



AUCTION LISTING AGREEMENT
AND INSTRUCTION TO SELL BY AUCTION
AND/OR PRIVATE AGREEMENT



It is time

AUCTION LISTING AGREEMENT AUCTION WITH RESERVE

(The Auction Contract between the Auctioneer and the Seller)

Agreed to by and between (provide the details of the person/s that is/are instructing the Auctioneer to sell by auction):

Full names of Seller 1: _____

Identity/Registration number: _____

Single: _____; Married WITHIN community of property: _____; Married OUT OF community of property: _____

Full names of Seller 2: _____

Identity/Registration number: _____

Single: _____; Married WITHIN community of property: _____; Married OUT OF community of property: _____

Physical address: _____

Postal address: _____

Contact number: _____ E-mail: _____

(hereinafter called the "Seller")

AND

MARIETJIE KEET AUCTIONEERS

Close Corporation with Registration Number 2003/033343/23, VAT Registration Number 4670209651, 226 Lawley Street, Waterkloof 0181, Pretoria, South Africa. Contact number: +27 82 453 3092, Web: www.MarietjieKeetAuctioneers.co.za

(hereinafter called the "Auctioneer")

1. The Seller hereby gives to the Auctioneer (i) the authority to act on behalf of the Seller and (ii) an exclusive right to sell the under-mentioned property by way of public auction and/or private agreement.

2. THIS SECTION **MUST BE COMPLETED IN FULL:**

The property to be sold (details of the property on auction):

Erf Number as per Title Deed: _____

Suburb as per Title Deed: _____ Extension (if applicable) Ext _____

Street name and number (not corner of) _____

Suburb: _____ City/Town: _____

Extent (size) of erf as per Deed: _____ Square meters or ha? _____

Extent (size) of buildings (e.g.house) according to building plans: _____

THIS SECTION **MUST BE COMPLETED IN FULL:**

Municipality: _____ Province: _____

Rates and taxes as on water and lights account: R _____ per month.

Registered owner of the property: _____

Is the registered owner of the property registered for VAT? _____

VAT Number: _____ Income Tax Number: _____

Title Deed: T _____

Property Type (e.g. residential) as per municipal zoning: _____

Current bond registered over the property: (name of bank) _____

Bond amount outstanding: ± R _____

Name of body corporate/home owners association (HOA): _____

Monthly levies payable to body corporate/HOA (if applicable): R _____ per month.

Contact person at body corporate/HOA: _____

Contact number of body corporate/HOA: _____

3. 3.1 The Seller hereby appoints the Auctioneer or his/her agent to bid on his/her behalf up to the reserve price. The Seller confirms that:
- (i) he/she/it has the right to sell the property,
 - (ii) no other agent or third party is involved in the selling and/or marketing of the property and/or has a sole mandate and/or an exclusive right to sell,
 - (iii) no payments to any bank or financial institution are outstanding or in arrears and **no foreclosure is in process**,
 - (iv) no payments to the local municipality and/or the body corporate (if applicable) is outstanding.

3.2 The Seller acknowledges that he/she is aware of his/her following rights in pursuance of the **Consumer Protection Act, Act 68 of 2008**: Equality in the consumer market, privacy, choice, information, fair and responsible marketing, fair and honest dealing, right to fair, just and reasonable terms and conditions, right to fair value, good quality and safety, consumer's right to be heard and obtain redress, and equality in the consumer market.

In the residential property marketing sector full disclosure of any defects or potential defects is essential. It is illegal not to mention defects and record them in writing. In terms of the CPA, the failure to disclose a defect could lead to the cancellation of the sale agreement and the refunding of the full sale price.

The Seller hereby takes note of the following: "Under the voetstoots clause, it is essential for the injured party (the buyer) to show that **the Seller deliberately withheld information on a defect or was ignorant of the defect** which any conscientious Seller would have known about. However with the CPA no matter how little the Seller knew (or could have known) of the problem, he could **still be held liable for it** when it crops up after transfer. Sellers and potential buyers should go through the home room by room and look at all the places hidden by carpets, furniture, curtains and other objects, and should list and sign for any defects found. The Seller should also then disclose upfront any problems he/she may have experienced with noisy neighbours (or their dogs), crime in the area, traffic or municipal services and, because this can deter a minority of buyers, he/she should also mention if there has been a death in the home recently. Contractor/service providers who have done work on the home in the recent past should be asked for a detailed receipt of the work and, if possible, a warranty and these should be handed over to the buyer. It is particularly important to reveal any short or long term plans for rezoning in the area."

Take further note: Consumer's right to cooling-off period after direct marketing

16(3) A consumer may rescind a transaction resulting from any direct marketing without reason or penalty, by notice to the supplier in writing, or another recorded manner and form, **within five business days** after the later of the date on which - (a) the transaction or agreement was concluded; or (b) the goods that were the subject of the transaction were delivered to the consumer. (4) A supplier must - (a) return any payment received from the consumer in terms of the transaction within 15 business days after - (i) receiving notice of the rescission, if no goods had been delivered to the consumer in terms of the transaction; or (ii) receiving from the consumer any goods supplied in terms of the transaction; and (b) not attempt to collect any payment in terms of a rescinded transaction, except as permitted in terms of section 20(6).

4. RESERVE PRICE

The purchase price to be obtained by the Auctioneer for the property shall be the sum of R _____

(in words) _____

_____ (the "reserve price"),

or such lesser amount as may be agreed to by the Seller. Should the reserve be reached, the Auctioneer has the sole discretion to immediately confirm the sale and to this end the Seller hereby appoints the Auctioneer as its agent to accept the offer and do all things necessary in connection herewith.

5. The term/duration of the contract: The exclusive right to sell period starts on signature of this agreement by both parties and ends at midnight on the 60th day after the date of the auction.

6. **Payment of expenses:** The Seller will pay to the Auctioneer the advertising and other costs as per approved budget amounting in the sum of R(mark the package of your choice with an X), and Value Added Tax thereon at the standard rate (herein collectively referred to as the "budget". The Seller acknowledges that these costs are payable in advance into the bank account of the Auctioneer:

Budget: (i) mark budget of choice with an X and (ii) sign next to selected budget:

PREMIUM: R100,000.00
plus VAT

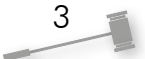
SUPERIOR: R80,000.00
plus VAT

EXECUTIVE: R50,000.00
plus VAT

VALUE: R30,000.00
plus VAT

ESSENTIAL: R20,000.00
plus VAT

CUSTOM: R
Customised campaign packages
above R100,000.00 (on request)
plus VAT



7. **The Purchaser** is responsible for the **Auctioneer's commission** and it will be deemed to be **earned on the fall of the hammer**, at the rate of 10% (TEN PERCENT) of the purchase price plus VAT thereon, and will be deemed to have been earned either upon the reserve price being achieved or if the sale is confirmed by the Seller at a lesser value, or if the sale is by private treaty upon signature of the Deed of Sale. This amount is payable directly into the bank account of the Auctioneers' attorneys.
8. **If the Seller during the exclusive right to sell period:**
- 8.1 Sells the property out of hand;
 - 8.2 Sells the property with the assistance of any third person, other estate agent and/or Auctioneer;
 - 8.3 Sells the property to any person who was, during the exclusive right to sell period, introduced to him/her and/or the property by the Auctioneer. This provision shall also apply if the Seller sells the property at any time after the exclusive right to sell period to any person or party who was during the mandate period introduced to him and/or the property by the Auctioneer, the aforesaid commission being a genuine pre-estimate of damages;
 - 8.4 Breaches any provisions of this exclusive right to sell, in which case the Auctioneer's commission shall be equal to 10% (TEN PERCENT) of the price stipulated in 8 (i) and (ii) above
then The Seller undertakes to pay to the Auctioneer all reasonable expenses incurred plus
 - (i) auctioneer's commission calculated at 10% (TEN PERCENT) on the **reserve price** should the Seller sell for less than the reserve price; or
 - (ii) auctioneer's commission calculated at 10% (TEN PERCENT) on the **purchase price** should the Seller sell for more than the reserve price; andValue Added Tax hereon at the standard rate (herein collectively referred to as the "Auctioneer's commission").
9. The Auctioneer undertakes to market the property in more than one of the following ways as per the chosen package in clause 6 hereof, if or when possible:
- 9.1 To erect auction advertising boards in and/or around the property;
 - 9.2 To conduct an auction preview on the property during the period of this mandate if necessary;
 - 9.3 To advertise the property as per the approved advertising budget;
 - 9.4 To keep the Seller up to date of any comments made by prospective buyers, regarding the property;
 - 9.5 To advertise and market the auction and/or the property according to the Auctioneer's normal procedures and standards.
10. The Seller undertakes and confirms that:
- 10.1 He/she is the registered owner of the property and/or warrants that he/she is clear in title and has the ability and authority to sell the property;
 - 10.2 He/she shall accept any *bona fide* offer obtained by the Auctioneer on his/her behalf which is equal to or greater than the reserve price, and failing such acceptance he/she will be liable for the Auctioneer's commission which would otherwise have been earned by the Auctioneer.
 - 10.3 He/she will not in any way prevent or hinder the Auctioneer from selling the property in terms of this exclusive right to sell and/or cancel any such sale. He/she will provide all information to the Auctioneer prior to and during the course of the marketing campaign, the auction and the sale of the property, and that he/she will not withhold any disclosure from the Auctioneer relating to the property which may be of any hindrance to the sale of the property;
 - 10.4 He/she will not sell and/or attempt to sell the property with the mediation of any other estate agent and/or sell the property him/herself during the exclusive right to sell period. He/she will further not consider and/or accept any offer received because of the Auctioneer's marketing and advertising during the exclusive right to sell period, at the neglect of which he/she will be liable for the payment of the Auctioneer's commission to the Auctioneer which would have been earned by the Auctioneer at the Auction. For purposes hereof it will be deemed that if the Auctioneer submits an offer to purchase to the Seller which meets the requirements of this exclusive right to sell mandate, the Auctioneer's commission will be earned.
 - 10.5 He/she acknowledges reasonable risk in the sale;
 - 10.6 He/she will inform the appropriate body corporate or home owners association **in advance** of:
 - 10.6.1 all coming auction activities;
 - 10.6.2 entrance at the security gate; and
 - 10.6.3 all direction boards.
 - 10.7 He/she will allow the Auctioneer to put up "Sold" boards on the property for a period of 1 (ONE) month after the auction.



11. The signatory hereby warrants that the Seller or his/her representative has the requisite authority in his/her personal capacity to dispose of the property. The signatory on behalf of the Seller herein acts as a legal person and/or trust, whose signature guarantees that he/she is duly assigned by the board of directors, shareholders, members or trustees to sign this document and to accept or reject any offer submitted by the Auctioneer.
12. The Seller will be entitled to appoint the transferring attorney in order to effect transfer of the property in the applicable Deeds Office.
13. Whilst the Auctioneer will take care to obtain the correct information from the Seller:
 - 13.1 Neither the Auctioneer and his/her agents, nor any of its subsidiaries and related companies, guarantee the correctness of the information in the above-mentioned newspapers or relating auction documentation, and none of the aforementioned will be held liable for any direct or indirect damages or loss, of whatsoever nature, suffered by any person/legal entity as a result of errors or omissions in the information supplied.
 - 13.2 The Seller will have no claim whatsoever against the Auctioneer and his/her agents arising from the failure of any Purchaser to perform any of the obligations that might arise out of the sale of the assets referred to herein.
 - 13.3 The Seller will have no claim whatsoever against the Auctioneer and his/her agents arising from any damages incurred by the Seller during any time, viewing period(s), actual auction or during the removal of purchased items or structures.
14. The Seller hereby confirms that:
 - 14.1 he/she is bound by the Auctioneer's Standard Agreement and Conditions of Sale in respect of immovable property, a copy of which is available on the Auctioneer's website or on request;
 - 14.2 he/she is bound to absolute non-disclosure to any other party, agent, broker or auction house, regarding mandate prices, reserve prices, or any other details pertaining to the property or the sale thereof;
 - 14.3 any enquiry received by him/her or his/her representative regarding the property will be directed to the Auctioneer and that any negotiations and/or discussions pertaining to the marketing, the auction, any related activities and the sale of the property remain strictly confidential;
 - 14.4 he/she is aware of the fact that the term "listing" in this contract includes listing of the Sellers' property (which may include a photo display of the property) in auction pamphlets, newspapers, the Auctioneer's website: www.MarietjieKeetAuctioneers.co.za, and any other advertisements.
15. If any dispute arises between the Seller and the Auctioneer relating to payment of commission in terms of this agreement or damages following a breach thereof by either the Seller or the Auctioneer regarding commission, the parties agree that such dispute must be decided by the Arbitration Tribunal ("the Tribunal") established by the Estate Agency Affairs Board (South Africa). The Constitution and Procedural Rules of the Tribunal (a copy of which can be obtained from the Estate Agency Affairs Board at Private Bag X10, Benmore, 2010) form part of this agreement.

Both the Seller and the Auctioneer agree that:

- 15.1 an Arbitrator shall be appointed (requested by one or both parties involved) by the Estate Agency Affairs Board (South Africa);
- 15.2 the Arbitrator will determine the place, date and time of arbitration which arbitration will be executed within a reasonable period from date of request;
- 15.3 the parties will be represented by themselves during the arbitration period;
- 15.4 the award of the Arbitrator will be final and binding on all parties;
- 15.5 the cost of the Arbitrator will be according to costs determined by the Estate Agency Affairs Board where the claimant and defendant will pay the account (50% claimant/50% defendant) and each party will be responsible for their own costs including accommodation and other fees until the award is completed;
- 15.6 if the grievant party has to apply for a court order, the other party agrees to pay all costs thereof;
- 15.7 cancellation of this contract does not cancel the validity of the arbitration;
- 15.8 their addresses as provided herein are their *domicilium citandi et executandi*.

16. AUCTION DATE AND TIME:

The place, time and date of auction sale: The parties agree that the auction will be held:

on (date) _____ 20____

at (time) _____ on site or any other place convenient to the Auctioneer to conduct a proper Auction.



17. THIS SECTION **MUST** BE COMPLETED IN FULL:

General information in respect of the Property

e.g. Bedrooms	3	On first floor, with wooden cupboards and wall to wall carpets
Bedrooms		
Bathrooms		
Guest toilet		
Living rooms		
Sitting room		
Dining room		
Study		
Kitchen		
Scullery / Opwaskamer		
Pantry / Spens		
Charroom / Werkskamer		
Storage room		
Air-conditioning		
Flat / Flatlet		
Library		
Bar area		
Lapa		
Fire place		
Servant's quarters		
Garage		
Car port		
Electric gate		
Electric fence		
Burglar bars		
Horse stables		
Trampoline		
Garden		
Sprinkle system		
Swimming pool		
Splash pool		
Jacuzzi		
Fish pond		
Flat		
Bore hole(s)		
Dam		
Roof		
Walls		
Windows		
Q: Curtains		Included in sale: Yes or No:

DEFECTS listed by the Seller as per Clause 3.2: _____

18. The terms and conditions of this agreement shall constitute the sole agreement between the parties concerned and no variation or amendment thereto shall be binding unless agreed upon in writing and signed by the Seller and Auctioneer.

SIGNED at _____ on this _____ day of _____ 20_____.

SELLER 1 (DULY AUTHORISED)

SELLER 2 (SPOUSE AND/OR CO-SIGNATORY)

SIGNED at _____ on this _____ day of _____ 20_____.


MARIETJIE KEET AUCTIONEERS





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 [Marietjie Keet Auctioneers](https://www.linkedin.com/company/Marietjie-Keet-Auctioneers)

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