overdraft rate (as specified by the Standard Bank of South Africa Ltd from time to time) plus 2 (two) percent per annum calculated from the date on which the Purchaser is notified in writing by the Conveyancers as being in breach/delay to the date upon which the Purchaser is no longer in breach/delay.

¹¹ Only where applicable

- 25.3 If any amount payable in terms of this agreement is late, the Seller or its agent may allow other potential purchasers or tenants to view the Property until such time as the relevant amount is paid.

26 Domicilium

The parties consent to the jurisdiction of the Magistrate's Court for all actions arising from a breach of this Agreement and hereby nominate their addresses on the first page of this agreement as their domicilia citandi et executandi (addresses for service of all documents).

27 Cooling-off Period

If the Purchase Price is R250'000.00 (two hundred and fifty thousand Rand) or less, the Purchaser has the right to stop this sale in terms of Section 29A of the Alienation of Land Act No. 69 of 1981, as amended, within 5 (five) days of signature (excluding Saturdays, Sundays and public holidays). This must be done by the Purchaser delivering an unconditional written notice to the Seller, signed by the Purchaser or its agent acting in terms of a power of attorney, by which this agreement is terminated.

28 General Provisions

- 28.1 The parties agree that this agreement contains the entire contract and that no warranties or representations, expressed or implied have been made other than as set out in this document.
- 28.2 No variation or modification of this agreement will be of any force or effect unless put in writing and signed by all the parties.
- 28.3 Any relaxation or indulgence on the part of any party in exercising any right conferred upon such party (in other words, or as an example, where one party allows the other party more time to do something than the time period allowed in this agreement) in terms of this agreement, does not mean that the right is waived or altered. Any single or partial exercise of any right does not preclude any other or future exercise thereof or the exercise of any other right under this agreement.
- 28.4 In this agreement the singular includes the plural and the male gender shall include the female and vice versa where applicable. If there are two or more Purchasers, the obligations in this agreement will be joint and several.
- 28.5 This agreement may be signed in one or more counterparts and the signature of one copy by any party has the same effect as if that party signed the same document as the other party.

Signed at *[place]* _____ on *[date]* _____ 20__

Seller

Signed at *[place]* _____ on *[date]* _____ 20__

Purchaser

CONSENT¹²

(In terms of Section 15(2) of the Matrimonial Property Act, 1984)

I, the undersigned, _____ *[Full names of spouse]*

being married to the Seller/Purchaser in community of property or in accordance with the law of a foreign country, hereby consent in terms of Section 15(2) of the Matrimonial Property Act, 1984, to the Seller/Purchaser entering into the above agreement.

SIGNED by the spouse of the Seller/Purchaser at *[place]* _____

on *[date]* _____ 20__.

AS WITNESSES:

1. _____

2. _____

Signature of spouse

¹² If both Seller & Purchaser married ICOP, then more than 1 consent will be required.

