



## **S. A. HOME LOANS (PTY) LIMITED**

### **DEED OF SALE**

Whereby

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**(the "SELLER")**

hereby sells the following immovable property, being:

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**(the "PROPERTY" )**

**TO**

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**(the "PURCHASER")**

**on the following terms and conditions:**

1. **ACCEPTANCE**

Either the **SELLER** or **AGENT** may accept the offer to purchase. This offer shall become a final and binding sale upon acceptance.

## 2. PURCHASE PRICE

The purchase price of the **PROPERTY**, (exclusive/inclusive of Value Added Tax) ("VAT") shall be the sum of R\_\_\_\_\_ ( ) payable by the **PURCHASER** to the **AGENT** as follows:

- 2.1 a deposit of R\_\_\_\_\_ to be paid within 7 (seven) days after acceptance of this offer to the **AGENT'S** attorneys immediately on demand therefore.
- 2.2 the balance of the purchase price in the sum of R\_\_\_\_\_ ( ) shall be paid in cash and secured, to the satisfaction of the **AGENT'S** attorneys, by a written guarantee from a registered financial institution, payable free of exchange, against registration of transfer of the **PROPERTY** into the **PURCHASER'S** name. The **PURCHASER** may elect to secure the balance of the purchase price by payment in cash to the **AGENT'S** attorneys, who shall hold same in trust, pending registration of transfer into the name of the **PURCHASER**. The aforesaid guarantee shall be presented and/or cash shall be payable by the **PURCHASER** to the **AGENT'S** attorneys within 30 (THIRTY) days after request therefore by the **AGENT'S** attorneys.
- 2.3 In the event of the aforesaid Bond not being granted within the period stipulated in Clause 2.2 above alternatively within such extended time period as the parties may agree to in writing, then and in such event this Agreement shall lapse and shall have no force and effect and the **AGENT** shall be obliged to refund to the **PURCHASER** together with interest all monies paid by the **PURCHASER** hereunder in reduction of the purchase price.

### 3. VALUE ADDED TAX

- 3.1 Value Added Tax is only applicable if the **SELLER** is registered as a Vendor under the Value Added Tax Act – (delete that which is not applicable.)
- 3.2 In the event of VAT being payable on the purchase price as a result of the sale, such VAT shall be paid by the **PURCHASER** to the **AGENT'S** attorneys immediately on demand therefore.

### 4. THE COST FOR THIS AGREEMENT

The **PURCHASER** shall be liable for and pay, in addition to any other costs mentioned herein, the cost of the preparation of this agreement to the **AGENT** on demand therefore.

### 5. ESTATE AGENT'S COMMISSION

In the event of the property having been introduced to the purchaser by an **ESTATE AGENT** then the **ESTATE AGENT'S** commission in the sum of R\_\_\_\_\_ ( ) shall be paid by the **PURCHASER** immediately upon request of the **AGENT'S** attorneys.

### 6. OCCUPATION DATE

- 6.1 The **SELLER** shall give occupation of the immovable property to the **PURCHASER** on \_\_\_\_\_ or immediately upon vacant possession becoming possible, from which date it shall be the sole risk, loss or profit of the **PURCHASER**.
- 6.2 Vacant occupation of the immovable property is not guaranteed.

## 7. **POSSESSION AND RISK**

- 7.1 Possession of the property shall be given to the **PURCHASER** on registration of transfer or \_\_\_\_\_ from which date the property shall be at the sole risk, loss or profit of the Purchaser and from which date the **PURCHASER** shall be liable for payment of all rates and taxes, insurance premiums and other charges in respect of the property. The **PURCHASER** shall refund to the **SELLER** any such monies which may have been paid in advance beyond such date.
- 7.2 The **PURCHASER**, at its own expense, shall insure the property and improvements thereon for the full replacement value thereof from date of possession until date of registration of transfer against risk of loss or damage by any cause with an Insurer acceptable to the **AGENT**. The **SELLER'S** interest shall be endorsed against such policy for such period.

## 8. **OCCUPATIONAL INTEREST**

- 8.1 From the occupation date until date of registration of the property in the name of the **PURCHASER**, the **PURCHASER** shall pay occupational interest in the sum of R\_\_\_\_\_ per month to the **AGENT**, which interest shall be calculated from the date of occupation of the property, to the date of registration of the transfer, both days inclusive. Any adjustment which may be necessary shall be made on registration of transfer.
- 8.2 It is recorded that occupation and/or possession of the immovable property by the **PURCHASER** prior to the registration of the transfer shall not constitute any tenancy or lease of any nature whatsoever. In the event that this sale is cancelled for any reason

whatsoever, then in such event the **PURCHASER** and anyone claiming occupation under him shall be obliged to immediately vacate the immovable property and return occupation and possession thereof to the **SELLER**.

## 9. LEVIES, RATES AND TAXES

9.1 The **SELLER** shall be liable for all rates and taxes and other Municipal charges levied on the immovable property for the period prior to date of possession and the **PURCHASER** shall be liable for all rates and taxes and other Municipal charges levied after date of possession.

9.2 The **PURCHASER** shall pay the rates to the **AGENT'S** attorney upon demand thereof.

9.3 The **PURCHASER** shall refund to the **SELLER** a pro rata share of all rates and taxes paid in advance by the **SELLER** to the period after the date of possession, which refund shall be paid upon registration of transfer .

## 10. SELLER RESIDENCY AND WITHHOLDING TAX

It is recorded that the **SELLER**, the **AGENT** and **PURCHASER** are aware of an obligation on the part of the **PURCHASER** to withhold part of the purchase price from the **SELLER**, if he is a non-resident and pay such withheld portion to SARS in terms of Section 35A of the Income Tax-Act, (hereinafter referred to a the "Act") and in that regard:

10.1 The **SELLER** warrants that he is/is not a **RESIDENT** of the Republic of South Africa; (delete whichever is not applicable)

- 10.2 The **SELLER** hereby indemnifies and holds harmless both the **AGENT** and the **AGENT'S** attorneys attending to the transfer of the property hereby sold against any claim howsoever arising by virtue of them having acted in terms of the Act, on information supplied by the **SELLER**, or from any other source and the **SELLER** further waives any right of recourse he may have against the said **AGENT'S** attorneys and/or **AGENT** , in respect of any action or inaction by them in terms of the Act, on information supplied to them by the **SELLER**, or any other source;
- 10.3 In the event that the **SELLER** has warranted that he is a resident and information leads the **AGENT** or the **AGENT'S** attorney to suspect that the **SELLER** is a non-resident, the **AGENT** or the **AGENT'S** attorney may by notice call upon the **SELLER** to obtain a directive from SARS within 30 days as to his resident status, failing which the provision of clauses 9.4.1 below shall apply;
- 10.4 In the event that the **SELLER** is a non-resident for tax purpose upon a proper interpretation of the terms of the Income Tax Act;
- 10.4.1 The **PURCHASER** hereby irrevocably instructs the **AGENT'S** attorney upon registration of transfer to withhold the prescribed percentage of the purchase price and to pay same to the **COMMISSIONER** within 14 days.
- 10.4.2 Notwithstanding the provision of 9.4.1 above, the **SELLER** shall be entitled to obtain a directive from the South African Revenue Services for the non-withholding or a reduced withholding, of tax, which directive shall be delivered to the Conveyancer within 21 days of the date of acceptance of this agreement, failing which the **SELLER** shall be bound by the percentage withholdings as set out in the Act;

## 11. TRANSFER AND COSTS OF TRANSFER

- 11.1 Transfer of the **PROPERTY** shall be passed by the **AGENT'S** attorneys as soon as possible after date of acceptance.
- 11.2 All normal costs of transfer of the **PROPERTY**, including stamp duty, rates and transfer duty, if applicable, and all other costs necessarily incurred, shall be paid by the **PURCHASER** immediately upon request of the **AGENT'S** attorneys.
- 11.3 The **PURCHASER** undertakes to furnish all such information and to sign all documents necessary to register transfer of the **PROPERTY** immediately upon request of the **AGENT'S** attorneys.
- 11.4 In the event of there being and delay in the registration of transfer caused by the **PURCHASER**, the **PURCHASER** agrees to pay interest on the total purchase price at 2% (Two Percent) above the prime overdraft rate charged by First National Bank of South Africa Limited from time to time calculated from the date the **PURCHASER** is notified in writing by the **AGENT** (or the **AGENTS** attorneys) as being in mora, to the date upon which the **PURCHASER** has ceased to be in mora, both days inclusive.
- 11.5 A certificate by any Branch Manager of the said bank as to such prime overdraft rate from time to time shall be *prima facie* proof of such rate.

## 12. **EXISTING TENANCIES**

- 12.1 The **PROPERTY** is sold subject to all existing tenancies (if any).
- 12.2 The **PURCHASER** shall be bound by the terms and conditions of all existing leases of which he acknowledges he is fully apprised.
- 12.3 The **PURCHASER** shall not be entitled to give notice to any existing tenant of the **PROPERTY** until he has complied with clause 2.2.

## 13. **REPAIRS AND IMPROVEMENTS**

- 13.1 Prior to Registration of transfer, the **PURCHASER** shall not be entitled to effect any alteration to the **PROPERTY** without the prior written consent of the **AGENT**.
- 13.2 The **SELLER** shall not be obliged to compensate the **PURCHASER** for any authorized alteration effected in the event of the sale being cancelled.
- 13.3 The **PURCHASER** shall be liable for any damages suffered by the **SELLER** as a result of any alterations effected by the **PURCHASER** not authorized by the **AGENT**.

## 14. **VOETSTOOTS, EXTENT AND REPRESENTATIONS**

- 14.1 The **PROPERTY** is sold "voetstoots" and subject to the terms and conditions and servitudes endorsed; mentioned or referred to in the current and/or prior Title Deeds and to the conditions of establishment of the Township in which it is situated and to the zoning applied to it under the Town Planning Scheme. The

**SELLER** shall not profit by any excess nor shall it be answerable for any deficiency in the extent thereof. Neither the **SELLER** nor the **AGENT** shall be responsible for pointing out to the **PURCHASER** any surveyor's pegs or beacons in respect of the **PROPERTY**.

14.2 The **PURCHASER** hereby acknowledges that he has not been induced into entering into this agreement by any express or implied information, statement, advertisement or representation made by the **AGENT** or any other person, or by or on behalf of the **SELLER**. The **PURCHASER** hereby waives any rights whatsoever which he may otherwise have obtained against the **SELLER** as a result of such information, statement, advertisement or representation made by or on behalf of the **SELLER**.

14.3 The **PURCHASER** acknowledges that he has fully acquainted himself with the **PROPERTY** he has purchased.

## 15. **BREACH**

14.1 Should the **PURCHASER** breach any of the terms and conditions of this Agreement or fail to make any payment on due date and remain in breach after having received 7 (SEVEN) days written notice to remedy such breach, the **AGENT** and or **SELLER** shall be entitled either;

15.1.1 to sue for specific performance in terms of this agreement, or

15.1.2 to cancel the sale and retake possession and/or occupation of the Unit.

- 15.2 In the event of cancellation, any monies paid by the **PURCHASER**, in trust or otherwise, shall be forfeited by the **PURCHASER** as and by way of liquidated damages to **the AGENT**.
- 15.3 Such cancellation shall not prejudice the **SELLER'S** right to elect to recover from the **PURCHASER** not only any commission payable to an estate agent but also any damages arising from such failure or defect and the **AGENT** and or **SELLER** shall be entitled immediately, or when he may think fit, to resell the property by private treaty or public auction, and to recover from the **PURCHASER** any loss which he may suffer as a result of such resale, but the **PURCHASER** shall not be entitled to any benefit which may be derived therefrom.
- 15.4 Should the **SELLER** and or **AGENT** sue for damages, then all monies paid by the **PURCHASER** in trust or otherwise, shall be deemed to form part of any damages suffered by the **SELLER**, and shall be retained by the **SELLER** pending determination of such damages.

Should the **SELLER** sue for damages, then all monies paid by the **PURCHASER** in trust or otherwise, shall be deemed to have been paid on account of the damages suffered by the **SELLER**.

## 16. LEGAL COSTS

The **PURCHASER** shall be liable for all legal costs incurred by the **SELLER** and **AGENT** in enforcing the terms of this agreement, on an attorney and own client scale, including collection commission.

17. **DOMICILIUM**

The **PURCHASER** and the **SELLER** hereby choose *domiciliun citandi et executandi* for all purposes in respect of this agreement, including notices and Court process, the address recorded below his signature hereunder. Any notice sent by pre-paid registered post shall be deemed to have been received on the fifth day after posting any notice delivered by hand shall be deemed to have been received on the day of delivery, any notice sent by telefax shall be deemed to have been received on the first business day after date of dispatch.

18. **JOINT AND SEVERAL LIABILITY**

If this agreement is concluded with more than one **PURCHASER**, the liability of all such **PURCHASERS** to the **SELLER** and **AGENT** shall be joint and several in *solidum*.

19. **SECTION 228 OF THE COMPANIES ACT**

19.1 It is recorded that the **SELLER** and the **PURCHASER** are aware of the provisions of section 228 of the Companies Act 61 of 1973 (as amended)("section 228"), namely that if the **SELLER** is a company and if the property constitutes either the whole or the greater part of the undertaking of the **SELLER**, or the whole or the greater part of the assets of the **SELLER**, then the directors of the **SELLER** shall not have the power, save by a special resolution of the members of **the SELLER**, to dispose of the **PROPERTY**.

19.2 Accordingly, the **SELLER** warrants that the provision of section 228 are not applicable to the sale of the **PROPERTY**.

19.3 If section 228 is applicable to the sale of the property and if the directors of the **SELLER** have not already been granted the necessary power in terms of section 228 to dispose of the property, the within 45 days of the acceptance date the **SELLER** shall procure that its members pass and submit for registration by the Registrar of Companies a special resolution ratifying the sale of the property.

## 20. **NOMINEE**

The **PURCHASER** shall be entitled, by notice in writing to the **AGENT**, to nominate a nominee in his place as **PURCHASER**, upon the following terms and conditions:

20.1 the aforesaid notice shall be handed to the **AGENT** by not later than close of business on the acceptance date;

20.1.1 the notice shall set out the name and address of the nominee so nominated as **PURCHASER**;

20.1.2 the notice shall be accompanied by the nominee's written acknowledgement:

20.1.2.1 that it is fully aware of all the terms and conditions of this agreement as if fully set out in such written acknowledgement; and

20.1.2.2 that it is bound by the provisions of this agreement as the **PURCHASER**

20.2 should the **PURCHASER** nominate a nominee in terms of this clause, then:

20.2.1 all reference to the **PURCHASER** in this agreement shall be deemed to be a reference to its nominee; and

20.2.2 the **PURCHASER** by his signature hereto, hereby interposes and binds himself as surety and co-principal debtor in solidum, for and on behalf of all the obligations of the aforesaid nominee as **PURCHASER**, to and in favour of the **SELLER**, for all the **PURCHASER'S** obligations under this agreement, including damages, and renounces the benefits of division and excussion.

## **21. COMPANY OR CLOSE CORPORATION TO BE FORMED**

21.1 In the event of the **PURCHASER** signing this agreement in his capacity as agent for a company or close corporation to be formed and the **PURCHASER** fails within 20 (TWENTY) days from date of acceptance and confirmation of this agreement to register such company or close corporation having as one of its objects the ratification and adoption of this agreement, or such company or close corporation fails to adopt or ratify this agreement within 15 (FIFTEEN) days after date of its incorporation, then in such an event the **PURCHASER** shall be deemed as far from the date other of to have entered into this agreement in his personal capacity and to have acquired all the rights and obligations of the **PURCHASER** under this agreement.

21.2 In the event of such company or close corporation being registered and duly adopting or ratifying this agreement, or the nomination effected, then the **PURCHASER** by his signature hereunder, shall be deemed to bind himself to the **SELLER** as surety and co-principal debtor in solidum with such company or close corporation for the due performance by it as **PURCHASER** of the terms, conditions and obligations arising out of this agreement.

**22. COMPANIES, CLOSE CORPORATIONS, ASSOCIATES OR TRUSTS**

Should the purchase be a company, close corporation, association or trust, the person signing this agreement on behalf of such **PURCHASER**, by his signature hereto interposes and binds himself as surety for and co-principal debtor with the **PURCHASER** for the due and proper discharge of all its obligations arising from this agreement.

**23. REAL RIGHT TO EXTEND**

In the event of the **PROPERTY** being part of a Sectional Title Complex then the attention of the **PURCHASER** is drawn to the fact that the original developer of the Sectional Title Complex of which the Unit herein purchased forms a part, has potentially reserved to himself in terms of Section 25 of the Sectional Title Act, the right to erect and complete a further building or buildings or extensions to existing building/s upon the common property.

## 24. ELECTRICAL INATALLATION CERTIFICATE OF COMPLIANCE

The **PURCHASER** acknowledges that-

24.1 There will be no obligation on the **SELLER** to furnish it with an electrical installation certificate of compliance and which certificate is issued in terms of the Occupational Health and Safety Act No 85 of 1993;

24.2 He will take the necessary steps to obtain the electrical installation certificate of compliance at his own cost prior to registration of transfer. In the event of any electrical work being required in order to obtain the said certificate, all the costs associated therewith shall be for the account of the **PURCHASER**.

## 25. ENTOMOLOGIST'S CERTIFICATE

If on the date of the sale there are any buildings in the property, then notwithstanding anything herein before contained, the **PURCHASER** shall, at his own expense and within 14 (FOURTEEN) days after the date of the sale or fulfillment of all precedent conditions, whichever is the later, cause all the said buildings to be inspected by a Government approved Entomologist and furnish to the Conveyancer a certificate by the said Entomologist that such inspection disclosed no visible sign of active infestation of the said buildings by cryptotermis brevis, beetles termites, borers or white ants. If the **PURCHASER** is unable to furnish the said certificate within the said period because there is such sign of any infestation the **PURCHASER** shall, at his own expense and within FORTY FIVE (45) days after the date of sale, cause such infestation to be eradicated and furnish to the Conveyancer a certificate by a Government approved Entomologist that such infestation has been eradicated.

**26. MAGISTRATS' COURT JURISDICTION**

The parties hereto consent to the jurisdiction of the Magistrates' Court in terms of Section 45 read with Section 28 of the Magistrates' Court Act of 1944 as amended. Notwithstanding the foregoing, this shall not preclude either party from approaching the High Court of South Africa for any relief sought.

**27. GENERAL CLAUSES**

27.1 These Conditions of Sale constitute the whole agreement between the parties as to the subject matter hereof and no agreement, representation or warranty between the parties other than those set out herein are binding on the parties.

27.2 No extension of time, waiver, indulgence or suspension of any of the provisions of this agreement which any part hereto may have given shall be binding unless recorded in a written document signed by all parties.

27.3 No variation or alteration or cancellation of these Conditions of Sale or of the terms hereof, shall be of any force or effect, unless in writing and signed by the parties hereto.

27.4 Words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and words importing persons shall include partnerships and bodies corporate, and vice versa.

27.5 The parties signing this document confirm that they have read and understood all of the terms and condition contained herein and agree that they are bound hereto.

27.6 The **SELLER** warrants that he is duly authorized to sign acceptance of the Deed of Sale.

SIGNED BY THE **PURCHASER** ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2009.

**AS WITNESSES:**

1. \_\_\_\_\_

\_\_\_\_\_  
**PURCHASER**

2. \_\_\_\_\_

**ADDRESS:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACCEPTANCE AND CONFIRMATION**

ACCEPTED BY ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 200\_\_.

**AS WITNESSES:**

1. \_\_\_\_\_

\_\_\_\_\_  
**S.A. Home Loans (Pty) Ltd**  
**Duly authorized hereto**

2. \_\_\_\_\_

**ADDRESS:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

