

Template for German Land Sale and Purchase Agreement

- Conveyancing in Germany -

Note:

Any sale or other transfer of German land (including apartments) must take place before a German notary (declaration of conveyance) and then entered into German Land Registry to be effective. The relevant statutes in the German Civil Code are:

- [Sec 873 \(acquisition by agreement and registration\)](#)
- [Sec 925 \(acquisition of ownership of plots of land\)](#).

The notarial sale and purchase agreement will have to be in German, since it must be submitted to the German Land Registry as well as the tax office (for property acquisition tax purposes). If one or both parties do not speak German, some notaries are willing to draft bilingual documents. If this is not possible the German draft must be translated to that party by a sworn interpreter. The whole point of having to declare the sale and purchase before a notary is that the notary can explain to the parties the legal implications. Thus, the notary is legally required to read the entire document aloud and must make sure that both parties understand what they will sign. If a party does not speak German the notary must either read the document twice – German and English – or there must be an interpreter present who translates what the notary has read. Since the agreements are quite long and complicated, this may well take up to two or three hours. Therefore, in practice, the necessity to read the document twice is sometimes avoided by the non-German speaking party to grant a power of attorney to a German speaking representative.

The following translated text is a typical example of a standard German house sale agreement.

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Notarial Deed Nr ...

Real Property Sale and Purchase Agreement
(Grundstückskaufvertrag)

Sale and Purchase Agreement

On this day, xxxxxx 2013, appeared before me,
Dr. xxxxxxxx xxxxxxxx,
Notary Public of Munich,
with my office at Munich, xxxx Street xx

1. Mr xxxxxxxx, born on xxxxxxxx, residing at ..., identified to me by his UK passport.

– hereinafter referred to as the „Vendor“–

2. Mr, born on, residing at, identified to me by his German identity card.

– hereinafter referred to as the „Purchaser“–

This text shall be governed by and construed in accordance with the laws of Germany. It shall be executed in both German and the English language. In the event of any inconsistency between the German and the English version the German version shall prevail.

The notary has explained the rule of sec. 17 para. 2 lit. a) of the Notarial Recording Act. The purchaser declared that he had sufficiently the opportunity to concern himself with the subject matter of the official recording since a draft agreement has been available to him for more than two weeks.

Upon request of the persons appearing and after inspection of the land register, I hereby record the following in accordance with their declarations made before me in each other's presence:

§ 1 Land Register Entries and Preliminary Matters

In the land register of the local court of Munich for Munich page xxx the following real property in the district of Munich is registered:

serial no. 1, parcel xxxx/5, xxxxxx-Str. 12, xxx square meters

The registered owner is xxxxxxxxxxxx.

The following encumbrances are registered in the land register which was inspected on xxxxx 2013:

Section II: - none -

Section III: serial no. 4: non-certificated land charge for the amount of xxxxxxxxxxxx EUR in favour of xxxxxxxxxxx Bank

§ 2 Sale and Purchase

(1) The Vendor hereby sells and the Purchaser hereby purchases as sole owner the real property as specified under § 1 together with all rights, duties, fixtures and accessories (hereinafter referred to as the „Property“).

§ 3 Purchase Price

(1) The purchase price is **x00.000,00 EUR** (in words: x-hundredthousand Euro)

(2) The purchase price shall be due within fourteen days after the Purchaser has received written notice from the Notary that the following preconditions have been fulfilled:

- a) the priority notice of conveyance has been entered in the land register in favour of the Purchaser, and is preceded in rank only by encumbrances mentioned in § 1 of this agreement and encumbrances created with the express consent of the Purchaser;
- b) confirmation from the competent municipality has been provided stating that a statutory pre-emption right does not exist or will not be exercised (negative clearance certificate);
- c) the permits and approvals required for the validity and implementation of this agreement (except the clearance certificate from the tax authority) have been provided;
- d) the documents necessary to discharge all encumbrances which rank in priority to or equally with the priority notice of conveyance and which are not assumed by the Purchaser have been provided, either without conditions or subject to conditions given by the creditors; in the latter case, the purchase price is sufficient to fulfill the claims made by the creditors in respect of such conditions.

The Notary is instructed to notify the parties, by means of registered letter, about the fulfillment of the aforementioned preconditions, and the conditions given by the creditors.

The Purchaser and the Notary are not obliged to check the validity of the conditions given by the creditors. To the extent of such conditions, the payment of the purchase price may only be made in accordance with and to fulfil such conditions, and may not be made to the Vendor or a third party. All claims and rights vested in the Vendor in respect of the encumbrances to be discharged are assigned to the Purchaser subject to the condition precedent that the purchase price is paid in full.

The purchase price shall be credited to the Vendor's account at, account no., sort code

Payments must be made in such a manner that the purchase price is credited to the respective account when due.

(4) In respect of default of payment the relevant statutory law shall apply.

(5) In respect of the obligation to pay the purchase price the Purchaser consents to immediate enforcement of this deed against all his assets in favour of the Vendor. An enforceable official copy of this deed may be issued to the Vendor upon request, at any time, and without any evidence that payment is due, however, not before the preconditions, to be supervised by the notary, have been fulfilled. This shall not affect the burden of proof in any court proceeding.

(6) The limitation period in respect of the right to claim transfer of possession and transfer of title, as well as the right to claim payment of the purchase price shall be 30 years commencing in accordance with the statutory provisions.

§ 4 Cooperation for Financing; Power of Attorney to Charge Property

(1) The Vendor, as the present owner, shall cooperate for the purpose of creating enforceable (sec. 800 German Civil Procedure Code) land charges for any amount whatsoever in favour of German banks/credit institutions registered within the European Community whatsoever. The Vendor shall only be obliged to cooperate if the deed creating the land charge reiterates the following provisions which are hereby stipulated by the parties:

a) Security Agreement

The creditor shall only be entitled to realise the land charge or to retain the same as security if and to the extent that the creditor has satisfied the Purchaser's obligation to pay the purchase price. In the event that the land charge is to be released, the right to reclaim the land charge shall be limited to cancellation, excluding any claim for assignment or surrender. Any other security agreements (agreements on the purpose of the security) contained in this deed or elsewhere shall only become effective upon payment of the entire purchase price, or, in any event, upon transfer of title to the Purchaser. From this point on, any such agreements shall be effective and applicable for and against the Purchaser as the new provider of the security.

b) Payment Instructions

To the extent that the purchase price is not required to discharge registered encumbrances in respect of the Property, payments pursuant to a) shall be credited to the Vendor's account as named in this agreement. The Purchaser hereby assigns to the Vendor, limited to the sum of the purchase price, his right against the creditor to claim the loan amount.

c) Personal Obligation, Costs

The Vendor undertakes no personal obligation to pay and bears no costs in connection with the creation of the land charge. The Purchaser shall be obliged to indemnify the Vendor in respect of any costs and any other consequences as a result of the creation of the land charge.

d) Continued Existence of the Land Charge

The land charge to be created shall continue to exist after title has been transferred to the Purchaser. All rights vested in the owner, including rights to reclaim, in connection with the land charge are hereby assigned to the Purchaser, which shall become effective upon payment of the entire purchase price, or, in any event, upon transfer of title to the Purchaser. Consent is given to such entry in the land register.

(2) The Vendor hereby authorises the Purchaser with exemption from the restrictions set forth in sec. 181 BGB (German Civil Code) to act on his behalf in respect of all the aforementioned legal acts. This power of attorney shall only be valid if the deed creating the land charge reiterates the aforementioned provisions a)–d). This power of attorney may be exercised before any required administrative permits have been granted. This power of attorney may only be exercised before the certifying Notary.

All parties authorize the employees of the acting notary as in § 11 (3) in the same way to make the above-mentioned statements the moreover on behalf of the buyer to accept debts and to submit the buyer to immediate enforcement, but only up to 120% of the purchase price plus optional interest and additional costs.

The parties have been advised about the economical and legal effects of granting a land charge, submitting oneself to immediate execution and on the "Zweckerklärung" (security agreement). The notarisation by employees of the notary after a written instruction was made in order to speed up the registration proceedings was explicitly requested.

§ 5 Possession, Benefits, Charges

(1) Possession, all benefits and charges, the risk of accidental destruction and accidental deterioration, as well as the duty of care and liability for the Property shall pass to the Purchaser on the first of the month after the purchase price has been paid in full.

(2) Upon transfer of possession, the Vendor shall hand over all documents in his possession relating to the Property (in particular with regard to land, building, leases, insurance).

§ 6 Leases [if applicable]

(1) The Property is partially leased. The existing leases are listed in the table annexed to this deed under Appendix 1; these leases are assumed by the Purchaser. The Purchaser is familiar with the content of such lease agreements.

(2) The Vendor guarantees that:

- a) the table in respect of the leases annexed hereto under Appendix 1 is complete and correct;
- b) the lease agreements are legally valid, and were executed in compliance with the written form requirement;
- c) no additional agreements exist apart from those contained in the respective lease agreements;
- d) the lessees only provided the security for rent stated in the table annexed hereto under Appendix 1;
- e) no advance assignments with respect to any claim for rent have been made, and no advance payments of rent have been made by the lessees;
- f) as of today, there are no arrears for the payment of rent or service charges, no legal disputes exist in or out of court, and no claims to reduce or to retain rent have been made by any lessee.

The Vendor does not give any guarantee for future rent payments.

(3) The parties agree that the Purchaser shall take over all rights and obligations in respect of the leases upon transfer of possession; thereupon, the right to claim rent shall be assigned to the Purchaser. The Vendor authorises the Purchaser to act on his behalf, upon transfer of possession, in respect of all declarations and legal acts in connection with such leases. The Vendor shall transfer the security for rent provided by the lessees, including all accrued interest, at the time of transfer of possession.

(4) The Notary advised that, by law, the Vendor will remain liable for his obligations in respect of the leases and for the return of the security for rent. The Vendor shall notify the lessees about the transfer of ownership, and shall be responsible for obtaining the consent of the lessees to transfer the security to the Purchaser.

(5) From this day on, the Vendor shall not be entitled, without written consent of the Purchaser, to enter into new lease agreements in respect of the Property, or to amend or terminate any existing lease agreement.

§ 7 Development Costs

The Vendor shall bear all development contributions under the BauGB (German Urban Planning and Building Code) and other municipal development contributions under the relevant KAG (German Municipal Levy Act) and the respective local by-laws, including connection costs and fees as well as costs for compensatory measures under environmental protection law, for which the Vendor has received a demand notice for payment before the date hereof. Demand notices for payment which are received from today onwards shall be borne by the Purchaser. The Purchaser is aware of the possibility that demand notices may be issued several years after completion of a development project. The Vendor guarantees that all demand notices received by him have been paid. The Vendor assigns to the Purchaser any potential claims in respect of reimbursement for advance payments; this shall also apply if advance payments exceed the final amount due.

§ 8 Defects in Title and Quality

(1) The Vendor shall transfer possession and title in respect of the Property free from any encumbrances, other third party rights, and outstanding public charges, unless provided for otherwise in this agreement. The Vendor shall not be liable for any former law easements and building restrictions; the Vendor declares, however, that he is not aware of any such encumbrances and restrictions.

(2) The Purchaser has inspected the Property; the Purchaser purchases the Property in its present condition. Any rights of the Purchaser in respect of visible and hidden defects in quality (e.g. the size, the condition of the soil, the condition of the building, the use of the property for any designated purpose of the Purchaser) shall be excluded. This shall not affect the statutory rights in respect of defects in quality that occur after execution of this agreement and before transfer of possession. The Vendor declares that he is not aware of any hidden defects of the land or the building, in particular, but not limited to, any detrimental changes to the condition of the soil or residual contaminations as defined in sec. 2 of the BBodSchG (German Federal Soil Protection Act), or any hazardous substances in or on the building. The Purchaser is aware that the Property was used for the purposes of private living use. The Purchaser shall be obliged to indemnify the Vendor against all orders and claims by public authorities or private individuals due to detrimental changes to the condition of the soil or residual contaminations. Potential claims for compensation that the Purchaser may have against the Vendor, in particular but not limited to claims under sec. 24 para. (2) BBodSchG, shall be excluded. In return, the Vendor assigns to the Purchaser all claims that he may have against third parties in respect of detrimental changes to the condition of the soil or residual contaminations, subject to the condition precedent that the purchase price is paid in full.

(3) The exclusion of rights shall not apply in the case of intent or fraud.

§ 9 Pre-emption Rights, Administrative Permits

(1) The Notary advised upon the statutory pre-emption right under the BauGB (German Urban Planning and Building Code) and DSchG. In the event that the pre-emption right is exercised, each party shall have the right to withdraw from this agreement. Further rights of the Purchaser shall be excluded.

No other pre-emption right exists.

(2) No administrative permit is required for this agreement.

§ 10 Priority Notice of Conveyance, Conveyance, Applications to the Land Registry

(1) To secure the Purchaser's claim to the transfer of title, the Vendor hereby consents to and the Purchaser hereby applies for the entry in the land register of a priority notice pursuant to sec. 883 BGB.

The Purchaser hereby consents to and applies for the cancellation of the priority notice upon entry of the transfer of title in the land register, provided that no other entries, which the Purchaser has not consented to, have been entered in the meantime.

(2) The parties hereby agree that the title to the Property shall be transferred from the Vendor to the Purchaser in accordance with § 2 (1) of this agreement. The parties consent to and apply for the entry in the land register of the transfer of title.

The parties instruct the Notary to apply for the entry in the land register of the transfer of title if and when the Notary has received written confirmation from the Vendor, or other evidence, that the purchase price has been paid. Prior to this, only certified and official copies of this deed which do not include the conveyance may be issued. The Vendor shall be obliged to confirm to the Notary in writing and without undue delay the receipt of the payment of the purchase price.

(3) The Vendor applies for the cancellation of the rights registered in Section III and declares his consent for the same.

(4) The Purchaser irrevocably authorises the Notary to consent to and to apply for the cancellation of the priority notice of conveyance to be entered in his favour. The parties instruct the Notary to exercise this power of attorney only if and when the following pre-conditions have been fulfilled:

a) Notary has sent with registered letter the notice to the Purchaser that the purchase price is due, in accordance with § 3 (3) above, at the address specified in the preamble;

b) The Vendor has informed the Notary in writing that he has withdrawn from the agreement due to the Purchaser's default of the payment of the purchase price;

c) The Notary has sent a request to the Purchaser, at the address specified in the preamble, to provide evidence of the payment of the purchase price, and the Purchaser has failed to provide such evidence within a period of four weeks commencing from the date of such a request.

If the Purchaser provides evidence of partial payment of the purchase price to the Notary, the Notary may only exercise the power of attorney if and when the Vendor has irrevocably deposited the respective amount in a notarial escrow account subject to the condition that such amount, less costs incurred in connection with the deposit, is to be paid to the Purchaser or to the financing creditors after the priority notice of conveyance entered in favour of the Purchaser has been cancelled, and the cancellation of any land charge entered by the Purchaser to finance the purchase price is secured.

The Notary shall not be obliged to exercise the power of attorney if the Purchaser submits reasons for a defence against the Vendor's right to claim the purchase price.

The Purchaser shall not be entitled, without prior consent of the Vendor, to assign or to pledge his right to claim transfer of title.

§ 11 Implementation, Authorisation of the Notary

(1) The Notary is hereby instructed to carry out the implementation of this deed. The parties hereby instruct and authorise the Notary to obtain and receive declarations, permits and approvals necessary to validate and implement this deed, in particular documents necessary for the discharge of encumbrances and negative clearance certificates concerning statutory pre-emption rights. All declarations, permits and approvals shall be deemed to be known to and effective for the parties upon receipt by the Notary, unless they are rejected or granted with conditions or obligations.

(2) Furthermore, the Notary is hereby authorised to represent the parties before the Land Registry without any restrictions. Partial implementation of this deed shall be permissible.

(3) Power of attorney is granted to the notary, his official appointed representatives and the employees of the notary's office xxx, xxx and xxx all with business address at xxx Munich. The power of attorney refers to the right to declare and accept what is necessary or desirable to execute this agreement, for instance to accept and request the registration of ownership and the deletion of the priority notice as well as to carry out the changes of the certificate, to file, to restrict, to separate and to withdraw applications. Every authorized person is allowed to act by himself and for all of the participants.

§ 12 Costs, Taxes, Copies

(1) All costs and fees of this deed and its implementation as well as the real property transfer tax shall be borne by the Purchaser. The costs and fees in respect of the discharge of encumbrances shall be borne by the Vendor.

(2) This deed shall be issued as an uncertified copy to:

- each party,
- the tax authority (real property tax department),
- the real estate evaluation committee,
- the competent municipality,
- the land charge creditors,
- financing creditors of the Purchaser,

an extract as a certified copy to:

- the Land Registry to register the priority notice of conveyance,

as an official copy to:

- each party and the Land Registry upon payment of the entire purchase price.

§ 13 Notarial Advice

The Notary has instructed the parties – inter alia – with regard to the following:

(1) All agreements must be completely and duly notarised. Any provisions of an agreement which are not notarised are null and void and may cause the invalidity of the whole agreement.

(2) Title will not be transferred to the Purchaser until entry in the land register has taken place which can only occur once all the necessary approvals and permits, the clearance certificate from the tax authority in respect of the real property transfer tax, as well as proof that a pre-emption right of the municipality will not be exercised or does not exist, have been provided.

(3) The parties are jointly and severally liable, by law, and irrespective of the agreements made in this deed, for the real property transfer tax and the costs and fees payable to the Notary and the Land Registry; the Property may be subject to outstanding public charges and levies, in particular outstanding development contributions.

§ 14 Miscellaneous

Should any provision of this agreement be invalid, this shall not affect the validity of the remaining provisions. In lieu of the invalid provision such valid provision shall be incorporated as shall best approximate the actual intent of the parties and the economic purpose of the invalid provision. The same shall apply should any omission in the agreement become apparent.

This record with appendix was read aloud to the appeared persons, approved by them and, subsequently, executed by them with the Notary Public as follows

Signatures of both parties and of the notary