

AGREEMENT OF SALE

1 DEFINITIONS

In this agreement and unless otherwise stated:

- 1.1 "THE SELLER" means _____
- 1.2 "THE SELLER'S ADDRESS" means _____
- 1.3 "THE PURCHASER" means _____
- 1.4 "THE PURCHASER'S ADDRESS" means _____
- 1.5 "THE PROPERTY" means _____
- 1.6 "THE PURCHASE PRICE" means _____
- 1.7 "THE DEPOSIT" means _____
- 1.8 "THE BALANCE OF THE PURCHASE PRICE" means _____
- 1.9 "THE GUARANTEE DATE" means _____
- 1.10 "THE DATE OF OCCUPATION" _____
- 1.11 "OCCUPATIONAL RENTAL" means _____
- 1.12 "THE MORTGAGE FINANCE" means the sum of _____
- 1.13 "THE AGENT" means _____
- 1.14 "THE TRANSFERRING ATTORNEYS" mean Gishen-Gilchrist Inc.

For interpretation purposes, references to the masculine will include the feminine and references to the singular will include the plural and vice versa.

2 SALE

- 2.1 The seller hereby sells to the purchaser, who hereby purchases the property for the purchase price subject to the terms and conditions set out in this agreement of sale.

2.2 This agreement shall take effect and bind the parties when signed by both the seller and the purchaser, hereafter referred to as the "conclusion of the agreement".

3 **PAYMENT OF DEPOSIT**

The purchaser shall pay the deposit to the transferring attorneys, on conclusion of this agreement.

4 **DEPOSIT HELD IN TRUST PENDING TRANSFER**

Pending transfer of the property to the purchaser, the transferring attorneys shall hold the deposit in trust for the purchaser, to be paid to the seller on registration of transfer of the property to the purchaser. The transferring attorneys are hereby authorised to invest such deposit in an interest bearing trust account with a registered bank. Any interest on such investment shall accrue for the benefit of the purchaser.

5 **PAYMENT OF PURCHASE PRICE**

The purchase price shall be paid by the purchaser to the seller on transfer of the property to the purchaser. Such payment shall be secured by a bank guarantee/s to the satisfaction of the transferring attorneys, payable to the seller and/or the seller's nominee/s on transfer of the property to the purchaser. Such guarantee/s shall be furnished and delivered to the transferring attorneys on or before the guarantee date.

6 **POSSESSION AND OCCUPATION**

6.1 Subject to the purchaser not being in breach of any term or condition of this agreement the purchaser shall be entitled to and shall be given occupation of the property on the date of occupation.

6.2 ***The benefit, risk, profit and loss in and to the property shall pass to the purchaser on date of registration of transfer of the property into the purchaser's name.***

6.3 ***The purchaser shall reimburse the seller for rates and taxes paid in advance upon the property beyond the date of registration of transfer and the seller shall refund to the purchaser such of the rents, if any, collected in advance upon the property beyond such date.***

7 **OCCUPATIONAL RENTAL**

7.1 ***If transfer of the property to the purchaser is registered:***

7.1.1 ***after the occupation date, the purchaser shall pay the seller occupational rental from the occupation date until the date on which the property is transferred to the purchaser; or***

7.1.2 before the occupation date, the seller shall pay the purchaser occupational interest from the date on which transfer is registered until the occupation date.

7.2 Occupational rental shall be paid monthly in advance on the first day of each month, shall be adjusted pro-rata for any broken period and shall unless the party entitled thereto otherwise determines in writing, be collected by and paid free of exchange to the seller's transferring attorneys.

7.3 If either party hereto remains in occupation of the property after the date on which the other party hereto contends that he should have been given occupation, whether in terms of this agreement arising there from on cancellation or purported cancellation hereof or for any other reason or cause and during any period that he would otherwise have been obliged to pay occupational rental then and in any such event ***the party remaining in occupation shall be obliged to continue to pay occupational rental until settlement or determination of such dispute***, failing which he shall be obliged to vacate the property and shall forfeit any right or purported right to occupy immediately on failing to pay any such occupational rental or portion thereof in which event the other party shall have the right to occupy.

8 COSTS OF TRANSFER

The purchaser shall be liable for all costs of this deed of sale and of transfer, including transfer duty payable to SARS, attorney's and conveyancer's charges, stamps and other duties and all other charges and disbursements relating thereto and shall deposit such costs with the transferring attorneys by no later than the guarantee date.

9 TRANSFER OF THE PROPERTY

The seller shall transfer the property to the purchaser within a reasonable time after the purchaser has complied with all the purchaser's obligations in terms of this agreement. Transfer shall be effected by the transferring attorneys.

10 BREACH

10.1 The seller and the purchaser hereby agree that all the obligations of the parties in terms of this agreement are and shall be deemed to be material.

10.2 In the event of either party failing to comply with any of the terms and conditions of this agreement and failing to remedy such breach within 7 (seven) days of despatch by pre-paid registered post of a written notice requiring that party to remedy any such breach, then and in such event the aggrieved party shall be entitled, without prejudice to any right which either party may have, to:-

10.2.1 cancel this agreement and claim from the party in default such losses as the aggrieved party may have sustained as a result of such default, or;

10.2.2 claim specific performance from the defaulting party of all further obligations in terms of this agreement.

11 MAGISTRATES' COURT JURISDICTION

Any action which the seller, the purchaser or the agent may desire to institute for the enforcement of any right conferred by this agreement, may at the option of the party instituting proceedings, be instituted in the court of any magistrate having jurisdiction in respect of the other party in terms of Section 28(1) of the Magistrates' Court Act to the jurisdiction of which court the defendant party consents in terms of Section 45 of the said Act or of the provisions of any substituted or amended legislation.

12 **DOMICILIUM AND NOTICES**

- 12.1 For the purposes of any notices to be given to, or of any legal proceedings to be instituted, the parties hereto hereby choose domicilium citandi et executandi in the case of the seller at the seller's address and in the case of the purchaser at the purchaser's address or at any changed address specified in writing by notice delivered by the party so changing his address to the other.
- 12.2 Any notice in terms hereof may be delivered to the party to whom it is sent personally or may be sent by pre-paid registered post in which event the notice shall be deemed to have been received on the day but four (4) days after posting if so sent to such party's chosen domicilium citandi et executandi.

13 **DEFECTS**

- 13.1 To the extent that this agreement is not subject to the Consumer Protection Act 68 of 2008 it is recorded that the property as it now lies is sold "**voetstoots**" without warranty or representation as to its condition, nature or extent subject to such conditions and servitudes as are mentioned or referred to in the current title deeds or which have been imposed by law.
- 13.2 To the extent that this agreement is subject to the Consumer Protection Act 68 of 2008, ***the Purchaser acknowledges having been expressly informed of the undermentioned defects in the property and further that the Purchaser hereby expressly accepts the property subject to the said defects.***

13.2.1 **DEFECTS:**

Purchaser to initial

- 13.3 With the exception of the aforestated defects, the Seller gives the Purchaser the warranties contemplated by the Consumer Protection Act 68 of 2008

14 **WAIVERS**

No latitude or extension of time which the seller may allow for the payment of any amount or the performance of any obligation due by the purchaser in terms hereof shall in any circumstances be deemed a waiver of the seller's right to require strict and punctual compliance with each and every obligation of the purchaser in terms hereof.

15 **DESCRIPTION AND BEACONS**

15.1 If there is an error in the description of the property which is common to the parties, such error shall not be binding on the parties who shall in such event be entitled to rectification hereof to describe the property as set out in the seller's title deed.

15.2 The seller shall not be required to indicate to the purchaser the position of the beacons and/or pegs upon the land, and/or the boundaries thereof, nor shall the seller be liable for the costs of locating the same.

16 **REPAIRS, IMPROVEMENTS AND ALTERATIONS**

Subsequent to the date of occupation and until the purchaser takes transfer, the purchaser undertakes to keep all improvements on the property in a good and proper state of repair and condition to the satisfaction of the seller. The purchaser shall not make any structural alterations, and/or additions to any improvements upon the property without the prior written consent of the seller thereto, which consent shall not be withheld unreasonably. Should the purchaser make any alterations and/or any improvements to the property then, unless otherwise agreed in writing by the parties, the purchaser shall not be entitled to any refund or compensation in respect of the same in the event of this sale being cancelled. The seller undertakes to give occupation of the property to the purchaser in the same good order and condition as it is at time of signature of this deed of sale.

17 **SPECIAL RIGHTS AND OBLIGATIONS**

17.1 ***Upon the cancellation of this agreement for any reason whatsoever, the purchaser and all other persons in occupation of the property, claiming occupation through or under the purchaser, shall be obliged to vacate the property immediately, it being recorded that any rights of occupation granted to the purchaser flow only from this contract and do not constitute any form of tenancy.***

17.2 ***The purchaser shall be responsible for any damage done to the property whilst the purchaser is in occupation and in the event of termination of this agreement any damages suffered by the seller in consequence thereof shall be recoverable by the seller out of the deposit.***

17.3 If the seller remains in occupation of the property after registration of transfer, the seller shall be responsible for any damage done to the property during such period of occupation.

18 **MORTGAGE FINANCE**

18.1 It is recorded that the purchaser requires a loan or loans on security of a mortgage bond or bonds over the property for the mortgage finance.

18.2 If the purchaser is unable to obtain such loan or loans at rates of interest, terms of repayment and other terms and conditions no more onerous than those applicable to loans granted by any bank or company controlled by any bank on security of like property prior to the guarantee date, then and in such event either of the parties hereto may cancel this agreement by notice in writing to the other of them and in this event all monies (other than occupation interest) paid by the purchaser shall immediately be refunded to the purchaser.

18.3 ***The purchaser furthermore undertakes and agrees that he will produce any information reasonably required for such loan application upon demand, that he will use his best endeavours and do whatever else may be reasonably necessary to obtain such loan or loans.***

19 DOCUMENTATION COMPLIANCE

Both the Seller and Purchaser undertake upon being requested to do so by the Seller's conveyancers to immediately provide all personal information and documents needed to ensure compliance with the requirements of the Financial Intelligence Centre Act for purposes of this sale.

20 ELECTRICAL AND GAS INSTALLATIONS

20.1 The seller shall be obliged to obtain, at the seller's expense, and deliver to the purchaser prior to the date upon which the purchaser is entitled to take occupation of the property:-

20.1.1 a Certificate of Compliance relating to all electrical installations on the property in terms of Regulation 3 of the Electrical Installation Regulations promulgated in Government Gazette No. 14350, and;

20.1.2 a Certificate of Conformity relating to any gas installations on the property in accordance with the Pressure Equipment Regulations promulgated under the Occupational Health and Safety Act 85/1993.

20.2 Any repair or modification to such electrical and/or gas installations required for the issue of such certificates shall be effected at the seller's expense.

21 AGENT'S COMMISSION

21.1 The seller shall pay the agent entitled thereto (if any) a commission for introducing the purchaser and being the effective cause of sale in the sum of R _____; (_____). The Seller shall further be responsible for and pay all and any VAT payable in respect of such commission. The seller hereby irrevocably instructs the transferring attorneys to pay the agent's commission or such portion thereof as may not have been paid to the agent as a first charge against the net proceeds of realisation of the property, on registration of transfer.

21.2 ***Both the Purchaser and the Seller warrant the Agent as being the effective cause of the sale between them and that no other person or entity is entitled to the agent's commission other than the Agent.***

21.3 ***Should this agreement be cancelled as a result of the purchaser's breach, the***

purchaser shall become liable, jointly and severally with the seller, to the agent for payment of commission to which the agent is entitled in terms hereof.

Purchaser to initial

22 **COOLING-OFF**

22.1 The Purchaser shall have the right to revoke the offer presented in this Agreement of Sale in accordance with Section 29A of the Alienation of Land Act, 1981 as amended. The cooling-off period will only apply to a property or properties sold for a purchase price of not more than R 250 000-00 (two hundred and fifty thousand rand)

22.2 ***If this Agreement has been concluded as the result of any direct marketing as stated in the Consumer Protection Act 68 of 2008, the Purchaser is made aware of the fact that the Purchaser may be entitled to cancel this agreement within 5 (five) days of date of delivery of the Property.***

Purchaser to initial

23 **WHOLE AGREEMENT**

This agreement constitutes the entire agreement between the parties and the parties hereto acknowledge that there have been no verbal warranties or representations and/or that any verbal warranty or representation not recorded in this agreement shall be of no force or effect. Nothing at variance with the terms hereof shall be binding unless reduced to writing and signed by or on behalf of the parties. No waiver shall be of any force or effect unless in writing and signed by the party so waiving.

THUS DONE and SIGNED by the SELLER at _____
on the _____ day of _____

AS WITNESSES:

1. _____
2. _____

THUS DONE and SIGNED by the PURCHASER at _____
on the _____ day of _____

AS WITNESSES:

1. _____
2. _____

THUS DONE and SIGNED by the AGENT at _____
on the day of _____

AS WITNESSES:

1. _____

2. _____

THE FOLLOWING INFORMATION IS REQUIRED FOR CONVEYANCING PURPOSES

SELLER

Full names _____

Identity Number _____

Spouse Full Names _____

Identity Number _____

Marital Status : SINGLE/MARRIED/WIDOWED/DIVORCED Date of Marriage _____

How married IN COMMUNITY OF PROPERTY/BY ANC Antenuptial Contract H _____

Place of Marriage _____

Current Address: _____

Tel No. (W) (Mr) _____ (Mrs) _____ (H) _____

Bondholder _____ Account No. _____

Transferring Attorneys: _____

PURCHASER

Full Names: _____

Identity Number _____

Spouse Full Names _____

Identity Number _____

Marital Status SINGLE/MARRIED/WIDOWED/DIVORCED Date of Marriage _____

How married: IN COMMUNITY OF PROPERTY/ANC Antenuptial Contract No. _____

Place of Marriage: _____

Current Address: _____

Tel No's (W)(Mr) _____ (Mrs) _____ (H) _____

Occupation Mr _____

Mrs _____