

# STANDARD FREEHOLD RESIDENTIAL PROPERTY SALE AGREEMENT

**PLEASE NOTE:** This agreement is intended to give individuals a very general outline of some of the provisions which may be included in an agreement for the sale of a freehold residential property. It is not intended to be comprehensive or a substitute for detailed or specific legal advice. Certain provisions of this agreement may not be suitable for use in relation to sales which are subject to the provisions of the Consumer Protection Act, 2008 or similar legislation. **Your use of this agreement or any part thereof is at your own risk. Private Property is not liable for any loss or damage which you may suffer arising from, or as a consequence of, your use of this agreement.**

## THE SCHEDULE

**Please complete the following:**

*[Delete the provisions which are not applicable and initial the deletion]*

1.	<b>The Seller's details</b>	
	<b>SELLER 1</b>	
	Full names	
	Identity no.	
	Physical address	
	Postal Address	
	Email address	Fax no.
	Landline no.	Cell no.
	Income tax no.	
	Marital status	
	Current bond holder	
	Current bond amount	
	Current bond account no.	
	Are you a permanent resident?	
	<b>SELLER 2</b>	
	Full names	
	Identity no.	
	Physical address	
	Postal Address	
	Email address	Fax no.
	Landline no.	Cell no.
	Income tax no.	
	Marital status	
	Current bond holder	
	Current bond amount	
	Current bond account no.	
	Are you a permanent resident?	
2.	<b>The Purchaser's details</b>	
	<b>PURCHASER 1</b>	
	Full names	
	Identity no.	
	Physical address	
	Postal Address	
	Email address	Fax no.
	Landline no.	Cell no.
	Income tax no.	
	Marital Status and regime	
	Are you a permanent resident?	
	<b>PURCHASER 2</b>	
	Full names	
	Identity no.	
	Physical address	
	Postal Address	
	Email address	Fax no.
	Landline no.	Cell no.
	Income tax no.	
	Marital Status and regime	

	Are you a permanent resident?	
3.	<b>The Property</b>	
	Physical address	
	Title deed description: Erf No.....in 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:	
4.	<b>Purchase Price</b>	
	The purchase price is R....., excluding VAT, payable as follows:	
	Deposit to be paid in cash to the Conveyancers within ..... days after the Seller's signature of this agreement	<b>R</b>
	Mortgage bond to be obtained within ..... days after the Seller's signature of this agreement	<b>R</b>
	Proceeds from sale of the Purchaser's property situated at..... to be sold within ..... days after the Seller's signature of this agreement	<b>R</b>
	Cash or guarantees for the balance of the full Purchase Price	<b>R</b>
	<b>Total Purchase Price (excl. VAT)</b>	<b>R</b>
5.	<b>The Conveyancers' details</b>	
	Full names	
	Physical address	
	Postal Address	
	Email address	
	Landline no.	
6.	<b>Occupation Date:</b>	
	.....	
7.	<b>Occupational Rental</b>	
	R..... per month	

**\*Please attach a copy of the Purchaser's identity document and marriage certificate to this agreement, if the Purchaser is an individual.**

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**1. SALE**

The Seller whose details appear in clause 1 of the Schedule ("the Seller"), sells the immovable property described in clause 3 of the Schedule ("the Property") to the purchaser whose details appear in clause 2 of the Schedule ("the Purchaser"), who purchases the Property from the Seller on the terms and conditions of this agreement.

**2. PURCHASE PRICE AND PAYMENT**

2.1 In return for the purchase of the Property, the Purchaser must pay the Seller the price ("Purchase Price") specified in clause 4 of the Schedule, in the manner specified in clause 4 of the Schedule.

2.2 The Purchase Price shall be paid in cash to the Seller on the date of registration of transfer of the Property to the Purchaser ("the Transfer Date"), in accordance with the instructions of the Conveyancers, whose details are set out in clause 5 of the Schedule.

2.3 Any amounts paid in cash by the Purchaser on account of the Purchase Price must be held by the Conveyancers in an interest-bearing trust account in terms of Section 78(2A) of the Attorneys Act, 56 of 1957, with all interest accrued thereon to be for the benefit of the Purchaser until the Transfer Date.

2.4 All payments in terms of this agreement must be made free of deduction, set-off or exchange, directly to the Conveyancers. The Purchaser is liable for all bank charges incurred in relation to such payments.

2.5 Any VAT or transfer duty payable on the Purchase Price, plus any interest and penalties which may be levied thereon, shall be paid by the Purchaser.

**3. SUSPENSIVE CONDITIONS**

3.1 If the Purchaser requires a mortgage bond, then this entire agreement is subject to the suspensive condition that before expiry of the time limit specified in clause 4 of the Schedule, the Purchaser obtains written approval from a financial institution acceptable to the Seller that a loan has been granted in principle, upon that financial institution's standard terms and conditions currently applicable.

3.2 If the Purchaser needs to sell his existing property specified in clause 4 of the Schedule, then this entire agreement is subject to the suspensive condition that before the time limit specified in clause 4 of the Schedule, the Purchaser concludes an agreement for the sale of the Purchaser's property for the amount specified in clause 4 of the Schedule.

3.3 All of the suspensive conditions in this clause 3 are for the benefit of the Purchaser and can be waived by the Purchaser by written notice to that effect to the Seller, at any time 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 to the Seller, except for any Occupational Rental that may have been paid in terms of clause 6, must be refunded by the Seller, together with any interest that has accrued thereon.

**4. BETTER OFFER CLAUSE**

Should the Seller receive an acceptable written unconditional offer from a third party to purchase the Property prior to the fulfilment of any of the applicable suspensive conditions, the Seller shall deliver to the Purchaser a copy of the said offer and the Purchaser shall have 3 days from receipt thereof to deliver to the Seller a written waiver of all applicable suspensive conditions. Should the Seller not receive this written waiver timeously as aforesaid, the Seller may elect to accept the said offer, whereupon this entire agreement shall immediately lapse and be of no further force or effect. In this event, all amounts paid by the Purchaser in respect of this agreement, including interest, must be refunded to the Purchaser.

**5. OCCUPATION AND POSSESSION**

5.1 Possession of the Property shall be given to the Purchaser on the Transfer Date.

5.2 Occupation of the Property shall be given to the Purchaser on the date specified in clause 6 of the Schedule ("the Occupation Date").

## 6. OCCUPATIONAL RENTAL

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 the Occupational Rental specified in clause 7 of the Schedule, reduced pro rata for a period less than a calendar month, calculated inclusive of the Occupation Date and the Transfer Date. The Occupational Rental is payable on the first day of each month, in advance.

## 7. IMPROVEMENTS PRIOR TO THE TRANSFER DATE

7.1 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 on each occasion.

7.2 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.

## 8. INSURANCE

With effect from the date on which this agreement is signed by both parties ("the Signature Date") up to and including the Transfer Date, the Seller must insure all the improvements on the Property, including all fixtures, fittings and movables sold herewith, for their full replacement value, against fire, theft, civil riot, accident, explosion, bursting of pipes and other reasonable risks, with a reputable insurance company. The Seller must ensure that the Purchaser's interest in the said insurance policy is noted.

## 9. RISK AND BENEFIT

9.1 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 expenses in respect of ownership of the Property.

9.2 As at the Transfer Date, the Conveyancers shall account for the necessary adjustments in respect of the liabilities and entitlements of the parties in respect of, but not restricted to, all income, expenses, interest, rates and other charges relating to the Property and this transaction. The parties agree that the Conveyancers may make any payment or deduction necessary in accordance with such adjustment from funds held by the Conveyancers.

## 10. RATES, COSTS AND TRANSFER

10.1 The Purchaser shall be liable for payment of all rates in respect of the Property as from the Transfer Date and the Purchaser shall on receipt of their account, pay to the Conveyancers 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.

10.2 The transfer costs together with all and any transfer duties, penalty and interest, and a pro rata share of the rates in respect of the Property shall be borne and paid for by the Purchaser.

10.3 The Purchaser shall not be entitled to receive transfer of the Property until the Conveyancers are 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.

10.4 The Seller is liable for the costs of cancelling any existing mortgage bonds registered over the Property.

10.5 Each party must, within 7 days of being called upon to do so by the Conveyancers, 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 the registration of any mortgage bond required by the Purchaser.

- 10.6 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 South African Revenue Service.

#### 11. **ELECTRICAL COMPLIANCE CERTIFICATE**

- 11.1 The Seller must, prior to the Transfer Date, deliver at the Seller's expense to the Conveyancers, a certificate of compliance in terms of Government Regulation No. 2920 of 1992, issued by an accredited person who is registered with the Electrical Contracting Board of South Africa, certifying that the electrical installations in the Property are in accordance with SABS 0142, or are reasonably safe.

- 11.2 Should the accredited person report that there is a fault or defect in the electrical installation, the Seller must, at the Seller's expense, within 21 days of receipt of such report and recommendations, contract with an electrical contractor or any other qualified person to carry out the repairs as recommended so as to enable the accredited person to issue the certificate aforesaid.

#### 12. **ENTOMOLOGIST'S CERTIFICATE**

- 12.1 The Seller must procure a certificate from a Government and South African Pest Control Association approved eradicator of timber destroying insects confirming that:

- 12.1.1 the Property has been inspected for infestation by timber destroying and/or boring insects of all kinds; and

- 12.1.2 having thoroughly inspected the Property, at the date of such inspection the Property is apparently free from infestation by such insects.

- 12.2 The certificate must be delivered to the Purchaser prior to the Transfer Date.

#### 13. **ELECTRIC FENCE CERTIFICATE**

Prior to the Transfer Date, the Seller must at the Seller's expense, provide the Purchaser with an electric fence system certificate of compliance issued by a registered electric fence installer in accordance with the provisions of Regulations 12(4) and 13(1) of the Electrical Machinery Regulations, and dated not earlier than the Signature Date, to the effect that the electric fence system on the Property is deemed to be reasonably safe when properly used. Should remedial work be required prior to the issue of the certificate, such work must be carried out at the expense of the Seller.

#### 14. **GAS INSTALLATION CERTIFICATE**

- 14.1 Prior to the Transfer Date or Occupation Date, whichever is the earlier, the Seller must at its cost, deliver to the Purchaser a valid certificate of conformity issued by an authorised person registered with the Liquified Petroleum Gas Safety Association of Southern Africa, and dated not earlier than the Signature Date, in respect of all gas installations on the Property, as prescribed by the applicable Regulations to the Occupational Health and Safety Act, 1993.

- 14.2 The Seller undertakes not to modify or alter the gas installations on the Property after the issue of the certificate of compliance.

#### 15. **PLUMBING CERTIFICATE**

If the Property is situated within the municipal boundaries of the City of Cape Town, the Seller must prior to the Transfer Date and at the Seller's expense, submit to the City of Cape Town Municipality, a certificate of compliance issued by an accredited plumber and dated not earlier than the Signature Date, certifying that

the water supply to the Property conforms with the requirements specified in section 14 of the City of Cape Town Water Bylaw, 2010.

**16. VOETSTOOTS SALE**

- 16.1 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.
- 16.2 The Purchaser acknowledges having inspected the Property, including all the conditions of title, applicable rules and regulations relating thereto, servitudes, town planning regulations, government, provincial and local authority laws, rules and regulations, applicable thereto.
- 16.3 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.

**17. BREACH**

- 17.1 If either party breaches any provision of this agreement and remains in breach for seven days after receipt of written notice by such party requiring that party to rectify that breach, the other party shall be entitled at that party's option:
- 17.1.1 to sue for the immediate specific performance of any or all the defaulting party's obligations under this agreement whether or not any such obligation is then due; or
- 17.1.2 (either as an alternative to a claim for specific performance or upon the abandonment of such a claim) to cancel this agreement, provided that written notice of cancellation is given to the defaulting party and the cancellation takes effect on the giving of such notice.
- 17.2 If the Seller cancels this agreement in terms of clause 17.1, the Seller may without prejudice to any other remedies the Seller has in law, claim damages suffered related to such cancellation.

**18. NOTICES AND ADDRESSES FOR SERVICE**

- 18.1 Unless otherwise specified any notice or communication in terms of this agreement:
- 18.1.1 must be in writing to be effective;
- 18.1.2 must be sent by hand, telefax, registered post or e-mail to the addresses/telefax numbers set out in clauses 1 or 2 of the Schedule (as applicable), which physical addresses the parties select as their respective domicilium citandi et executandi.
- 18.2 A party may change its address/telefax number to any other address/telefax number within South Africa. Such change will only take effect upon receipt or deemed receipt of such notice by the other party.
- 18.3 Any notice or communication shall:
- 18.3.1 if delivered by hand during business hours to the person apparently in charge of the premises selected by the addressee for the delivery of notices, be deemed to have been received on the date of delivery;
- 18.3.2 if sent by registered post to the selected address, be deemed to have been received 6 days after posting;
- 18.3.3 if telefaxed to the selected telefax number, be deemed to have been received on the first business day following the date of transmission; and
- 18.3.4 if sent by e-mail to the selected e-mail address of the addressee, be deemed to have been received on the first business day following the date on which it has been transmitted from the information system under the control of the sender.
- 18.4 Any written notice or communication which has actually been received by a party shall be regarded as sufficient notice even if it has not been sent in the manner or to the address/telefax number provided for above.

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**19. MISCELLANEOUS LEGAL PROVISIONS**

- 19.1 This is the whole agreement between the parties containing all of the express provisions agreed on by the parties with regard to the subject matter hereof.
- 19.2 No party may rely on any representation which allegedly induced that party to enter into this agreement, unless the representation is recorded herein.
- 19.3 No agreement varying, adding to, deleting from or cancelling this agreement (including this clause) and no waiver of any right under this agreement shall be effective unless in writing and signed by or on behalf of the parties.
- 19.4 No relaxation by a party of any of its rights in terms of this agreement at any time shall prejudice or be a waiver of its rights (unless it is a signed written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.
- 19.5 This agreement shall be governed by and construed according to the law of South Africa.
- 19.6 This agreement may be signed by parties in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same agreement.
- 19.7 Since the provisions of this agreement have been settled by negotiation and each party has been free to secure independent legal advice, the rule of construction that clauses must be interpreted against the party principally responsible for drafting does not apply.
- 19.8 Whenever specific words of a particular class are used in conjunction with general words then the specific words shall not limit the scope of the general words. If any provision is followed by the word "including" and specific examples, such examples must not be construed so as to limit the general ambit of the provision concerned.
- 19.9 Each party consents to the jurisdiction of the Magistrates' Court of South Africa in respect of any action which may be instituted against such party arising out of this agreement. This clause does not prevent either party from instituting action in a High Court having jurisdiction.
- 19.10 The expiration or termination of this agreement does not affect such of its provisions which of necessity must continue to apply after such expiration or termination.
- 19.11 Headings of clauses are inserted for the purpose of convenience only and must be ignored in the interpretation of this agreement.
- 19.12 Unless inconsistent with the context, words signifying any one gender will include the others, words signifying the singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.
- 19.13 For the purposes of this agreement:
- 19.13.1 "day" means a calendar day;
- 19.13.2 "business day" means any day other than a Saturday, Sunday or South African Public Holiday;
- 19.13.3 "month" means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;
- 19.13.4 "calendar month" means one of the 12 months of the year from the 1st to the last day of such month;
- 19.13.5 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.
- 19.14 Any reference to an amount in this agreement means that amount is exclusive of VAT unless specified otherwise.

19.15 The various documents forming part of this agreement are to be taken as mutually explanatory. In the event of any conflict or inconsistency the provisions contained in the main body of the agreement will prevail.

20. **NO COMMISSION PAYABLE**

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

20.2 The Purchaser indemnifies the Seller against any claims for commission by any estate agent.

21. **LEGAL COSTS**

21.1 Each party must bear its own legal costs incidental to the negotiation, preparation and implementation of this agreement.

21.2 Any costs incurred by a party arising out of the breach by any other party of the any of the provisions of this agreement must be borne by the party in breach on an attorney and own client scale.

22. **TRUSTEE FOR COMPANY OR CLOSE CORPORATION TO BE FORMED**

22.1 If the Purchaser is contemplated to be incorporated, but does not exist at the Signature Date, then the person ("the Representative") who signs this agreement on the Purchaser's behalf, is liable to the Seller for any liabilities of the Purchaser as provided for in this agreement if:

22.1.1 the Purchaser is not incorporated within 30 days after the Signature Date; or

22.1.2 within 3 months after the date on which it is incorporated, the Purchaser completely, partially or conditionally rejects any part of this agreement.

22.2 The provisions of clause 22.1 do not apply if after its date of incorporation, the Purchaser concludes an agreement with the Seller on the same terms as this agreement, or on terms in substitution for the terms of this agreement.

23. **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.

24. **MORA INTEREST**

If there is a delay in the registration of transfer of the Property for which the Purchaser is responsible, the Purchaser shall in addition to any Occupational Rental payable, compensate the Seller by way of an interest payment on the Purchase Price calculated at the rate of 15% per year, from the date on which the Purchaser receives written notice from the Seller or the Conveyancers as being in mora, to the date upon which the Purchaser ceases to be in mora.

25. **PURCHASER'S RIGHT TO TERMINATE AGREEMENT**

25.1 If the Purchase Price is R250 000,00 or less, the Purchaser may in terms of section 29A of the Alienation of Land Act, 68 of 1981, terminate this agreement within 5 days after the date on which the Purchaser signs this agreement, except if 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.

25.2 Written notice to the Seller advising the Seller of the Purchaser's termination of this agreement must be signed by the Purchaser or the Purchaser's agent acting on the Purchaser's written authority, must identify this agreement, and must be unconditional.

26. **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 written notice to that effect to be delivered to the Purchaser no later than ..... am/pm on the ..... day of ..... 20.....

**27. ADDITIONAL CONDITIONS**

27.1 .....  
.....  
.....  
.....

27.2 .....  
.....  
.....  
.....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE SELLER/for THE SELLER**

who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names .....

Designation .....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE SELLER/for THE SELLER**

who hereby warrants that (s)he is duly authorised to sign this agreement on its behalf

Full names .....

Designation .....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE SELLER'S SPOUSE**

(if married in community of property)

Full names .....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE PURCHASER/for THE PURCHASER**

who hereby warrants that (s)he is  
duly authorised to sign this  
agreement on its behalf

Full names .....

Designation .....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE PURCHASER/for THE PURCHASER**

who hereby warrants that (s)he is  
duly authorised to sign this  
agreement on its behalf

Full names .....

Designation .....

SIGNED at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2014

\_\_\_\_\_

**THE PURCHASER'S SPOUSE**

(if married in community of property)

Full names .....

