

# Click To Purchase Property

## RULES

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### 1. WORDS AND PHRASES USED IN THESE RULES

In these rules the following words and phrases shall bear the following meanings:

- 1.1 **“Addendum”** has the meaning defined in the Conditions of Sale
- 1.2 **“Agent”** means the agent engaged by or on behalf of the seller to sell the Property (which expression may include (as the context so admits) in the absence of a selling agent a seller of the Property)
- 1.3 **“Agreement of Sale”** is the agreement of sale appearing in the Data Room on which the terms of the contract for the sale of the Property are recorded and which, includes by reference, the Conditions of Sale
- 1.4 **“Balance of the Deposit”** means the difference between the Initial Deposit (if any) and the deposit amount specified in the Conditions of Sale
- 1.5 **“Bid”** means an amount offered by a Bidder or Buyer during Click to Purchase and which shall be in South African Rands and exclusive of any applicable VAT
- 1.6 **“Bidder”** means a person acting on behalf of a Buyer and who warrants their authority to act on behalf of the Buyer
- 1.7 **“Buyer”** means a person who
  - 1.7.1 proposes to buy a Property; and
  - 1.7.2 has completed the Verification Process, including but not limited to the submission of a special power of attorney signed by the Buyer in favour of the Agent for the Agent to wet-ink sign the contract on the Buyer’s behalf, to the entire satisfaction of the Agent; and
  - 1.7.3 has provided the Initial Deposit applicable to a Property; and

1.7.4 is permitted by the Agent to participate in Click to Purchase; and

1.7.5 warrants their legal ability to buy the Property

and which expression may include the seller of any Property

- 1.8 **“Click to Purchase”** means the process of sale and purchase of immovable property by private sale or private tender and by electronic means insofar as such process is permissible by law;
- 1.9 **“Conditions of Sale”** means the contractual conditions subject to which any Property may be sold and which term shall include the General Conditions of Sale and Particulars of Sale together with (as applicable) any Addendum to be found in the Data Room at the time and date of the formation of any sale contract in Click to Purchase and in the event of there being any conflict between the Rules and the Conditions of Sale the Rules shall prevail
- 1.10 **“CTPP”** means Click To Purchase No 2 Limited a company registered in England and Wales under company number 7133312 and trading as “Click to Purchase Property” with whom the Agent has contracted for the provision of the services offered by Click to Purchase
- 1.11 **“Data Room”** means the electronic location unique to the Property containing the Conditions of Sale together with title and all other documentation
- 1.12 **“General Conditions of Sale”** means the general conditions of sale, which can be found in the Data Room or any reissue or replacement of the same from time to time
- 1.13 **“Initial Deposit”** means the sum (if any) specified for the Property and required to be paid by a Buyer or his solicitor in the manner specified by the Agent before a Buyer can participate in Click to Purchase and subject to the Conditions of Sale (and if paid to the Agent or to the seller’s conveyancer to be held by that party in trust)
- 1.14 **“Price”** means the amount stated in a successful Buyer’s Bid
- 1.15 **“Property”** means a property offered for sale through the means of Click to Purchase
- 1.16 **“Particulars”** means the marketing details of the Property as displayed at the Agent’s website
- 1.17 **“Reserve”** means the minimum amount for which a Property may be sold (which amount may be varied at any time)
- 1.18 **“Rules”** means the terms and conditions governing Click to Purchase set out herein

- 1.19 **“Particulars of Sale”** means any sale conditions supplemental to the General Conditions of Sale detailed for a specific Property and which will be found in the Data Room
- 1.20 **“VAT”** means value added tax as provided for in the Value Added Tax Act, 89 of 1991
- 1.21 **“Verification Process”** means a process of identity verification required to be undertaken for the purposes of the Financial Intelligence Centre Act, 38 of 2001 and other related and similar legislative requirements

## 2. THE RULES

By participating in Click to Purchase Buyers and their Bidders agree to be bound by the Rules. The Rules override all other conditions and can only be varied if CTPP agree in writing. Buyers and their Bidders and other professional advisers should read the Rules and all documentation associated with the Property and the Conditions of Sale carefully so as to understand fully Click to Purchase

## 3. BEFORE BIDDING

- 3.1 **Property Inspection:** Appointments to view any Property view must be made through the Agent
- 3.2 **Particulars:** The Agent and the seller of each Property has been requested to use every reasonable effort to ensure that the Property is properly described. The information contained within the Particulars and Data Room has therefore been compiled and supplied by the Agent, the seller and the seller’s conveyancers.

All statements made in the Particulars or otherwise relating to any Property the subject of Click to Purchase are made without responsibility on the part of CTPP, the Agent or the seller of the Property. No such statement may be relied upon as a statement or representation of fact. Neither the seller nor the Agent nor CTPP nor any person in their employment has any authority to make or give any representation or warranty whatever in relation to any Property the subject of Click to Purchase

**Buyer’s and Bidders’ should be aware** that details may change from time to time and they should check the relevant web site or call the Agent for any Addendum either to the Particulars and/or to the Conditions of Sale which may vary the information in the Particulars and/or the Conditions of Sale and/or Data Room

- 3.3 **Photographs:**
- 3.3.1 are included only for the purposes of general identification of the Property; and

- 3.3.2 are not represented to be accurate or to scale; and
  - 3.3.3 do not form part of the Conditions of Sale;
  - 3.3.4 do not demonstrate: any trading from the Property; whether any occupiers are in actual or lawful occupation; the actual state or condition of the Property
- 3.4 **Professional Advice:** Buyers are strongly advised to (and will be deemed to have done so for the purposes of any contract concluded by Click to Purchase) seek independent appropriate professional advice relating to all financial, physical and legal aspects of the Property, and in particular (without limitation) as to:
- 3.4.1 building, services, ground condition and any specialist surveys; and
  - 3.4.2 financial covenant checks in respect of any income expected to be generated from a Property; and
  - 3.4.3 legal and title due diligence; and
  - 3.4.4 any other aspects of acquiring property as a well advised and prudent Buyer should obtain
- 3.5 **Guide Price:** In the event of the Agent or CTPP issuing any guidance as to price of any Property Buyers and Bidders should be aware that:
- 3.5.1 any guide price may have varied upwards or downwards by the date on which any contract is formed;
  - 3.5.2 guide prices, and estimates as to current or future open market rental for the whole or part of the Property, are not a substitute for detailed professional advice as to value;
  - 3.5.3 guide prices are not to be taken as an indication of any Reserve
  - 3.5.4 neither the Agent nor CTPP shall be deemed as having undertaken any sort of valuation, formal or otherwise under any circumstances
  - 3.5.5 Buyers and Bidders shall place no reliance on any guide price or view as to current or future open market rental for the whole or part of the Property which may be issued by the Agent or CTPP

#### 4. CONDUCT OF CLICK TO PURCHASE

- 4.1 The Buyer acknowledges that as agent for each seller the Agent has authority to:

- 4.1.1 prepare the Particulars from information supplied by or on behalf of each seller
- 4.1.2 offer each Property for sale
- 4.1.3 sell each Property
- 4.1.4 receive and hold deposits
- 4.1.5 sign each Agreement of Sale
- 4.1.6 treat a contract as repudiated if a successful Buyer fails to pay the Balance of the Deposit as required by the Conditions of Sale

and (as the case may require) delegate such authority to CTPP

- 4.2 Each Buyer and Bidder acknowledges that to the extent permitted by law the Agent & CTPP owes no duty of care to any Buyer or Bidder and that Buyers and Bidders have no claim against the Agent or CTPP for any loss arising from Click to Purchase or for any technological inability to participate in Click to Purchase
- 4.3 Sale of any Property in Click to Purchase shall be undertaken by
  - 4.3.1 private sale; or
  - 4.3.2 private tender,as stated in the Particulars.
- 4.4 The method of sale may change from time to time without notification to Buyers or Bidders including the cancellation of any Click to Purchase process
- 4.5 A Property may be withdrawn or sold prior to the conclusion of Click to Purchase without liability to any Buyer or Bidder for any losses or abortive costs
- 4.6 CTPP and the Agent (as the case may require) reserve the right to regulate the bidding and to refuse in their sole and absolute discretion to accept any Bid or Bids without giving any reason
- 4.7 Unless otherwise stated, all Properties offered in Click to Purchase are subject to a Reserve. If no Bid equals or exceeds the Reserve the Property will be withdrawn from Click to Purchase.
- 4.8 CTPP and the Agent may make electronic announcements relating to any Property before or at any time during Click to Purchase. Buyers and Bidders should familiarise themselves with any such announcements made by CTPP and the Agent as these may affect any Property

## 5. THE CONTRACT

- 5.1 The terms of the contract to be formed by Click to Purchase will consist of the Agreement of Sale including the Conditions of Sale
- 5.2 The seller reserves the right to alter or add to the Particulars and Conditions of Sale or Data Room at any time prior to the contract being formed.
- 5.3 Buyers and Bidders will be deemed to have received detailed legal advice relating to all documentation to be found in the Data Room whether or not such advice has been sought or received the Buyer and any Bidder acknowledging that Documents in the Data Room have been provided by others and that consequently the Agent & CTPP are not responsible for the completeness or accuracy of the Documents
- 5.4 When a Bid is received from the Bidder, a draft digital Agreement of Sale is created with an electronic signature unique to the Bid submitted by the Bidder on behalf of the Buyer. This draft digital Agreement of Sale is not legally binding on the parties but creates a digital audit trail for the purposes of Click to Purchase. The Agreement of Sale is manually signed by the Agent, on behalf of the Buyer and Seller, who is duly authorised thereto by virtue of a power of attorney. Upon the manual (“wet-ink”) signature of the Agreement of Sale by the Agent, and this being uploaded to Click to Purchase, a completed digital Agreement of Sale with digital signatures on behalf of the Buyer and Seller is created on Click to Purchase to record that the Agreement of Sale has been manually signed by the Agent and that the agreement between the parties is now legally binding. Upon this occurrence:
- 5.4.1 an e mail will be sent to the successful Bidder confirming the formation of the contract and requiring payment of the Balance of the Deposit by the Buyer to the Seller’s conveyancers in accordance with these Rules.
- 5.4.2 The Agreement of Sale will be attached to such e mail and the completion date to apply will be that stated in the Particulars of Sale and recorded on the Agreement of Sale (or in default thereof that prescribed by the General Conditions) save where Click to Purchase has permitted and the Seller has accepted an alternate completion date as recorded on the Agreement of Sale;
- 5.4.3 unsuccessful Bidders will be notified by e mail and the Initial Deposits (if any) will be repaid without interest
- 5.5 Notwithstanding completion of the Verification Process, each Bidder will be considered to be personally liable on making an accepted Bid during Click to Purchase, and both the Buyer and any Bidder will be jointly and severally

liable for the due performance of the Conditions of Sale and shall indemnify the seller in respect of any loss the seller incurs as a result of default. Bidders should therefore seek an indemnity from their principal.

- 5.6 Buyers warrant that any legal entity put forward as a Buyer is properly constituted and able to buy the Property

## **6. FOLLOWING FORMATION OF THE CONTRACT**

Immediately following the successful formation of the contract as recorded in clause 5.4:

- 6.1 If an Initial Deposit has been paid it will be accounted for to the seller's conveyancers
- 6.2 the successful Buyer will be required to remit in cleared funds from a bank or branch of a bank in the Republic of South Africa, the Deposit in accordance with the Conditions of Sale to the seller's conveyancers within two working days of the formation of the contract (credit being given for any part of the Initial Deposit paid)
- 6.3 In the event of the Balance of the Deposit not being paid as required by the immediately preceding provision and the Conditions of Sale the seller may treat such default as a repudiation of the contract and may again place the Property on the market for sale and/or take such steps as are available to him as a consequence of the successful Buyer's breach. In the event of such steps being taken, such will be without prejudice to any claim the seller may have against the Buyer and/or Bidder for breach of contract.
- 6.4 Unless the seller and the Agent agree otherwise the Property will only be transferred to the Buyer identified in the Verification Process

## **7. ACKNOWLEDGEMENT**

All parties participating in Click to Purchase acknowledge their obligations in respect of the Financial Intelligence Centre Act, 38 of 2001 and any reissue or replacement of the same from time to time.

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