



**NEDBANK LIMITED
AGREEMENT OF SALE**
("the/this agreement")

1. PARTIES

1.1 SELLER:

NEDBANK LIMITED

Registration. number 1951/000009/06;

or

MHF PROPERTIES LIMITED

Registration number 1990/007573/06

or

PYRANED LIMITED

Registration number: 1963/005484/06

All above

NEDBANK LIMITED

Hereinafter collectively being referred to as

"the seller"

of 6th Floor Forum 1, Braampark,

33 Hoofd Street,

Braamfontein

(the Company's address)

AND

1.2 PURCHASER

Full names :

Identity/Company/
Close corporation/
Trust number

Marital status

Postal address

Physical address

Telephone no (W)

(H)

(CELL)

Facsimile no.....

2. PROPERTY

2.1.1 Erf no

Township

Street address

2.1.2 Erf no
 Township
 Street address or alternatively
 2.1.3 Unit no.
 Sectional title scheme
 Flat no.
 Exclusive use areas

3. PURCHASE PRICE

3.1 Total purchase price: the sum of R
 (.....)
 inclusive of value-added tax.

3.2 Non-refundable deposit: Payable to the seller's conveyancers (mentioned in clause 6 below) within 48 (forty-eight) hours of the offer being accepted by the Seller.

3.2.1 the deposit mentioned in clause 3.1 above can be used towards the conveyancer's legal costs payable by the purchaser or towards the reduction of the Purchase Price mentioned in clause 3.1 or can be refunded to the purchaser, provided that the suspensive condition mentioned in clause 12 is fulfilled.

3.2.2 the purchaser understands and agrees that in the event that the suspensive condition in clause 12 is not fulfilled for whatever reason, he or she will forfeit the deposit mentioned in clause 3.2 to the Seller.

3.3 Cash Payment: Full payment must be made to the Seller's Conveyancers (mentioned in clause 6 below) within 48 (fort-eight) hours of the offer being accepted by the Seller.

3.4 Bond amount: the sum of R
 (.....)

3.5 Name of Financial Institution to approve bond

3.6 Date on or before which guarantees must be furnished: Guarantees must be furnished to the Conveyancing Attorney within 45 (forty-five) days of acceptance of the offer by the seller.

3.7 Date on or before which bond must be approved: Bond must be approved and faxed to the seller within 21 (twenty one) days of acceptance of the offer by the seller.

4. DATE OF OCCUPATION

By mutual agreement between the seller and the purchaser

5. AGENT

5.1 Agent's name:
 Address:
 Telephone: Facsimile:

5.2 Agent's commission: the sum of R
 (.....)
 inclusive of value-added tax.

6. SELLER'S CONVEYANCERS:

PLEASE CONSULT BANK TELEPHONICALLY

Address:
 Telephone:
 Facsimile:

7. SALE

7.1 The seller sells to the purchaser, who purchases the property for the purchase price set out in clause 3.1, subject to the terms and conditions of this agreement.

7.2 The signing of this agreement by the purchaser constitutes an offer which may not be revoked for a period of 7 (seven) days after the date of the signing thereof. An agreement shall be deemed to have been concluded only upon the signing of this agreement by both parties and it shall not be necessary to communicate the seller's acceptance thereof to the purchaser. The provisions of this clause will not apply if the agreement is one contemplated in clause 23.

7.2 The agreement is not subject to the purchaser selling or disposing of his/her existing property.

8. PAYMENT OF THE PURCHASE PRICE

8.1 The purchaser shall pay the deposit(s) to the seller's conveyancers within the time stipulated in clauses 3.2 of this agreement, subject to clause 3.2.1 and 3.2.2. The seller's conveyancers are authorised to invest such deposit(s) in an interest-bearing account in terms of Section 78(2A) of the Attorneys Act No. 53 of 1979, with any branch or division of the seller, and all interest which accrues on these funds shall be for the benefit of the purchaser, subject to clause 3.2.1 and 3.2.2.

8.2 The deposit mentioned in clause 3.2 above can, on registration and at the option of the purchaser, be used towards the bond registration costs payable by the purchaser or towards the reduction of the Purchase Price mentioned in clause 3.1 or can be refunded to the purchaser, provided that the suspensive condition mentioned in clause 12 is fulfilled.

8.3 The balance of the purchase price is to be secured by the delivery of bank guarantees acceptable to the seller, to be delivered to the seller's conveyancers on or before the period mentioned in clause 3.6 above and to be payable against registration of transfer of the property into the purchaser's name.

8.4 Should the purchase price not be inclusive of value added tax as specified in clause 3.1, the purchaser shall be liable to pay the value added tax on the purchase price on demand.

9. POSSESSION AND OCCUPATION

9.1 Occupation of the property shall be given to the purchaser on the date to be agreed by the seller and purchaser in terms of in clause 4, provided that the purchaser:

9.1.1 has paid the deposit(s) specified in clause 3.2;

9.1.2 has furnished the seller's conveyancers with proof that a bond, for not less than the amount specified in clause 3.4, has been approved;

9.1.3 has paid the first month's occupational rental to the seller's conveyancers;

9.1.4 has signed the transfer and bond documents and paid the transfer and bond costs; and

9.1.5 is not in breach of any term or condition of this agreement.

9.2. The occupational rental is payable monthly in advance on or before the first day of each month without deduction or set-off and is payable to the seller's conveyancers. The occupational rental shall be adjusted on a pro rata basis for any incomplete month and will be calculated as follows:

The occupational rental shall be 1% (one per cent) of the purchase price viz.-

R (Rand).

9.3 The seller does not warrant that the purchaser will obtain vacant occupation and possession of the property, and the purchaser purchases the property subject to any existing lease or right of occupation held by any other party. It is recorded that the purchaser shall bear the cost of evicting any occupier who may be in unlawful occupation of the property.

9.4 Upon cancellation of this agreement the purchaser and any other person(s) in occupation of the property shall be obliged to vacate the property immediately, it being recorded that no tenancy shall be created by this agreement.

9.4 The benefit, risk, profit and loss in respect of the property shall pass to the purchaser on the date of occupation. Without limiting the generality of the above statement, it is specifically recorded that the purchaser shall be liable for all rates, taxes, levies and other imposts on the property from the occupation date.

10. TRANSFER AND TRANSFER COSTS

10.1 Transfer of the property shall be effected by the seller's conveyancers within a reasonable time after the purchaser has complied with its obligations in terms of this agreement. The purchaser shall furnish all information and sign all documents when requested to do so by the seller's conveyancers.

10.2 The purchaser shall be liable to pay to the seller's conveyancers all costs involved in the transfer of the property into its name including, inter alia, conveyancers' charges and value-added tax thereon, transfer duty (if applicable), deeds office registration charges, a provision for rates, taxes, levies and any other municipal charges and other reasonable costs incurred by the seller's conveyancers.

10.3 All amounts that the purchaser is liable to pay in terms of this clause are payable on demand.

11. AGENT'S COMMISSION

11.1 The purchaser warrants that the only agent who introduced it to the seller or the property is the agent specified in clause 5.1 of the agreement and indemnifies the seller against any claim by any other estate agent in respect of the sale of the property

- or alternatively

The purchaser warrants that it was not introduced to the seller or to the property by any agent and hereby indemnifies the seller against any claim for commission.

- 11.2 Unless otherwise stipulated in clause 5.2, the seller shall pay agent's commission at a rate of 6% (six per cent) of the purchase price inclusive of value-added tax. The commission shall be payable to the agent specified in clause 5.1 as soon as is reasonably possible after the date of registration of transfer of the property into the name of the purchaser.
- 11.3 It is specifically agreed between the seller and the agent that the agent's commission shall be deemed to have been earned only on registration of transfer. Should this agreement be cancelled as a result of default on the part of the purchaser, the purchaser shall be liable to the agent for payment of the agent's commission and the agent shall have no claim against the seller for any commission.
- 11.4 In the event of more than one purchaser having been introduced to the seller by two separate estate agents, the purchasers and the estate agents indemnifies the seller against any claim for commission and damages and the seller shall accept the highest offer from the respective purchasers.

12. SUSPENSIVE CONDITION

- 12.1 This agreement is subject to the suspensive condition that the purchaser be granted a loan for no less than the bond amount specified in clause 3.4, within 14 (fourteen) days of the date of concluding this agreement or such extended period as the seller may agree to in writing, on the security of a first mortgage bond over the property in favour of any commercial bank.
- 12.2 The purchaser shall take all steps that may be reasonably necessary to obtain a bank loan and undertakes to sign all documents and to furnish all information required by any lender for this purpose. The purchaser hereby appoints the seller and/or the agent as its attorney and authorised agent to apply for a bank loan on its behalf. The purchaser warrants that its income is sufficient to qualify for the loan.
- 12.3 The purchaser undertakes to furnish written proof to the seller's conveyancers that the loan had been granted prior to the expiry of the period of 14 (fourteen) days set out in clause 12.1. If the purchaser fails to furnish such proof this shall entitle, but not oblige, the seller to consider that the suspensive condition has not been met and to resell the property immediately to another purchaser and forfeit the deposit mentioned in clause 3.2 above without furnishing any notice to the original purchaser.

13. RESOLUTIVE CONDITION

- 13.1 Should the seller not be the registered owner of the property at the date of the signing of the agreement, this agreement shall be subject to the resolutive condition that it shall be of no force and effect should the seller not become the owner of the property within 6 (six) months from the date of this agreement. In this event any amounts paid to the seller on account of the purchase price and deposit mentioned in clause 3.2 above shall be refunded to it together with any interest earned thereon.
- 13.2 Should the resolutive condition referred to in 13.1 above not be met, the purchaser shall have no claim against the seller for damage suffered by the purchaser.

*(Delete whichever is not applicable)

14. BREACH

- 14.1 In the event of the purchaser breaching any of the terms and conditions of this agreement (all of which are agreed to be material) and failing to remedy such breach within 7 (seven) days of despatch of a notice by facsimile or by prepaid registered post requiring the purchaser to remedy such breach, then the seller shall, without prejudice and in addition to any other rights which it may have, be entitled to:
- 14.1.1 cancel this agreement and retain all amounts paid by the purchaser as an agreed penalty; or
- 14.1.2 cancel this agreement and claim such damages as the seller may have sustained by virtue of such breach; or
- 14.1.3 enforce compliance by the purchaser of all the purchaser's obligations.
- 14.2 The purchaser shall be deemed to have committed a breach of this agreement if it:
- 22.4.2 commits an act which is or would (if committed by a natural person) be an act of insolvency within the meaning of Section 8 of the Insolvency Act, 1936; or
- 14.2.2 allows any judgement against it to remain unsatisfied for a period of 7 (seven) days; or
- 14.2.3 compromises or attempts to compromise or defer payment of any debt owing by it to any of its creditors; or
- 14.2.4 being a natural person, takes any steps to surrender his estate or is provisionally or finally sequestered; or
- 14.2.5 being a juristic person, is provisionally or finally liquidated, removed from the Register of Companies or Close Corporations or placed in judicial management, or takes any steps for its voluntary winding up; or
- 22.4.2 generally does or omits to do anything which may in any way prejudice the seller's rights under this agreement or its rights of ownership in the property; or
- 22.4.2 fails to fully comply with any term or condition of this agreement.
- 14.3 Should the seller breach any of its obligations arising out of this agreement, the purchaser shall be entitled to
- 14.3.1 cancel this agreement; or

14.3.2 claim specific performance

after notifying the seller's conveyancers in writing of the breach and affording the seller 10 (ten) days to remedy such breach. The period of 10 (ten) days afforded to the seller to remedy its breach shall commence only after receipt by its conveyancers of the written notification referred to in this clause.

14.4 The party in breach shall be liable for the other party's legal costs on attorney-client scale, including tracing costs, executions costs, commissions, etc.

15. DOMICILIUM, NOTICES AND JURISDICTION

15.1 For the purpose of any notices to be given, or of any legal proceedings to be instituted, the parties hereby choose as their *domicilium citandi et executandi* the physical addresses set out in clauses 1.1 and 1.2 of this agreement. The purchaser agrees that its *domicilium citandi et executandi* shall change to the property after the occupation date.

15.2 The purchaser hereby consents in terms of Section 45 of the Magistrates' Courts Act, 1944 to the jurisdiction of any magistrate's court having jurisdiction under Section 28 of that Act to determine any action or other legal proceeding arising out of this contract. Notwithstanding the aforesaid, the seller shall not be bound to bring any action arising from this contract in or before a magistrate's court but may do so in any other court of competent jurisdiction, should it so wish.

16. VOETSTOOTS

16.1 The purchaser purchases the property as it now lies ("voetstoets") without warranty or representation as to its condition, nature or extent and subject to such conditions and servitudes as are mentioned or referred to in the current title deeds or which have been imposed by law. The seller shall not profit by any excess nor be answerable for any deficiency in the nature or extent of the property.

16.3 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 of this agreement to describe the property as set out in the seller's title deed.

16.4 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 same.

16.5 It is agreed that the seller shall be obliged only to provide to the purchaser, the keys that it has in its possession.

17. LEASEHOLD/INITIAL OWNERSHIP

If the seller's title to the property is either leasehold or initial ownership, this agreement shall be interpreted to give effect to the sale of either a right of leasehold or a right of initial ownership, as the case may be.

18. SECTIONAL TITLE

In the event of the property being a sectional title unit, the purchaser's attention is drawn to the fact that there is a real right of extension of the scheme registered in favour of the developer/body corporate in terms of Section 25 of Act 95 of 1986.

19. ELECTRICAL AND/OR INSECT CERTIFICATE

19.1 The purchaser agrees that there is no obligation on the seller to furnish an Electrical Certificate of Compliance issued under the regulations in terms of the Occupational Health and Safety Act of 1993. The purchaser shall, at its own cost, obtain such Electrical Certificate of Compliance.

19.2 The purchaser agrees that there is no obligation on the seller to furnish a certificate to the effect that the timber in the buildings on the property is free from infestation by insects. The seller shall have no liability whatsoever should it be found that insects infest the timber in the buildings on the property.

20. REPAIRS, IMPROVEMENTS AND ALTERATIONS

If the purchaser takes occupation of the property prior to transfer, it shall keep all improvements on the property in good order and repair to the satisfaction of the seller. The purchaser shall not make any alterations and/or additions to any improvements on the property without the prior written consent of the seller. Should the purchaser make any alterations and/or additions to any improvements on the property, the purchaser shall not be entitled to any compensation in respect of the same, under any circumstances.

21. REPRESENTATIVE CAPACITY

21.1 Should the person signing this agreement sign it for the benefit of a company, close corporation, trust or other legal entity about to be formed, the signatory shall be deemed to be personally liable in terms of this agreement should the company, close corporation, trust, or other legal entity not be so formed and not ratify and adopt this agreement within 30 (thirty) days of the date of the signing of this agreement.

21.2 Should the person signing this agreement sign it as representative of a company, close corporation, trust or other legal entity already in existence, by signing this agreement it binds itself as surety for and co-principal debtor with the purchasing entity and renounces the benefits of excussion and division.

22. GENERAL

22.1 This agreement constitutes the entire agreement between the parties and the parties acknowledge that there have been no prior verbal warranties or representations and/or that any verbal warranty or representation not recorded in this agreement shall be of no force or effect.

- 22.2 No variation of, addition to, consensual cancellation of, or novation of this agreement and no waiver by the seller of any of its rights in terms of the agreement shall be of any force or effect unless reduced to writing and signed by the parties.
- 22.3 If this agreement is signed by more than one person as purchaser, the obligations of all of the signatories shall be joint and several.
- 22.4 In this agreement, unless inconsistent with or otherwise indicated by the context -
 - 22.4.1 words importing the singular shall include the plural and vice versa; and
 - 22.4.2 words importing one gender shall include the others.

23. PURCHASER'S RIGHT TO REVOKE OFFER OR TERMINATE DEED OF ALIENATION

The Purchaser is referred to Section 29A of the Alienation of Land Act of 1981, Act No 68 of 1981 containing the following provisions:

- (a) The Purchaser may within 5 days after date of signing of this agreement by him or his duly authorized agent revoke or terminate this agreement by written notice delivered to the Seller or Agent within the said period. In determining the period of 5 days the following days should be excluded: the date upon which the Purchaser signs the agreement, any Saturday, Sunday and public holiday.
- (b) The written notice is valid if signed by the Purchaser or his agent authorized thereto in writing, if it identifies this agreement, states that it is terminated or revoked and that it is unconditional.
- (c) Should the Purchaser revoke or terminate the agreement every party that received any money in terms of the agreement from the Purchaser shall refund such money to the Purchaser within 10 (TEN) days after delivery of the said notice to the Seller or agent.
- (d) The Seller cannot waive his rights in terms of this clause.
- (e) Should the Purchaser sign a further agreement (second agreement) for the Purchaser of another peace of land within 5 (FIVE) days before exercising his right to revoke or cancel this agreement it shall be deemed that he has exercised his right to revoke or cancel this agreement by signing the second agreement and must upon signing of the second agreement forthwith inform the Seller or Agent in writing of his revocation or termination of the earlier agreement. (FAILURE BY THE PURCHASER TO FORTHWITH INFORM THE SELLER OF REVOCATION OR TERMINATION OF THIS AGREEMENT IS A CRIMINAL OFFENCE AND ON CONVICTION LIABLE TO A FINE OR IMPRISONMENT FOR A PERIOD NOT EXCEEDING ONE YEAR OR TO BOTH SUCH FINE AND IMPRISONMENT AND THE SELLER MAY IN ADDITION EXERCISE ANY CIVIL REMEDY AGAINST THE PURCHASER DUE TO HIS FAILURE).

The Purchaser shall have no right of revocation or termination as referred to in Section 29A in the following instances; if:

- (a) The purchase price exceeds R250 000;
- (b) The Purchaser be a trust or a person other than a natural person (example company, close corporation etc);
- (c) The Purchaser and Seller has previously entered into an agreement of sale in respect of the same land and materially the same terms;
- (d) The Purchaser has nominated another person to acquire the rights and obligations of the Purchaser in terms of the agreement;
- (e) The Purchaser acquire the property by the exercising of an option which remains open to acceptance for a period of 5 days calculated mutatis mutandis as described above.

24. SPECIAL CONDITIONS

Property sold "Voetstoets"

Client liable for own legal costs

Deposit must be paid to the seller's conveyancers within 48 (forty-eight) hours of acceptance of the offer by the seller

SIGNED BY THE PURCHASER AT _____ ON _____

AS WITNESS: _____ NAME: _____

1. _____
Purchaser's signature

SIGNED BY THE AGENT AT _____ ON _____

AS WITNESS: _____ NAME: _____

1. _____

Agent's signature

SIGNED BY THE SELLER AT _____ ON _____

AS WITNESS: NAME: _____

1. _____

Seller's signature

NAME: _____

Seller's signature

ADDENDUM IN RESPECT OF NEDBANK'S STANDARD OFFER TO PURCHASE:

I, _____ hereby acknowledge that I know and understand all the clauses contained in the Offer to Purchase signed by me and in particular clause 9.3 relating to vacant occupation and in the event of the occupiers of the property not being prepared to vacate the responsibility of obtaining vacant occupation is my own. I further acknowledge and understand that there is a possibility of the occupiers of the property removing certain items from the property before they are evicted and that the seller will not be liable if the items are removed from the property.

IMPORTANT!!!!!!

NOTES TO AGREEMENT OF SALE (Must be initialed by purchaser(s) and agent on both pages)

When preparing an Agreement of Sale for submission to the management of Nedbank Ltd, please take note of the following:

- 1) Only offers completed on the bank's standard Agreement of sale will be considered for acceptance.
- 2) The purchaser must sign in full on the last page of the agreement and initial at the bottom right-hand corner of all the pages.
- 3) Any amendments to the typed portion of the agreement must be initialed. Please note that these amendments may not necessarily be acceptable to the Bank.
- 4) It is not necessary for the purchaser to initial items that are hand written.
- 5) The purchaser must read the entire agreement before signing it as it has important legal consequences. Please draw the purchaser's attention to the following clauses of the agreement in particular:

5.1 Clause 3.2- A non-refundable deposit is payable to the seller's conveyancers within 48 (forty-eight) hours of the offer being accepted by the Seller.

5.2 Clause 9.2 – Should the purchaser take occupation before transfer, the occupational rental payable will be -1% of the purchase price.

5.3 Clause 9.3 - The seller does not warrant that the purchaser will obtain vacant occupation and possession of the property, and the purchaser purchases the property subject to any existing lease or right of occupation held by any other party. It is recorded that the purchaser shall bear the cost of evicting any occupier who may be in unlawful occupation of the property.

5.4 Clause 9.5 - The benefit, risk, profit and loss in respect of the property shall pass to the purchaser on the date of occupation. Without limiting the generality of the above statement, it is specifically recorded that the purchaser shall be liable for all rates, taxes, levies and other imposts on the property from the occupation date.

5.5 Clause 13.1 - Should the seller not be the registered owner of the property at the date of the signing of the agreement, this agreement shall be subject to the resolutive condition that it shall be of no force and effect should the seller not become the owner of the property within 6 (six) months from the date of this agreement. In this event any amounts paid to the seller on account of the purchase price shall be refunded to it together with any interest earned thereon.

5.6 Clause 13.2 - Should the resolutive condition referred to in 13.1 above not be met, the purchaser shall have no claim against the seller for damage suffered by the purchaser.

5.7 Clause 16.1 - The purchaser purchases the property as it now lies ("voetstoots") without warranty or representation as to its condition, nature or extent and subject to such conditions and servitudes as are mentioned or referred to in the current title deeds or which have been imposed by law. The seller shall not profit by any excess nor be answerable for any deficiency in the nature or extent of the property.

5.8 Clause 16.4 - It is agreed that the seller shall be obliged only to provide to the purchaser, the keys that it has in its possession.

5.9 Clause 19 – the Bank will not provide either an electrical or insect certificate.

- 6) The agent's attention is drawn to the fact that the standard commission payable by Nedbank is 6% (six percent) inclusive of VAT. The agent is also requested to sign the agreement on the last page.
- 7) A binding Agreement of Sale will only come into effect upon the signing of the agreement by the duly authorised management of the Bank.