



## EXCLUSIVE SOLE MANDATE

CPA Compliant-Version 2 [050411]

(The word "mandate" means permission and authority and amounts to an agreement. The words "exclusive sole" mean that the Seller shall not be permitted to sell the property through the Seller's own activities or through the activities of any other estate agent during the period of this agreement.)

I / We, the undersigned,

(In this contract referred to as the 'Seller')

promising to be the sole owner of

(In this contract referred to as the 'Property')

do hereby grant THE AGENCY (in this contract referred to as the 'Agent'), an exclusive sole mandate to facilitate the sale of the Property upon the following terms and conditions:

1. The mandate shall start at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
and end at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_
2. The Property will be offered for sale at R \_\_\_\_\_  
( \_\_\_\_\_ ) or as may be changed by agreement with the Seller from time to time (in this contract referred to as the 'Mandate Price') or such other price as may be offered by a Purchaser and be accepted by the Seller (in this contract referred to as the 'Sale Price').
3. Commission at a rate of 8% thereon shall be payable to the Agent by the Seller in the following circumstances and be calculated:
  - 3.1 on the Sale Price should the Seller sell the Property to anyone during the period of this mandate agreement. In other words, the commission will be payable even if the person to whom the Property is sold was not introduced to the Property or the Seller by the Agent and even if the Seller himself found the Purchaser.
  - 3.2 on the Sale Price should the Seller within a period of 3 months from the end of the mandate period sell the Property to any Purchaser who was introduced to the Property or the Seller by the Agent during the period of this mandate regardless of whether such introduction was the effective cause of the sale. In other words, if the Agent can prove the actual introduction of the Purchaser during the period of the mandate, the Seller will have to pay the Agent commission even though the Agent has not proved that the sale came about as a result of that introduction. The Seller is cautioned to check with the Agent before accepting any offer from any Purchaser which he may receive during the three-month period mentioned in this paragraph to determine whether that Purchaser was in fact introduced by the Agent.
  - 3.3 on the Sale Price should the Seller after 3 months have gone by from the date on which the mandate period ended sell the Property to any Purchaser who was introduced to the Property or the Seller by the Agent during the mandate period where such introduction was the effective cause of the sale. In other words, the Seller will have to pay the Agent commission if the Agent can prove the actual introduction of the Purchaser and also prove that the sale came about as a result of that introduction. The Seller is cautioned to check with the Agent before accepting any offer from any Purchaser which he may receive during the period mentioned in this paragraph, to determine whether that Purchaser was in fact introduced by the Agent and whether the Agent can prove that the introduction will be the effective cause of the sale.
  - 3.4 on the Mandate Price should the Agent during the period of the mandate produce to the Seller an offer to purchase the Property from a willing and able Purchaser at the Mandate Price. In other words, as long as the offer is at the Mandate Price and as long as the Purchaser is properly financially qualified to purchase, the Seller will have to pay commission to the Agent even though the Seller might decide not to accept the offer and/or not sell the Property.
  - 3.5 on the Mandate Price should the Seller during the mandate period elect to withdraw the Property from the market for sale or otherwise make it impossible for the Agent to perform its duties in terms of this mandate. In other words, the Seller has a duty to allow the Agent to perform its obligations and to give the Agent the opportunity to earn the commission stated in this agreement and that if the Seller does not do so the Seller will have to pay the Agent commission.
4. Promises by Agent: - The Agent shall make all reasonable effort to market and to perform the mandate and shall amongst other things:
  - 4.1 Subject to any regulations or Municipal bylaws, erect a 'For Sale' board on the Property, at the Agents cost;
  - 4.2 Advertise the Property for sale in accordance with the Agent's standard advertising policy;
  - 4.3 Conduct a show house (by agreement between the parties) in accordance with the Agent's show house policy;
  - 4.4 List the Property on the Agent's website and all the associated portals;
  - 4.5 Comprehensively market the Property as more fully described in the Marketing Plan (if any) and if not then to do so in accordance with the Agent's standard marketing policy;

4.6 Report to the Seller from time to time the progress made in marketing the Property.

5. Special disclosures and confirmations by Seller:

5.1 Fixtures & Fittings (things permanently attached to the Property or forming part of things which are permanently attached to the Property) which the Seller will not be including in the sale \_\_\_\_\_

5.2 Defects in the Property (whether hidden or obvious) known to the Seller \_\_\_\_\_

5.3 Details of any urban planning changes or permissions relating to other properties in the vicinity of the Property (in other words changes to the use rights of properties in the area or other developments intended for the area) which might be known to the Seller \_\_\_\_\_

5.4 That the total debt associated with the Property (example – municipality, bond, body corporate and/or homeowners association) does not exceed the difference between the Mandate Price and the Agent's commission properly calculated thereon. By way of clarification, it is explained that the Seller should not enter into this mandate agreement if the sale of the Property will not generate enough available money to pay the commission due to the Agent.

5.5 That the Seller **IS NOT/IS** a registered VAT vendor for purposes of the sale of the Property. By way of clarification, it is explained that if the Seller is a VAT vendor the Mandate Price will be assumed to include VAT. If the Seller is not a VAT vendor, then the Mandate Price will not include VAT.

5.6 That the Property **IS NOT IS** part of a complex governed by a homeowner's association and that if it is, there is no reason why the homeowner's association should not consent to the sale of the Property.

5.7 That the Seller is not aware of any constructions/buildings on the Property which have been erected without a duly approved building plan or otherwise in contravention of any building laws.

5.8 That the Seller **IS NOT/ IS** in the regular business of selling immovable properties.

6. **Acknowledgement by seller of direct marketing cooling off right** - After being afforded an adequate period of time to understand and consider the matter the Seller confirms that this mandate agreement **WAS NOT / WAS** concluded (*delete appropriately and initial*) as a result of direct marketing on the part of the Agent. In so doing the Seller confirms the following;

6.1 That the Seller has been informed of the fact that the Consumer Protection Act gives a cooling off right to consumers (such as the Seller) who enter into agreements (including mandate agreements such as this one) as a result of direct marketing and that such consumers may without consequence cancel such agreements in writing within five working days of the date of signature thereof **and**;

6.2 That if the Seller has confirmed that the Seller **has** entered into this agreement as a result of direct marketing it is understood and accepted that it is the policy of the Agent to only commence the rendering of its service after the five working day period has elapsed **and**

6.3 That if the Seller has confirmed that the Seller **has not** entered into this agreement as a result of direct marketing the Agent will be lead to believe that the Seller does not have the right to cool off and will by virtue of such confirmation depart from the above policy and commence the rendering of the service immediately after signature hereof.

7. **Showhouse risk** – After being afforded an adequate period of time to understand and consider the matter the Seller confirms that the Seller is aware of the fact that if and when the Agent conducts a showhouse at the Property the Agent is unable to guarantee that members of the public who visit the showhouse will not steal goods from the showhouse or in some way cause harm or damage to the Property. The Seller therefore accepts the risks hereby disclosed when a showhouse is authorized and will not hold the Agent responsible in any way.

SIGNED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

SELLER 1 \_\_\_\_\_

SELLER 2 \_\_\_\_\_

SIGNED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

For THE AGENT \_\_\_\_\_

## DEFECT / CONDITION DISCLOSURES BY SELLER

This annexure can be used for all sales [i.e. whether affected by the CPA or not].

This disclosure relates to the immovable property situated at:

.....

Erf no.....

Section number .....

### DISCLOSURE INFORMATION

The Seller of the property provides the information contained in this document so that prospective Purchasers may benefit from the contents in making their decision on whether to buy the property and if so, on what terms. The Seller does not warrant that his responses to the various questions accurately represent the true status of the defect/condition enquired about but **does warrant** that his answers constitute his true and honest belief about the status. The Seller understands and accepts that the estate agent to whom this disclosure document is given shall provide a copy of this document to any potential Purchasers and that this document will be incorporated into any sale agreement with such Purchaser.

QUESTION NUMBER	QUESTION	YES	NO	N/A
1	Are you aware of any defects in the roof to any structures on your property?			
2	Are you bound to a lease agreement with a tenant in respect of the property?			
3	Are you aware of any defects in any part of the plumbing system servicing the property, including the supply of water to the property and the disposal of waste and/or sewerage and/or storm water?			
4	Are you aware of any defects in the heating and/or air conditioning systems, including air filters and humidifiers?			
5	If your property has a swimming pool are you aware of any defects in the pool or the pool filtration system including more particularly leakage of water and/or inappropriate amounts of air being drawn into the water reticulation system?			
6	Are you aware of any structural defects to the property and/or in the basement or foundations of the property, including cracks, bulges and/or subsidence?			
7	Are you aware of any boundary line disputes or any encroachments?			
8	Are you aware of any constructions on the property which have been made without proper approved building plans and/or proper permissions from the relevant local authority?			
9	Are you aware of any changes which your neighbours and /or near neighbours plan to make to their properties?			
10	Are you aware of any municipal urban planning policies or permissions which are likely to impact significantly on the area in which your property is situated?			
11	Are you aware of circumstances or conditions within the proximity of your property which are a source of regular nuisance (i.e. noise or smells) or threat to residents of your property?			

12	Are <u>all</u> fixtures and fittings on your property in good working order? This includes items (in no particular order) like electrical plugs and switches, doors and windows, ovens, hobs and extractors, hot water geysers, solar heating systems, garden/external lights and fountains, alarm systems and other security systems, automatic door and gate openers, remote and/centrally controlled systems, intercom systems, doorbells, pool pump, pool filtration system, automatic pool cleaners, pool chlorinator, pool lights, gutters and downpipes, chimneys, irrigation system including computerized controls, air conditioners, underfloor or wall mounted heating systems ,extractor systems ,bore holes and associated equipment.			
13	If any of the fixtures and fittings on your property are not in good working order are you willing to fix such items so that on the day your purchaser takes transfer of your property they will be in good working order?			
14	Are you aware of any water leakage or water penetration problems in any of the constructions on your property?			
15	Are you aware of any flooding problems on your property?			
16	Do you have any reason to believe that the electrical supply to your property is inadequate for the property and ordinary use of the electrical appliances / systems upon your property?			
17	Are you aware of any significant defects in your property which you have caused to be repaired in the last 12 months?			
18	Do you know what the municipality has valued your property at for purposes of rates and taxes and are you happy with the valuation?			
19	Is your property subject to any Home Owners Association?			
20	If your property is part of a sectional title development are you aware of the possibility of a special levy being raised in the short to medium term?			
21	If your property is part of a sectional title development are the finances of the body corporate in a sound condition?			
22	If your property is part of a sectional title development does the original developer have the right to return to the property and to construct any further buildings?			
23	If your property is part of a sectional title development are you happy with the management of the body corporate?			

**If you answered YES to any of the questions posed in the questionnaire set out above, then you are required to briefly explain and amplify your answer in the place provided for below:**

QUESTION NUMBER	ADDITIONAL INFORMATION
.....	.....
.....	.....

[illegible]

## HISTORY OF OWNERSHIP AND OCCUPATION

1. When did you become the owner of the property? .....
2. Have you personally occupied property for the entire time of ownership?  
.....
3. If you did not personally occupy the property for the entire time of ownership, when did you last personally occupy the property and for how long?  
.....

## DISCLAIMER

As already intimated this disclosure document is designed to communicate to any potential Purchaser of the property to which this disclosure relates, the honestly held beliefs of the Seller of the property and is not designed to represent that the potential conditions canvassed in the questionnaire do not in fact exist. The duty therefore still rests on any potential Purchaser to properly and thoroughly examine the property and if concerned about any potential defect/condition [whether patent or latent] to obtain independent advice from an appropriate expert before concluding any binding sale agreement.

Dated at \_\_\_\_\_ on \_\_\_\_\_

**Seller**

**Acknowledgement of receipt of copy by \_\_\_\_\_**

[Insert name of potential Purchaser]

**Signature by potential Purchaser**