

OFFER TO PURCHASE

(WHICH CONSTITUTES AN AGREEMENT OF SALE WHEN ACCEPTED)

ENTERED INTO BETWEEN:

_____ **(Insert full names)**

Identity Number _____

and

_____ **(Insert full names)**

Identity Number _____

Married * in / our community of property to each other (*delete which is not applicable)

and/or

_____ **(Insert Pty / Trust / CC / name)**

Registration Number:

herein represented by

duly authorised thereto by a resolution of the Directors / Trustees / Members of **(insert whichever is applicable and the Pty / Trust / CC name)**

(hereinafter referred to as “the **SELLER/S**”)

AND

_____ **(Insert full names)**

Identity Number _____

and

_____ **(Insert full names)**



Identity Number _____

Married * in / our community of PROPERTY to each other (*delete which is not applicable)

and/or

_____ **(Insert Pty / Trust / CC / name)**

Registration Number:

herein represented by

duly authorised thereto by a resolution of the Directors / Trustees / Members of (insert Pty / Trust / CC's name)

(hereinafter referred to as "the **PURCHASER/S**")

The **PURCHASER** hereby offers to purchase from the **SELLER**:

_____ **(Portion / Erf / Township)**

_____ **(Registration Division / Province)**

_____ **(Property Extent)**

_____ **(Held by "Insert Title Deed Number")**

together with all improvements thereon

(hereinafter referred to as "the **PROPERTY**")

Subject to the following terms and conditions:

1.

PURCHASE PRICE:

The purchase price amounts to **R** _____ **.00**

(_____), which amount has been already paid by the

PURCHASER directly to the **SELLER**.



OR

The purchase price amounts to R_____.**00**
(_____) and shall be payable by the PURCHASER directly to the SELLER, in cash, on/or before date of lodgement at the Deeds Offices. Registration of the transfer of the PROPERTY into the name of the PURCHASER shall only be effected once the purchase price has been paid in full.

OR

The purchase price amounts to R_____.**00**
(_____), and shall be payable to the SELLER in cash against registration of transfer, and is payable as follows:

- 1.1 A deposit in the amount of R_____.**00**
(_____) is payable at the offices of the conveyancers of the SELLER, within _____ (_____) days from date of signature of this agreement, by both parties. The PURCHASER hereby authorizes the said conveyancers to invest the said amount in terms of section 86(4) of the Legal Practice Act 28 of 2014. All interest accrued on the investment, excluding any interest payable in terms of the provisions of section 86(5) of the Legal Practice Act 28 of 2014 and any reasonable market related administration fees charged by the conveyancers, shall be payable to the PURCHASER on the date of registration of the PROPERTY in the PURCHASER'S name; **(Delete the deposit clause if it is not applicable).**
- 1.2 The balance of the purchase price or the purchase price of R_____.**00** (_____) is payable in cash against registration of transfer of the PROPERTY into the name of the PURCHASER and for which amount a suitable bank or other financial institution guarantee shall be given to the SELLER or the conveyancers of the

SELLER, within _____ days from date of signature hereof / date of fulfilment of the suspensive condition/s, which guarantee shall be payable free of exchange against registration of the PROPERTY into the name of the PURCHASER. Payment by the bank or other financial institution against presentation of the guarantee shall only be conditional on:

- 1.2.1 release of the PROPERTY from any existing bonds;
- 1.2.2 transfer of the PROPERTY to the PURCHASER; and
- 1.2.3 registration of the new bond

The said guarantee shall otherwise be unconditional.

ALTERNATIVELY the amount shall be paid in cash into the trust account of the conveyancers, which amount shall be invested as aforesaid.

2.

SUSPENSIVE CONDITIONS

2.1 The sale is subject to the approval of a loan for the amount of R_____ .00 (_____) from an approved suitable bank or financial institution, on/or before _____ (_____) against security of the registration of a first mortgage bond over the PROPERTY and on such further terms and conditions as may be imposed by the bank or other financial institution in the ordinary course of said bank or financial institutions financing business. The suspensive condition contained at clause 2.1 will be deemed to be (fictionally, if applicable) fulfilled if such loan is granted:

- 2.1.1 subject to it being guaranteed by the PURCHASER'S spouse; and/or

2.1.2 subject to any terms reasonably imposed by said bank or other financial institution; and/or

2.1.3 to the PURCHASER and the PURCHASER fails / neglects to accept the loan or the offer of the loan made by said bank or other financial institution to the PURCHASER, if the loan so granted by the said bank or other financial institution complies with the requirements of the loan as provided for in clause 2.1 above.

The PURCHASER records that he is aware of the provisions of section 92 of the National Credit Act 34 of 2005 and categorically waives the statutory right contained therein. Clause 2.1 shall be deemed to be fulfilled upon confirmation of approval of the loan.

2.2 The PURCHASER undertakes to take all reasonable steps to obtain the said loan, immediately after signature of this agreement, including but not limited to submitting the necessary financial information to the said bank or financial institution, in order to apply for and/or receive approval for said loan, and to accept said loan upon approval thereof.

2.3 Failure on the part of:

a) The PURCHASER to sign any application for a bond or any other document/s necessary to procure granting or registration of such bond, and to furnish or to pay the costs of or incidental to registration of any bond; or

b) Any person nominated to sign a deed or deed of suretyship as contemplated above, or to furnish relevant information upon demand by the SELLER, the agent, if applicable or any prospective bondholder

shall constitute a breach hereof by the PURCHASER within the meaning of clause 2.1 hereof alternatively shall, at the option of the SELLER, entitle the SELLER to regard clause 2 hereof as having been duly fulfilled.

2.4 This agreement is further subject to the sale of the PROPERTY of the PURCHASER _____ situated _____ at _____ on or before _____;

Alternatively If the PROPERTY has been sold, the delivery of guarantees in respect of the said sale on or before _____. **(Remove if not applicable).**

2.5 Pending fulfilment of clause 2.1 and 2.4, the SELLER shall be entitled to continue to market the PROPERTY until successfully sold and should, prior to fulfilment of the conditions, a bona fide offer (hereinafter referred to as the competing offer) for the PROPERTY be received, which, but for this agreement, the SELLER wishes to accept, the SELLER may do so subject to the following:

2.5.1 a copy of the competing offer shall be delivered to the PURCHASER, who shall be given the option for seventy two (72) hours from delivery to waive clause 2.1 and 2.4;

2.5.2 exercise of this option by the PURCHASER shall be exclusively by written notice delivered timeously by the SELLER;

2.5.3 should the PURCHASER not timeously exercise the option as aforesaid, the SELLER shall be entitled to accept the competing offer and on acceptance thereof, this agreement between the SELLER and the PURCHASER shall thereupon immediately and automatically be cancelled without prejudice to any party.

3.

VAT

The SELLER hereby records that they are not nor are they required to register as vendors within the meaning of the VAT Act 89 of 1991 and that consequently no VAT is payable pursuant to this sale. If the SELLER is registered for VAT and / or the sale is subject to the payment of VAT, the purchase price shall be deemed to exclude VAT and VAT shall be payable in addition to the purchase price referred to in Clause 1.

4.

POSSESSION AND RISK

From the date of the transfer of the PROPERTY into the name of the PURCHASER, alternatively the date of occupation of the PROPERTY by the PURCHASER, whichever date is the soonest, the PURCHASER shall be liable for the payment of all municipal services and/or fees payable in respect of the PROPERTY and from such date the PURCHASER shall bear the sole risk, profit or loss in respect of the PROPERTY. The SELLER shall maintain the PROPERTY as well as all fixtures and fittings in the condition as on date of sale of the PROPERTY until date of registration or occupation.

5.

OCCUPATION

- 5.1 Occupation of the PROPERTY will be given to the PURCHASER, who shall take occupation of the PROPERTY, on _____, subject to the payment of the transfer costs and guarantee or payment in cash of the full purchase price, alternatively date of registration of transfer of the PROPERTY into the name of the PURCHASER.
- 5.2 If occupation of the PROPERTY takes place on a date before registration of transfer of the PROPERTY into the name of the PURCHASER, it is agreed between the parties that occupational rental of R_____ (_____) will be paid by the PURCHASER to the SELLER,

monthly in advance on or before the 1st day of each month.

- 5.3 Occupation of the PROPERTY before date of registration will not constitute a lease agreement between the parties and should this agreement be cancelled or not come into effect for whatever reason, the PURCHASER shall immediately vacate the PROPERTY.
- 5.4 The SELLER and all other occupants of the PROPERTY shall be bound and obligated to vacate the PROPERTY on or before _____/date of registration at 12:00 from which date the PURCHASER shall be entitled and obligated to occupy the PROPERTY.
- 5.5 Should the SELLER vacate the PROPERTY before the occupation date, he shall be obligated to continue to maintain the garden and swimming pool (if any) and all other buildings or erections on the PROPERTY in good order and condition
- 5.6 Should the PURCHASER not take physical occupation of the PROPERTY on occupation date, he shall nevertheless be liable to maintain the garden and swimming pool (if any) and all other buildings or erections on the PROPERTY in good order and condition until he does take physical occupation.
- 5.7 If occupation is given to the PURCHASER before the date of transfer:
- 5.7.1 the PURCHASER shall not be entitled to make any alterations to the PROPERTY without the prior written consent of the SELLER, which consent shall be at the SELLER's sole and absolute discretion;
- 5.7.2 the PURCHASER shall be obligated to vacate PROPERTY upon cancelling of the sale for any reason whatsoever, it being agreed that no tenancy whatsoever shall be created by any prior occupation. The

PURCHASER shall have no claim whatsoever against the SELLER arising out of alterations and additions made by the PURCHASER.

- 5.8 The PURCHASER is herein notified and acknowledges that the PROPERTY is let to tenants and that the sale is made subject to said tenants' rights.

OR

The SELLER warrants that the PURCHASER will obtain actual occupation of the PROPERTY on the date provided herein.

- 5.9 The PURCHASER shall not be entitled to make any alterations, including structural alterations, to the PROPERTY prior to registration of the PROPERTY into its name, without the written consent of the SELLER. The PURCHASER shall not be entitled to any claim against the SELLER in respect of any alterations made, upon the cancellation of this agreement for any reason other than breach of contract by the SELLER, which breach cannot be rectified by means of financial damages and constitutes a material breach of this agreement.

6.

VOETSTOOTS

- 6.1 The SELLER guarantees that all geysers, swimming pool pumps and equipment, electronic garage doors and gates are in working order, and undertake to provide the PURCHASER with a full set of keys and remote controls on date of occupation of the PROPERTY by the PURCHASER.
- 6.2 Save for the conditions in clause 6.1 the PROPERTY is sold voetstoots and the SELLER shall not be liable for any defects, patent or latent or otherwise in the PROPERTY nor for any damage occasioned to or suffered by the PURCHASER

by reason of such defect. The PURCHASER admits having inspected the PROPERTY to his satisfaction and that no guarantees or warranties of any nature were made by the SELLER or his agent regarding the condition or quality of the PROPERTY or any of the improvements thereon, or accessories thereof.

- 6.3 The parties agree that the PURCHASER will have no claim whatsoever against the SELLER for any deficiency in the size of the PROPERTY which may be revealed on any re-survey nor shall the SELLER benefit from any possible excess. If the PROPERTY has been erroneously described herein such mistake or error shall not be binding on the SELLER but the description of the PROPERTY as set out in the title deed shall apply and the parties agree to rectification herein to reflect the true intentions of the parties.
- 6.4 The SELLER shall not be obliged to point out any beacons in respect of the PROPERTY and shall not be responsible for any surveyor costs to determine the location of such beacons, unless a beacon relocation is required in terms of section 70 of the City of Mbombela By-Law on Spatial Planning and Land Use Management.
- 6.5 The PROPERTY is sold subject to the title deed conditions as reflected in the Title Deed of the PROPERTY which the PURCHASER has acquainted himself with. The PROPERTY is further sold subject to all municipal by laws, including those relating to the zoning thereof.

7.

ELECTRICITY, GAS AND BEETLE CERTIFICATES OF COMPLIANCE (WHICH EVER BEING APPLICABLE)

- 7.1 The SELLER shall provide the PURCHASER at his/her own cost, on or before the date of occupation mentioned above, with a certificate of compliance in accordance with the provisions of regulations issued in terms of the Occupational

Health and Safety Act of 1993, read together with the Electrical Installations regulations of 2009, as well as with the in respect of the Electrical Installation on the PROPERTY.

- 7.2 The SELLER shall further be obliged to, prior to the occupation date, furnish the PURCHASER with a Certificate in terms of Regulation 12(4) of the said regulations in respect of any Electric Fence erected on the PROPERTY after 1 October 2012. The SELLER undertakes to effect no alternation of whatever nature to the electrical installation in the PROPERTY hereby sold after the date of issue of the certificate.
- 7.3 The SELLER shall arrange, at his/her own expense, for inspection, by a duly qualified expert, of the accessible portions of the residential premise on the PROPERTY, but specifically excluding any free standing structure not constituting residential premise (any Wendy house, garden sheds, car ports, fences and similar structures) , for termite infestation and treatment and / or replacement of timber so infested, in accordance with the recommendations contained in the expert's report, prior to occupation by the PURCHASER, or Transfer whichever is earlier.
- 7.4 The SELLER shall ensure that all the equipment and gas installations in the PROPERTY comply with Regulations R734 issued in terms of the Occupational Health and Safety Act 1993 and shall prior to registration of the transfer in terms of Regulation 6(2)(e) provide the Conveyancers with a valid Certificate of Conformity issued by an authorised person in respect of the gas system.

8.

TRANSFER COSTS

- 8.1 The PURCHASER shall be liable for the payment of all transfer costs, transfer duty, stamp duty, VAT (if applicable) as well as cost of this Deed of Sale and transfer of the PROPERTY into the name of the PURCHASER by the

conveyancers, which costs shall be payable within 7 (seven) days after request. The conveyancing shall only commence after such costs have been paid by the PURCHASER.

- 8.2 The SELLER and the PURCHASER undertake immediately upon being requested to do so, to deliver all documents required in connection with the transfer and to sign all documents required to be signed in connection with the transfer, the cancellation of all bonds at present registered over the PROPERTY (if applicable) and the registration of any bonds to be registered in terms of this agreement (if applicable).
- 8.3 The SELLER appoint ANNEMARIE SWANEPOEL ATTORNEYS as conveyancers for the transfer of the PROPERTY.

9.

AGENT'S COMMISSION

- 9.1 The SELLER shall pay the agent's commission at the rate of R_____ including / plus Value Added Tax, on the commission **(delete that which is not applicable)**
- 9.2 The said commission shall be deemed to have been earned upon the signature of this document by the PURCHASER and the SELLER and be payable upon registration of transfer or upon cancellation by reason of the SELLER's or PURCHASER default. In the event of the sale being cancelled or transfer not being implemented the defaulting party shall be liable to the Agent for the payment of the Commission. In the event of the agreement being cancelled by mutual agreement, the SELLER and PURCHASER shall be jointly and severally liable to pay the commission to the agent.
- 9.3 The SELLER hereby irrevocably and in rem suam authorised and instructs the conveyancer to make payment of the commission to the Agent from the proceeds

of the sale on registration of transfer.

9.4 The provision of this clause as well as certain other provisions herein are intended by the SELLER and the PURCHASER to be contract for the benefit of the Agent (stipulatio alteri) which may be enforced by the Agent, it being recorded and agreed that the Agent has accepted the benefits hereof by the Agents signature at the foot hereof.

9.5 The PURCHASER and the SELLER hereby warrant that the Agent is the sole and effective cause of the sale and it is hereby recorded that the PURCHASER warrants to the SELLER that he was not introduced to the PROPERTY or the SELLER by any other person other than the Estate Agent;

OR

The parties place on record that there was no estate agent involved in facilitating the sale between the SELLER and the PURCHASER and that no agent introduced the PURCHASER to the PROPERTY. The parties record that it was a private sale and that no agent's commission is payable.

10.

ITEMS, FIXTURES AND MOVABLES

10.1 The parties place on record that the following items, fixtures and movables are included in the sale, namely curtain rails, rods and pelmets, satellite dish, alarm system, swimming pool equipment and pump, pool safety net, air conditioners, stove, fitted carpets, light fittings and shades, window blinds, alarm system

10.2 The parties place on record that the following items, fixtures and movables are



excluded from the sale:

11.

CAPACITY OF PARTIES

Should the PURCHASER sign this agreement as trustee or agent for a company, trust or close corporation or any other juristic person to be formed, the signatory shall be deemed to be personally liable in terms of this agreement should the company, close corporation, trust or juristic person not be incorporate or formed or not ratify and adopt this agreement within 30 (thirty) days of the date signature hereof. Upon formation, incorporation or ratification as aforesaid, the PURCHASER by their signature hereto binds himself as surety for and co-principal debtor in solidum with the company, trust, close corporation or juristic person for the due and punctual performance by the company, close corporation, trust or juristic person of its obligations arising out of this agreement.

12.

ADVERTISING

The PURCHASER acknowledges that all artistic, architectural, photographic and visual representations or materials, including but not limited to models, brochures and pamphlets, used by the SELLER or its agents, in the marketing and selling of the PROPERTY, hereby sold, have been prepared and distributed as advertising material only and that the SELLER shall in no way be bound thereby and the PURCHASER shall have no claim in respect of any information stated therein or impression conveyed thereby, and that no representation is thereby made by the SELLER or the agent, and that the parties shall be bound by the terms and conditions contained in this agreement only.

13.

SEVERABILITY

If any provision of this agreement is found or held to be invalid or unenforceable, it shall be deemed severable from the rest of the agreement and the validity and enforceability of all the provisions of this agreement will not be effected thereby.

14.

NON-VARIATION

No addition to, variation, or agreed cancellation of this agreement or any of the annexures hereto shall be of any force or effect unless in writing and signed by or on behalf of the parties.

15.

RESIDENCE

The SELLER hereby records that they are resident in the Republic of South Africa.

OR

The SELLER hereby records that they are a non-resident, as defined in section 1 of the Income Tax Act 58 of 1962. Accordingly, in terms of section 35A of the Income Tax Act 58 of 1962, the said conveyancers, are required to withhold _____ percent (**insert the applicable percentage**), of the purchase price, from the SELLER, on behalf of the PURCHASER. Said amount will be withheld by the said conveyancers, on date of transfer and will be paid to the South African Revenue Services, on behalf of the PURCHASER, albeit for the account of the SELLER.

NB: This clause is only applicable if the seller is a non-resident AND the purchase price exceeds R2 000 000.00 (TWO MILLION RAND). Furthermore, the percentages are as follows:

- 1. 5% - if the seller is a non-resident natural person
- 2. 7.5% - if the seller is a non-resident company or CC
- 3. 10% - if the seller is a non-resident trust

16.

ADDRESS FOR DELIVERY OF DOCUMENTS

16.1 The parties hereto hereby choose **the following address** for all purposes under this contract respectively as set out hereunder:

THE SELLER:

PHYSICAL ADDRESS / P.O.BOX:

TEL: _____

E-MAIL ADDRESS: _____

THE PURCHASER:

PHYSICAL ADDRESS / P.O.BOX:

TEL: _____

E-MAIL ADDRESS: _____

16.2 Both parties must give written notice to the other of any change to its aforesaid **address**.

16.3 All notices delivered or sent in terms of this agreement shall be delivered either by e-mail or pre-paid registered post.



16.4 Notices delivered by e-mail shall be deemed to be received on date of sending or delivery thereof. Notices delivered or sent by pre-paid registered post shall be deemed to have been received on the 3rd (THIRD) business day following the date of posting.

16.5 It is recorded that the parties' elected e-mail addresses, as depicted above shall serve as the preferential chosen *domicilium* for the giving of notice in terms of this agreement.

17.

NOTICES

Any notices for all purposes of this agreement, including the cancellation thereof, shall:

- be in writing;
- be sent by hand; or
- registered post, or
- telefacsimile machine; or
- electronic mail

be addressed to the respective parties at their chosen *domicilium* address in terms of this agreement; and be deemed to have been received by the party to whom it is addressed:

- at the time of delivery thereof; or
- on the 3rd (third) day following the posting thereof, excluding the day upon which it is posted, in the Republic of South Africa; or in the case of a telefacsimile or electronic mail, on date of written acknowledgement thereof from the addressee by telefacsimile or e-mail, as the case may be.

A notice received by a party shall be deemed to be a notice in terms of this clause, notwithstanding that it was not sent in terms of the foregoing provisions.

18.

JURISDICTION

For the purpose of resolving any dispute which may exist or occur between the parties hereto, the parties consent to the jurisdiction of the Magistrate's Court being a court otherwise competent and with jurisdiction over the person of the parties in that each of them either resides, carries on business, or is employed within its area of jurisdiction, notwithstanding that such proceedings are otherwise beyond jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said Court pursuant to the Magistrate's Court Act 32 of 1944, Section 45 or any amendment thereof, provided that the SELLER shall have the right of his sole option and discretion to institute proceedings in any other competent court in respect of any claim which, but for the foregoing, would exceed the jurisdiction of the Magistrate's Court.

19.

BREACH

19.1 In the event of a breach of this agreement, the aggrieved party may give the defaulting party 7 (seven) days' written notice to remedy the default, failing which the parties will have the right to act as set out below.

19.2 If the aggrieved party is the SELLER, the SELLER has the option after the PURCHASER's failure to remedy the default after receipt of notice, to:

19.2.1 cancel this agreement and retain the deposit in the conveyancer's trust account, as well as interest earned thereon, either as penalty or to set it off against any damages proved to have been suffered by the SELLER; or

19.2.2 enforce the terms hereof, including payment of the full balance of the purchase price owing at the date of the PURCHASER's breach.

19.3 If the aggrieved party is the PURCHASER, the PURCHASER has the option after the SELLER's failure to remedy the default after receipt of notice, to:

19.3.1 cancel this agreement and claim damages proved by the PURCHASER to have been suffered; or

19.3.2 enforce the terms of this agreement.

20.

ENTIRE CONTRACT

The parties agree that this deed of sale constitutes the entire contract between them and that there are not other conditions, stipulations, warranties or representations whatsoever made, other than such as may be included herein and signed by the parties hereto.

21.

OFFER AND ACCEPTANCE

21.1 The PURCHASER acknowledges that his/her signature hereto constitutes an offer to the SELLER to purchase the PROPERTY on the terms and conditions set out herein.

21.2 This offer shall remain irrevocable until _____ on _____ 20__.

(Delete if not applicable).

22.

SIGNATURE AND CONCLUSION

22.1 It is recorded that this agreement is intended to be signed firstly by the PURCHASER and thereafter by the SELLER.

22.2 This agreement shall be duly concluded and constitute a binding sale agreement between the parties upon timeous signature thereof by the SELLER, irrespective of notification of acceptance to the PURCHASER.

THUS DONE AND SIGNED AT _____ ON THE _____ DAY OF _____ 20_____

AS WITNESSES:

1. _____

2. _____

THUS DONE AND SIGNED AT _____ ON THE _____ DAY OF _____ 20_____

AS WITNESSES:

1. _____

2. _____

THUS DONE AND SIGNED AT _____ ON THE _____ DAY OF _____ 20_____

AS WITNESSES:



1. _____

2. _____