

**No 33A – Conditions of sale in execution of immovable property**

*In re:*

.....Execution Creditor

and

..... Judgment Debtor

The immovable property (hereinafter referred to as the “property”) which will be put up for auction on the .....day of ..... 20..... consists of:

.....

The sale shall be conducted on the following conditions:

1. The sale shall be conducted in accordance with the provisions of rule 43 of the Magistrates’ Courts Rules and all other applicable law.

2.The property shall be sold by the sheriff of .....or ..... XYZ Auctioneers of .....at.....to the highest bidder without reserve / subject to a reserve price of .....

3.The sale shall be for rands, and no bid for less than one thousand rands shall be accepted.

4.If any dispute arises about any bid, the property may again be put up for auction.

5(a) If the sheriff / auctioneer makes any mistake in selling, such mistake shall not be binding on any of the parties, but may be rectified.

(b)If the sheriff/ auctioneer suspects that a bidder is unable to pay either the deposit referred to in condition 7 or the balance of the purchase price, the sheriff/ auctioneer may refuse to accept the bid of such bidder, or accept it provisionally until the bidder satisfies the sheriff/ auctioneer that such bidder is able to pay the deposit and the balance of the purchase price.

(c) On the refusal of a bid under circumstances referred to in paragraph (b), the property may immediately be put up for auction again.

6(a) The purchaser shall, as soon as possible after the sale and immediately on being requested by the sheriff/ auctioneer, sign these conditions

(b) If the purchaser purchases in a representative capacity, the purchaser shall disclose the name of the principal or person on whose behalf the property is being purchased.

7(a) The purchaser shall pay to the sheriff/ auctioneer a deposit of 10 per cent of the purchase price in cash or by bank guaranteed cheque on the day of the sale.

(b) The balance shall be paid against transfer and shall be secured by a guarantee issued by a financial institution approved by the execution creditor or his /her attorney, and shall be furnished to the sheriff within .....days after the date of sale.

8(a) If the purchaser fails to carry out any obligation due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on report of the sheriff after due notice to the purchaser, and the property may again be put up for sale.

(b) in the event of the circumstances in paragraph (a) occurring, the purchaser shall be responsible for any loss sustained by reason of such default, which loss may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from the purchaser under judgment of a judge pronounced on a written report by the sheriff, after such purchaser has been given notice in writing that such report will be laid before the magistrate for such purpose.

(c) If the purchaser is already in possession of the property, the sheriff may, on notice to affected parties, apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

9(a) The Purchaser shall immediately on demand pay the sheriff's commission/ auctioneer's fees and expenses calculated as follows:

.....

(b) The purchaser shall be liable for and pay, within 10 days of being requested to do so by the appointed conveyance. The following:

(i) All amounts due to the municipality servicing the property, in terms of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties that may be due to a municipality; and where applicable

(ii) All levies due to a body corporate in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986) or amounts due to a home owners or other association which renders services to the property

(iii) The costs of transfer, including conveyancer fees, transfer duty and any other amount necessary for the passing of transfer to the purchaser.

10(a) The property may be taken possession after signature of the conditions of sale, payment of the deposit and upon the balance of the purchase price being secured in terms of condition 7(b)

(b) Should the purchaser receive possession of the property, the purchaser shall be liable for occupational rental at a rate of R.....per month from ..... to date of transfer.

(c) Upon purchaser taking possession, the property shall be at the risk and profit of the purchaser.

(d) the execution creditor and the sheriff/auctioneer give no warranty that the purchaser shall be able to obtain personal and/or vacant occupation of the property or that the property is not occupied.

11(a) The purchaser shall be entitled to obtain transfer forthwith upon payment of the whole purchase price and compliance with condition 9, alternatively, transfer shall be passed only after the purchaser has complied with the provisions of conditions 7 and 9 hereof.

(b) If the transfer is delayed by the purchaser, the purchaser shall be liable for interest at the rate of ..... per cent per annum on the purchase price.

12(a) The sheriff may demand that any improvements to the property sold shall be immediately insured by the purchaser for their full value, proof of insurance given to the sheriff and such insurance policy kept in force until transfer is registered.

(b) Should the purchaser fail to comply with the obligations in paragraph (a), the sheriff may affect the necessary insurance, the cost of which insurance shall be for the purchaser's account.

13(a) The property is sold as represented by the title deeds and diagram or sectional plan, subject to all servitudes and conditions of establishment, whichever applies to the property;  
(b) The sheriff / auctioneer shall not be liable for any deficiency that may be found to exist in the property.

14. The execution creditor shall appoint the conveyancer to effect transfer of the property to the purchaser: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactory with the transfer.

Signed at at .....this.....day of .....20.....

I certify hereby that today the .....in my presence the hereinbefore-  
mentioned property was sold for .....to .....  
.....

.....  
Sheriff / auctioneer

I, the undersigned ....., residing at .....in the district of .....do  
hereby bind myself as the purchaser of the hereinbefore-mentioned property to pay the purchase price and to perform all and singular the conditions mentioned above

.....  
Purchaser