



cape waterfront

estates

AGREEMENT OF SALE

I/We

("the Purchaser")

of _____
(which address the Purchaser chooses as domicilium citandi et executandi for the purposes of this agreement)

do hereby offer to purchase from

("the Seller")

the following property

ERF

IN EXTENT

situate at

hereinafter referred to as "the property")

on the following terms and conditions :-

1. PURCHASE PRICE

1.1 The purchase price is R Rand)

payable as follows :-

1.1.1 a deposit of R Rand) on acceptance thereof, to be paid to the conveyancers, to be held in an interest bearing account, the interest to accrue to the Purchaser.

1.1.2 the balance of the purchase price is to be paid in cash, free of exchange, at Cape Town, against registration of transfer.

1.2 The Purchaser shall, after fulfilment of all suspensive conditions and within seven (7) days after receipt of a written request therefore from the conveyancers, deliver to the conveyancers a bank, building society or other acceptable guarantee for the due payment of the balance of the purchase price.

2. MORTGAGE BOND

This offer is subject to the Purchaser obtaining bond approval from a financial institution on its normal terms and conditions upon the security of a first mortgage bond to be registered over the property for the sum of not less than R by no later than or such extended period as the Seller may agree to in writing. The Purchaser undertakes, immediately after acceptance of this offer, to sign all necessary documents for the purpose of applying for a bond, and WATERFRONT ESTATES is hereby appointed as the Purchaser's agent in this regard.

3. POSSESSION

3.1 Possession shall be given to the Purchaser on together with vacant occupation/occupation subject to existing tenancies, from which date:-

3.1.1 the property shall be at the sole risk and benefit of the Purchaser; and

3.1.2 the Purchaser shall be liable for all rates and taxes and other imposts levied thereon.

4. OCCUPATIONAL INTEREST

4.1 If the date on which possession of the property is given to the Purchaser does not coincide with the date of registration of transfer, the party enjoying possession of the property whilst it is registered in the name of the other party, shall pay to the registered owner occupational interest of R_____ per month, payable monthly in advance, at the offices of the conveyancers, until date of registration of transfer.

4.2 If transfer of the property is not registered in the Purchaser's name within 60 (sixty) days of the date of possession recorded in clause 3.1 above and provided that the cause of the delay is due to the fault of the Purchaser and/or the conveyancers appointed by him, the occupational interest payable in clause 4.1 shall, with effect from the expiry of the said 60 (sixty) day period be adjusted to one twelfth of the annual interest charged by the Seller's bankers to its best grade customers on an unsecured basis (the prime rate) on the balance of the purchase price referred to in clause 1.1.

5. REGISTRATION OF TRANSFER AND COSTS

5.1 Transfer is to be affected by the conveyancers forthwith/ on or about
/ as close to the date of possession as reasonably possible.

5.2 All costs of and incidental to the transfer including transfer duty (if applicable), stamp duty and survey/diagram fees (if any) are to be paid by the Purchaser to the Seller's conveyancers on request. All professional services are subject to Value Added Tax.

5.3 The Seller and the Purchaser undertake immediately upon being requested to do so to sign all documents required to be signed in connection with both the transfer and the registration of any bond/s to be registered in terms hereof.

6. BROKERAGE

CAPE WATERFRONT ESTATES shall be deemed to have earned its brokerage upon acceptance hereof by the Seller. Brokerage, calculated at 7% PLUS VAT is payable by the Seller. Such brokerage shall be paid on registration of transfer and the Seller hereby irrevocably instructs the conveyancers to pay the brokerage to CAPE WATERFRONT ESTATES as a first charge against the proceeds of the sale.

7. DEFAULT

7.1 In the event of the Purchaser failing to comply with any of his obligations contained in this agreement on due date and persisting in such failure for a period of 7 days after dispatch of written notification to the Purchaser calling upon the Purchaser to remedy the same, the Seller shall be entitled :-

7.1.1 to cancel this agreement by registered letter addressed to the Purchaser, in which event the Purchaser shall forfeit all monies paid to the Seller or his agent in terms hereof, without prejudice to the Seller's other legal rights and remedies and in particular the right to claim damages; or

7.1.2 to claim immediate payment of the whole of the purchase price and/or any other amounts owing under this agreement and fulfilment of all the terms and conditions thereof.

7.2 Should the Purchaser breach this agreement, CAPE WATERFRONT ESTATES will be entitled immediately upon cancellation hereof to receive payment of the brokerage as a first charge against the deposit held in terms of 1.1 above. The balance (if any) of the deposit, together with accrued interest, shall be forfeit to the Seller as pre-liquidated damages.

8. LIMITATION OF SELLERS LIABILITY

8.1 The property is sold as set out in the Seller's Title Deed or prior Deeds and subject to all and any conditions and/or servitudes attaching to the property or mentioned or referred to in the said Title Deed or prior Deeds.

8.2 The Seller shall not be responsible for any deficiency in the extent of the property which may be revealed by any survey or re-survey, nor shall the Seller benefit by any excess therein.

8.3 The Seller shall not be responsible for pointing out the beacons of the property, nor for the cost of fixing and erecting or inserting beacons or pegs required by the Purchaser.

8.4 The property is sold voetstoots as it stands and the Seller shall not be responsible for any defects in the property either latent or patent or whensoever discovered.

8.5 The Purchaser agrees that this agreement constitutes the entire agreement between the Seller and the Purchaser and the Seller shall not be responsible or liable for any warranties, guarantees, indemnities or undertakings made to the Purchaser whether by the Seller or any person acting or purporting to act on behalf of the Seller, save as may be expressly set out herein.

8.6 Any latitude which may have been allowed by the SELLER in respect of any breach by the PURCHASER in terms hereof, shall not under any circumstances be deemed to be a waiver of the SELLER'S rights under this agreement nor a novation hereof, nor shall it prevent the SELLER from exercising any right nor absolve the PURCHASER from any obligation under this Agreement;

8.7 Should there be more than one PURCHASER, their liability in terms of this agreement shall be joint and several.

9. FIXTURES AND FITTINGS

The property is sold with all fixtures and fittings of permanent nature, (which the Seller warrants are paid for and in good working order) as at the date of acceptance hereof, including:-

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.....
.....

10. BEETLE AND ELECTRICAL CERTIFICATES

- 10.1 The Seller undertakes at his expense to arrange for the accessible portions of the property to be inspected by a Government approved entomologist for infestation by notifiable beetle and where infestation is found for the necessary remedial work to be undertaken prior to registration of transfer.
- 10.2 The Seller shall, prior to the date of transfer, at his cost furnish the Purchaser with an electrical certificate of compliance issued in terms of the regulations to the Machinery and Occupation Safety Act No. 6 of 1983.

11. CAPACITY OF PARTIES

- 11.1 If the Purchaser signs this agreement as trustee or agent for a company or close corporation, to be incorporated, the Purchaser in his personal capacity shall be regarded as Purchaser in terms of this agreement unless the said company or close corporation is incorporated and duly adopts and ratifies this agreement within 30 (thirty) days after the date upon which the Seller signs this agreement, in which event the Purchaser, by his signature hereto, hereby interposes and binds himself in favour of the Seller as surety for and co-principal debtor, in solidum with such company or close corporation for the due and timeous performance by it of all of its obligations as Purchaser in terms of this agreement.
- 11.2 If any of the parties to this agreement is a company or close corporation, the person who signs the agreement in the name of such company or close corporation warrants that the company or close corporation is registered in terms of the applicable legislation. Such person shall be personally liable as Purchaser or Seller (as the case may be) in terms of this agreement if such company or close corporation legally does not exist, or for whatever reason is not bound to this agreement or fails to comply with the provisions hereof.

12. NOMINATION

- 12.1 In the event of the Purchaser being entitled to nominate any third party as Purchaser in terms of this agreement then the Purchaser shall be entitled to make such nomination provided that such nomination:
- 12.1.1 is made within 1 (One) day of the date of acceptance hereof by the Seller,
- 12.1.2 is made by written notice delivered to the Seller and signed by the nominee in acceptance and in a form to the satisfaction of the Seller, which notice is to be delivered to the Seller within 1 (One) day of the expiry of the period referred to in 12.1.1 above.

12.2 Should the Purchaser validly nominate a nominee in terms of the foregoing then:

12.2.1 all reference to the Purchaser in this agreement shall be deemed to be a reference to such nominee, save that there shall be no further right of nomination;

12.2.2 all rights of the original Purchaser (the signatory to this agreement as Purchaser) in and to any monies paid in terms hereof shall be deemed to be ceded to the nominee;

12.2.3 the original Purchaser shall be liable in solidum with the Purchaser (its nominee) as surety and co-principle debtor, under renunciation of the benefits of excussion and division, for all the obligations of the Purchaser (the nominee) to the Seller arising out of or in connection with this agreement.

12.3 Should the Purchaser fail to nominate a nominee in terms of the foregoing, he shall not thereafter be entitled to nominate a nominee but shall be bound to perform all obligations of the Purchaser in terms hereof.

13. SALE OF PURCHASER'S PROPERTY

13.1 This agreement is subject to the sale of the Purchaser's property situate at for an amount of R.....(..... Rand) or such lesser amount as the Purchaser may, in his discretion accept, by no later than

13.2 In the event of the Seller receiving an offer from another offer or within the aforementioned period which the Seller in his sole discretion considers to be more acceptable to him, then the Seller shall give the Purchaser 72 hours written notice to unilaterally waive the sole benefit of clause 13.1.

13.3 In the event of the Purchaser electing to waive the sole benefit of clause 13.1, he shall do so by written notice to that effect to the Seller. This agreement shall thereafter be unconditional and the Purchaser shall provide the Seller with an acceptable guarantee form a financial institution or bank for the full purchase price within seven (7) days of the Purchaser making his election.

13.4 In the event of the Purchaser failing to exercise his rights within the period stipulated in clause 13.2 then this agreement shall lapse and be of no further force or effect.

14 “COOLING OFF” CLAUSE

This clause is inserted into this offer to purchase / agreement of sale in compliance with s2(2A) of the Alienation of Land Act (Act 68 of 1981) and only applies if this sale falls within the ambit of s 29A of the Act. Should s 29A of the Act apply to this transaction, the purchaser may within five days of signature by him or her, or by his or her agent acting on his or her written authority, of –

- (a) An offer to purchase land; or
- (b) An agreement of sale in respect of land

Revoke the offer or terminate the agreement of sale, as the case may be, by written notice delivered to the seller or his or her agent within that period.

The period of five days referred to above shall be calculated with the exclusion of the day upon which the offer was made or the agreement of sale was entered into, as the case may be and of any Saturday, Sunday or public holiday.

The written notice shall be effective only if it-

- (a) is signed by the purchaser or his or her agent acting on his or her written authority
- (b) identifies the offer or agreement of sale that is being revoked or terminated, as the case may be; and
- (c) is unconditional.

15. GENERAL

15.1 No variation of the terms and conditions of this agreement or any consensual cancellation thereof shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised representatives.

15.2 Any legal costs incurred by either party in order to enforce the provisions hereof shall be paid by the defaulting party on the scale as between attorney and own client.

16. FURTHER CONDITIONS

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.....
.....

17. EXPIRY

This offer is irrevocable and expires at on
CAPE WATERFRONT ESTATES is hereby appointed as agent for both the Seller and the Purchaser for the purpose of receiving communication of acceptance. The Seller agrees to allow CAPE WATERFRONT ESTATES to erect "Sold Boards" on the property for a minimum period of 3 months from the date of acceptance of this offer.

DATED at this day of 20.....

Witnesses:

1.
_____ PURCHASER

2.
_____ ASSISTED BY (if applicable)

ACCEPTED at this day of 20.....

Witnesses:

1.
_____ SELLER

2.
_____ ASSISTED BY (if applicable)

CAPE WATERFRONT ESTATES accepts the benefits conferred herein.

.....
for CAPE WATERFRONT ESTATES

INFORMATION FOR CONVEYANCER
PURCHASER

Full name
Married: In community of property Out of community of property
According to the laws of Not married Divorced

I.D Number Date of birth
Full name of spouse
Maiden name
I.D. Number Spouse Date of birth

Present address

Work address

Telephone number (H) (W)

Telefax No.

SELLER

Full name
Married: In community of property Out of community of property
According to the laws of Not married Divorced

I.D Number Date of birth
Full name of spouse
Maiden name
I.D. Number Spouse Date of birth

Present address

Work address

Telephone number (H) (W)

Telefax No.

Present bondholders Account no.

Seller's conveyancers
Attention