

EXCLUSIVE MARKETING MANDATE

1. THE SELLER

Name: _____

Registration Number / Identity / Passport Number: _____

Physical address: _____

Name: _____

Registration Number/Identity / Passport Number: _____

Physical address: _____

If signing in a representative capacity:

Full name and Identity Number: _____

Capacity of person signing:

Director Member Trustee Other _____

hereby grant to Keller Williams Clockwork (Registration No. CK 2007/233846/23) (hereinafter referred to as "Clockwork Auctions") an exclusive marketing mandate as set out herein.

2. MANDATE

The Seller hereby grants to **Clockwork Auctions** the sole and exclusive mandate and sole right to sell the below mentioned Property by Public Auction or Private treaty for a sum not less than the Minimum Net Selling Price specified in clause 6 herein or at a lower selling price confirmed by the Seller and on the terms set out herein.

3. THE IMMOVABLE PROPERTY (“the Property”)

FREE HOLD	Portion _____ of Erf _____ in the Township of _____ Suburb _____ in the City of _____ Situated at: _____
FARM / HOLDING	Portion _____ of Farm/Holding _____ Situated at: _____
SECTIONAL TITLE	Sectional title Unit Number: _____ with Door Number: _____ in the Scheme _____ SS No _____ _____ In the Township of _____ together with an undivided share in the common property in the scheme and the exclusive use and enjoyment of the following areas of the common property _____ which rights are registered as such, alternatively, allocated by the Body Corporate Rules. Situated at: _____

4. DURATION

This mandate will start on signature of this agreement and will remain in force until midnight on the _____ . (the Mandate Period).

5. AUCTION

The auction will be held at _____ on the _____ day of _____ 20____, or an alternative date mutually agreed upon by the Seller and **Clockwork Auctions**, should this be required but all auctions shall take place within the Mandate Period.

6. MANDATE PRICE (MINIMUM NETT SELLING PRICE)

6.1 The Minimum Nett Selling Price required by the Seller for the property is: R _____ (_____) exclusive of Vat (if applicable) and Buyer’s Premium.

- 6.2 The Seller shall accept the conditions of sale representing the highest bid equal to or more than the Minimum Nett Selling Price, failing which the Seller authorizes **Clockwork Auctions** (acting through any of its Directors or duly authorized representatives) to do so on its behalf.
- 6.3 The Property is sold with reserve. If no bid equals or exceeds the Minimum Nett Selling Price, the Property may be withdrawn from the auction.
- 6.4 The Seller may at its discretion accept a price lower than the Minimum Nett Selling Price.
- 6.5 The Auctioneer or his agent / proxy shall be entitled to bid up to the Minimum Nett Selling Price on behalf of the Seller, but shall not be entitled to make a bid equal to or exceeding the Minimum Nett Selling Price.

7. CONFIRMATION

- 7.1 The Property is to be offered for sale subject to confirmation by the Seller within 3 (Three) working days after the date of signature of the sale agreement by the Purchaser (the Confirmation Period).
- 7.2 If a bid equal to or exceeding the Minimum Nett Selling Price is made and the Seller refuses to accept such bid and sign the sale agreement within the Confirmation Period, the Seller shall immediately upon such refusal become liable for payment of the Buyer's Premium, calculated on the bid price, provided such bid price is equal to or exceeding the Minimum Nett Selling Price.

8. BUYER'S PREMIUM

- 8.1 The fee due to **Clockwork Auctions** shall be paid by way of a Buyer's Premium equal to 10% plus VAT of the Minimum Nett selling Price, alternatively calculated upon the bid price if lower than the Minimum Nett Selling Price if accepted by the Seller, further alternatively calculated on the bid price if higher than the Minimum Nett Selling Price
- 8.2 **Clockwork Auctions** shall be entitled to retain the Buyer's Premium for its own account from funds held by **Clockwork Auctions/Conveyancers** by or on behalf of the Purchaser, which shall be deemed to have been earned and payable to **Clockwork Auctions** on confirmation of the sale by the Seller or as provided for in this Agreement.

9. STANDARD CONDITIONS OF SALE

The Seller authorises **Clockwork Auctions** to sell the Property subject to its standard conditions of sale with which the Seller declares himself to be acquainted and the Seller undertakes to abide by any discretion exercised by the Auctioneer in terms thereof.

10. ADVERTISING AND PROMOTIONAL CAMPAIGN

- 10.1 **Clockwork Auctions** shall conduct an advertising and promotional campaign in accordance with the advertising budget agreed to with the seller, taking 10.2 below into account.
- 10.2 The Seller shall be responsible for the payment of a contribution to the marketing costs in respect of the sale of the Property which is payable on signature of this Mandate; being: R _____ plus VAT.
(_____) plus VAT.
- 10.3 If the above advertising costs are not paid, they will automatically be deducted from the deposit upon sale of the Property.

11. OBLIGATIONS AND WARRANTY BY THE SELLER

- 11.1 During the Mandate Period the Seller shall:
- 11.1.1 Keep the Property in a clean, neat, tidy and operational condition and generally maintain the Property at its best appearance for selling purposes;
 - 11.1.2 Not interfere with **Clockwork Auctions** in the exercise of its duties or generally do anything or omit to do anything which may reasonably prevent or restrict **Clockwork Auctions** from selling the Property pursuant to this agreement;
 - 11.1.3 Refer to **Clockwork Auctions** all enquiries received about the Property;
 - 11.1.4 Generally give **Clockwork Auctions** all reasonable assistance required by it in relation to the sale of the Property.
 - 11.1.5 Remove any existing promotional material from the Property and allow **Clockwork Auctions** to place an advertising banner or sign in front of the Property for the duration of the Mandate Period and a sold sign until the Property is transferred out of the Seller's name.
 - 11.1.6 Not appoint or allow any other person/entity to sell/Rent or market the Property;
 - 11.1.7 Not deliberately frustrate, or attempt to frustrate, the fulfilment of this mandate.
- 11.2 The Seller warrants that no other material defects to the Property exist other than those disclosed to **Clockwork Auctions** in writing.
- 11.3 The Seller may not renew any existing lease agreement or enter into any new lease in respect of the Property during the term of this mandate without the written consent of **Clockwork Auctions**.
- 11.4 Should the Property be subject to a lease agreement; the Seller undertakes to ensure that **Clockwork Auctions** is granted reasonable access to the Property.

- 11.5 The Seller warrants the accuracy of all information given to **Clockwork Auctions** relating to and/or in connection with the Property and that it has not willingly failed to disclose to **Clockwork Auctions** any information relating to or in connection with the Property which may be material to any Purchaser thereof.
- 11.6 The Seller agrees not to discuss or indicate to any party, or to any other agent or auction company, any minimum prices, estimated prices or detail with regards to the Property. All negotiations and discussions shall remain confidential.
- 11.7 A breach of the obligations in clause 11 is agreed to be tantamount to the frustration of the **Clockwork Auctions** marketing efforts and will entitle **Clockwork Auctions** to claim the Buyer's Premium from the Seller in terms hereof.
- 11.8 The Seller shall be obliged to provide to **Clockwork Auctions** all the FICA documents as set out in the annexure hereto on signature of this mandate.

12. TERMS OF MANDATE

- 12.1 Should the Seller sell the Property during or for a period of three months after the termination of the Mandate Period to any purchaser introduced to the Seller by **Clockwork Auctions** (whether for greater or less than the Minimum Selling Price), **Clockwork Auctions** shall upon the conclusion of such sale, be deemed to have earned a sum equal to the Buyer's Premium based on the purchase price accepted by the Seller and payable to **Clockwork Auctions**, on the date upon registration of transfer.
- 12.2 Save as otherwise provided for herein, in the event of the Purchaser committing a breach of the terms of this mandate, **Clockwork Auctions** shall upon such breach be entitled to payment of the Buyer's Premium based on the Minimum Nett Selling Price.

13. ADDRESS FOR SERVICE

- 13.1 The Seller chooses the address on page 1 for the service of all notices and legal process pursuant to this Agreement (*domicilium citandi et executandi*).
- 13.2 **Clockwork Auctions** chooses 57Wessels Road, Chelsea Office Park, Block B Woodmead, as the address for the service of all notices and legal process pursuant to this Agreement (*domicilium citandi et executandi*).

14. TERMS OF MANDATE

- 14.1 In the event that the Consumer Protection Act is applicable and if this Agreement resulted from direct marketing of **Clockwork Auctions** to the Seller, the Seller may terminate this agreement within 5 (Five) business days of signature date hereof by giving such a notice to **Clockwork Auctions** in writing.
- 14.2 This Agreement constitutes the whole agreement between the parties, and no other agreements, representations or warranties of whatsoever nature have been made, save as are included herein.
- 14.3 No variation, cancellation, novation, waiver and/or similar amendment of this Agreement will be of any force and effect, unless it is reduced to writing and signed by both parties and their duly authorised representatives.
- 14.4 The Seller consents to **Clockwork Auctions** erecting a "For Sale" board at the Property.

- 14.5 The Seller warrants that all written consents required by the Matrimonial Property Act 88 of 1984 in respect of this mandate or any other matter arising therefrom, have or will be given.
- 14.6 If the Seller is a close corporation, company or trust, the person acting and signing this agreement on behalf of such entity warrants that he/she has the necessary authority to act on behalf of such entity.

15. ANNEXURES

- 15.1 Rules of the Auction.
- 15.2 Section 65(2) of the Consumer Protection Act (Where Consumer Protection Act applicable).
- 15.3 Sub clauses 1 to 5 of Section 45 of the Consumer Protection Act (Where Consumer Protection Act applicable).

16. CONFIDENTIALITY CLAUSE

The Seller agrees not to discuss or indicate to any party, or to any other agent or Auction Company, any minimum prices, estimated prices or any details with regards to the Property. All negotiations and discussions must remain confidential.

Signed at _____ on this the _____ day of _____ 20 ____

THE SELLER

THE SELLER

WITNESS

WITNESS

Accepted by Clockwork Auctions

Payment to Keller Williams Clockwork can be done securely and easily into our bank account.

KW Clockwork

ABSA Bank

Account number 4086122777

Universal code 632005

Please use your name and your property address as your reference.

INFORMATION FOR CONVEYANCING PURPOSES ONLY.

	SELLER	SELLER
Name/s		
Registration Number/ ID Number		
Marital Status	Single / Divorced <input type="checkbox"/> Married In Community of Property <input type="checkbox"/> Married Out of Community of Property <input type="checkbox"/> Married according to Foreign Law <input type="checkbox"/>	Single / Divorced <input type="checkbox"/> Married In Community of Property <input type="checkbox"/> Married Out of Community of Property <input type="checkbox"/> Married according to Foreign Law <input type="checkbox"/>
If signing in a representative capacity	Director <input type="checkbox"/> Member <input type="checkbox"/> Trustee <input type="checkbox"/> Other <input type="checkbox"/>	Director <input type="checkbox"/> Member <input type="checkbox"/> Trustee <input type="checkbox"/> Other <input type="checkbox"/>
Physical Address		
Postal Address		
Telephone Number (Home)		
Telephone Number (Work)		
Telephone Number (Cell)		
Email Address		
Existing Bond Holder / Account No.		
Approximate Outstanding Balance		
Managing Agents / HOA Details		
SARS Income Tax Number		

CONVEYANCING ATTORNEY: _____

FINANCIAL INTELLIGENCE CENTRE ACT NO. 38 OF 2001 (“FICA”)

The Financial Intelligence Centre Act (“FICA”) is anti-money laundering legislation that was introduced in South Africa in 2003. In practical terms this law aims to stop money laundering and to identify and prosecute all those involved in such activities.

In terms of FICA, a firm of Estate Agents and Auctioneers/Attorneys is an accountable institution which is required to verify the identity of every Seller on whose behalf a property transfer is registered, as well as every Purchaser on whose behalf funds are invested.

In order to comply with the above Estate Agents and Auctioneers/Attorneys require certified copies of the following documentation:

From Individuals

	Copy of barcoded Identity Document
	Proof of income tax number (dated within the last 2 months)
	Proof of banking details (dated within the last 2 months)
	Proof of residence (dated within the last 2 months)
	Marriage Certificate and Antenuptial Contract (if applicable)
	Divorce Order and Settlement Agreement (if applicable)

From Companies

	Copy of Memorandum and Articles of Association
	Copy of Certificate of Incorporation (with Registrar of Companies Stamp)
	Any document reflecting the trade name of the Company
	Proof of Registered Address and Physical business address (dated within last 3 months)
	Proof of SARS Income Tax number and VAT number
	Individual FICA (as above) for all Directors and any Sureties
	Resolution by the Directors/Shareholders authorizing the purchase of the property

From Close Corporations

	Copy of CK documents / Certificate of Incorporation / Founding Statement
	Any document reflecting the trade name of the Close Corporation
	Proof of Registered Address and Physical business address (dated within last 3 months)
	Proof of SARS Income Tax number and VAT number
	Individual FICA (as above) for all Members and any Sureties
	Resolution by the Members authorizing the purchase of the property

From Trusts

	Copy of Trust Deed
	Copy of Letters of Authority issued by the Master of the High Court
	Proof of Income Tax number and VAT number
	Individual FICA (as above) for all Trustees, Beneficiaries and any Sureties
	Resolution by all the Trustees authorizing the purchase of the property/ies (dated prior to date of signature of the Agreement of Sale)

CONSUMER PROTECTION ACT 68 OF 2008

SECTION 45: AUCTIONS

- 1) In this section, “auction” includes a sale in execution of or pursuant to a court order, to the extent that the order contemplates that the sale is to be conducted by an auction.
- 2) When goods are put up for sale by auction in lots, each lot is, unless there is evidence to the contrary, regarded to be the subject of a separate transaction.
- 3) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer, or in any other customary manner, and until that announcement is made, a bid may be retracted.
- 4) Notice must be given in advance that a sale by auction is subject to—
 - a) a reserved or upset price; or
 - b) a right to bid by or on behalf of the owner or auctioneer, in which case the owner or auctioneer, or any one person on behalf of the owner or auctioneer, as the case may be, may bid at the auction.
- 5) Unless notice is given in advance that a sale by auction is subject to a right to bid by or on behalf of the owner or auctioneer—
 - a) the owner or auctioneer must not bid or employ any person to bid at the sale;
 - b) the auctioneer must not knowingly accept any bid from a person contemplated in paragraph (a); and
 - c) the consumer may approach a court to declare the transaction fraudulent, if this subsection has been violated.

SECTION 65: SUPPLIER TO HOLD AND ACCOUNT FOR CONSUMER’S PROPERTY

- 2) When a supplier has possession of any prepayment, deposit, membership fee, or other money, or any other property belonging to or ordinarily under the control of a consumer, the supplier—
 - a) must not treat that property as being the property of the supplier;
 - b) in the handling, safeguarding and utilisation of that property, must exercise the degree of care, diligence and skill that can reasonably be expected of a person responsible for managing any property belonging to another person; and
 - c) is liable to the owner of the property for any loss resulting from a failure to comply with paragraph (a) or (b).