LAGOS STATE

HOME OWNERSHIP MORTGAGE SCHEME (LAGOS HOMS)

DEED OF MORTGAGE

BETWEEN

THE LAGOS STATE MORTGAGE BOARD

AND

.....

THIS DEED OF MORTGAGE is dated the..... of ..... 2014 and made

BETWEEN

THE LAGOS STATE MORTGAGE BOARD with its registered office at **Plot 1, Assbifi Road, Alausa, Ikeja, Lagos** (hereinafter called "the Mortgagee" which expression shall wherever the context so admits include its successors in title and assigns) of the first part

AND

.....NAME..... of **.....ADDRESS.....**
(Hereinafter called "the Mortgagor" which expression shall wherever the context so admits include his legal/ personal representatives, successors in title and assigns) of the second part.

INTERPRETATION

"Agent" means the financial institution approved by the Mortgagee.

"Purchase Price" means the total cost of the home subject matter of this Deed of Mortgage

"Equity Contribution" means the total amount of deposit initially paid by the Home Owner towards the purchase of the home.

"Balance" means the difference between the purchase price and equity contribution made by the Mortgagor including any interest payable thereon under the Contract of Sale.

"Repossession" means the recovery of possession of the home from the Mortgagor by the Mortgagee where the Mortgagor defaults in the agreed monthly repayments

"The Home" means the housing unit which is the subject matter of the Contract of Sale dated the ..... of ....., 2014.

WHEREAS:

1. Lagos State Government in furtherance of its desire to provide affordable housing to residents of Lagos State, has established the Mortgagee and initiated a State- driven Mortgage Scheme to provide credit facilities to interested purchasers.

2. The entire interests in the home situate at **BLOCK ..... FLAT .....** in the **SCHEME** , at **Local** Government Area of Lagos State ("the Home") is vested in the Mortgagee.

SAMPLE

3. Pursuant to a Contract of Sale dated **..... of ....., 2014**, the Mortgagor has agreed to purchase the home and has made a deposit of 30% of the purchase price subject to the terms and conditions contained in the Contract of Sale.

4. Pursuant to Clause 7.1 of the Contract of Sale, the Mortgagor agreed that it shall execute a Deed of Mortgage with the Mortgagee for the purpose of regulating payment of the balance by the Mortgagor.

5. The Mortgagee has appointed the Lagos Building Investment Company Plc ("LBIC") to act as its agent for the management of the mortgage transaction, and any such other activities as outlined in this Deed of Mortgage.

6. The Agent on behalf of the Mortgagee has concluded a credit approval of the Mortgagor.

7. Parties have agreed to execute this Deed subject to the terms and conditions set forth herein.

The Parties agree as follows:

1. REPAYMENT

1.1.1. The Mortgagor shall open a Bank Account with the Agent into which all payments due under this Deed shall be paid.

1.1.2. The Mortgagor hereby covenants with the Mortgagee that the Mortgagor with or without any demand, shall pay into the Bank Account a monthly sum of **₦..... (AMOUNT IN WORDS)..... ** which together with the loan deposits shall not exceed one-third of the Mortgagor's monthly income for a continuous period of not less than 10(ten) years from the date of executing this Deed until the full payment of the Balance.

1.1.3. The monthly repayment shall become due and payable on the last business day of every month.

2. CHARGING CLAUSE

2.1 The Mortgagor as beneficial owner of the home hereby conveys to the Mortgagee all that home specified in Schedule 1 hereto (together referred to as 'the home') as security for the Balance subject to the proviso for redemption NAMELY that if all moneys hereinbefore covenanted to be paid shall be paid accordingly then the term hereby created shall cease, and the Mortgagee at the request and cost of the Mortgagor shall duly release the home to the Mortgagor as the Mortgagor shall direct.

SAMPLE

3. COVENANT TO PAY

3.1 The Mortgagor hereby covenants to:

(i) Pay the Agent with or without demands all moneys due under this Deed;
(ii) Discharge all obligations and liabilities whether actual or contingent now or hereafter due, owing or incurred to the Mortgagee by the Mortgagor;

(iii) pay all commissions, fees, other charges and all legal and other costs and expenses incurred by Mortgagee in relation to the Mortgagor or the Home hereby charged on a full indemnity basis;

(iv) Pay the monthly Facility Management Charge.

3.2 Non-payment of the monthly facility management charge shall have the same effect and consequence as non–payment of monthly mortgage repayments.

4. INTEREST RATE AND OTHER CHARGES

4.1 All interests payable on the balance on the moneys hereby secured shall accrue due from day to day and shall be paid by the Mortgagor at a rate of 9.5% per annum or at any such rate from time to time stipulated by the Agent during the term of this Deed of Mortgage.

4.2. A Default Rate of 2% per annum shall apply to amounts not paid on due date until the date of actual payment.

4.3. The Mortgagor shall pay all commissions, interests, fees and charges as they fall due under this Agreement in priority to any other demand or judgment debt or liability which may be charged upon the Home.

4.4. The fees and charges applicable to the Mortgage Facility shall include:

(i)	Arrangement Fee	-	0.5% (One–Off)
(ii)	Mortgage Management Service Fee	-	0.2% (Per Annum)
(iii)	Stamping Fees	-	0.5%

4.5. The sum amounting to the Mortgage Management Service Fee referred to in clause 4.4 (ii) above shall be payable quarterly by the Home Owner.

SAMPLE

5. OTHER COVENANTS BY THE MORTGAGOR

5.1 The Mortgagor hereby covenants with the Mortgagee that during the continuance of this Deed of Mortgage, the Mortgagor shall at all times:

a) keep all buildings and erections, passageways, pipes, wires, cables, drains and sanitary and water apparatus and all fixtures and fittings and every part thereof in or upon the home in good and substantial repair and not make any structural or material alteration thereto or pull down or remove or sell or otherwise dispose of any of the same without the prior consent in writing of the Mortgagee except in the ordinary course of use, repair, maintenance or improvement;

b) observe and perform all covenants and stipulations affecting the home or the mode of use or enjoyment of the same and not without the prior consent in writing of the Mortgagee enter into any onerous or restrictive obligations affecting any part of the home;

c) The Mortgagor shall during the continuance of this Mortgage keep the entire property now or for the time being comprised in or subject to this security insured against damage, fire, and any other risks that the Mortgagee may stipulate from time to time to the full value thereof with a reputable insurance company to be approved in writing by the Mortgagee and the policy of insurance to contain a clause showing the interest of the Mortgagee as FIRST LOSS PAYEE to the satisfaction of the Mortgagee;

d) The Mortgagor shall in all cases duly and punctually pay all premium and other moneys necessary for effecting and maintaining such insurance policy immediately on the same becoming due or within one week thereafter and serve on the Mortgagee the policies of such insurance and the evidence of such payments. In the event of a default by the Mortgagor in effecting or maintaining such insurance policy as aforesaid or in producing any such policy or evidence to the Mortgagee on demand, the Mortgagee may insure and keep same insured in any sum which the Mortgagee may think expedient.

e) All moneys expended by the Mortgagee under this provision shall be deemed to be properly paid by the Mortgagee on behalf of the Mortgagor and the Mortgagor hereby agrees to refund to Mortgagee the amount so paid with interest thereon from time to time and such sums shall be debited to the account of the Mortgagor with the Mortgagee and until so paid shall be a charge comprised therein or charged hereby and be added to the monies hereby secured.

f) Where the Mortgaged Property is part of a building containing other Mortgaged properties, the insurance policy for the entire building shall be taken out by the Mortgagee provided that the premium shall be payable by all the Mortgagors within the building in proportion to their relative interest in the Mortgaged Property.

SAMPLE

g) all moneys to be received by virtue of any insurance relating to the home maintained or effected by the Mortgagor (whether or not in pursuance of the obligations hereunder) are hereby charged to and shall be paid to the Agent (or if not paid by the insurers directly to the Mortgagee held on trust for the Mortgagee) and shall at the option of the Mortgagee be applied in replacing restoring or reinstating the home or any art thereof destroyed, damaged or lost.

PROVIDED that if at all times the interest of the Mortgagee is noted on the policies of insurance and the insurers give cover against such risks as the Mortgagee shall require and all contain in favour of the Mortgagee such provisions for the protection of the Mortgagee as the Mortgagee may reasonably require and insurance is to the full replacement value of the home, the Mortgagee will accept in compliance with the terms of this clause the insurance maintained in accordance with the terms of Agreement under which the Mortgagor holds the home.

h) not without the prior consent in writing of the Mortgagee (or its Agent) create or attempt to create or permit to subsist any mortgage or charge upon or permit any lien or other encumbrance to arise on or affect any part of the home;

i) not do or cause or permit to be done anything which may in any way depreciate, jeopardize or otherwise prejudice the value to the Mortgagee of the security hereby charged nor permit any person to become entitled to any proprietary right or interest in the home or any part thereof nor attempt or agree so to do;

j) Not without the prior consent in writing of the Mortgagee or its Agent part with possession or transfer, sell, lease or otherwise dispose of any interest in the home or any part thereof nor attempt or agree so to do;

k) deposit with the Agent and permit the Agent on behalf of the Mortgagee during the continuance of this security to hold and retain all originals of deeds and documents of title and insurance policies relating to the home and such other documents relating to the home as the Mortgagee may from time to time require;

l) Observe and perform the terms, covenants, stipulations and conditions contained in the Contract of Sale.

6. EXCLUSION OF THE MORTGAGOR'S POWERS OF BUY- TO-LET

6.1. During the continuance of this Agreement, the statutory and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not in relation to the home or any part thereof be exercisable by the Mortgagor nor shall the Mortgagor part with possession of the same or any part thereof nor confer any licence, right or interest to occupy nor grant any licence or permission to assign, underlet or part with possession of the same

SAMPLE

or any part thereof nor agree, suffer or permit any variation or addition to the terms of the Contract of Sale without in every such case obtaining the prior consent in writing of the Agent.

7. CONTINUING SECURITY

7.1 This security shall be a continuing security notwithstanding the winding up of the Mortgagee or bankruptcy or incapacity of the Mortgagor.

8. MORTGAGOR'S EVENT OF DEFAULT

8.1 Each of the following, to the extent that it is not caused by the Mortgagee shall constitute Mortgagor's event of default;

a) If the Mortgagor fails to pay on the due date any money or to discharge any obligation or liability payable by him from time to time to the Agent or fails to comply with any term, condition, covenant or provision of this Deed of Mortgage or to perform any obligation or liability of the Mortgagor to the Mortgagee or its Agent, or if any representation, warranty or undertaking from time to time made to the Mortgagee by the Mortgagor is or becomes incorrect or misleading in a material respect;

b) If an encumbrancer takes possession or exercises or attempts to exercise any power of sale or a receiver is appointed of the whole or any part of the Home;

c) If a judgment made against the Mortgagor (relating to or affecting the mortgaged home) is not complied with within seven days or if an execution, distress, sequestration or other process is levied or enforced upon or taken out against any part of the home, assets or revenues of the Mortgagor;

d) If the Mortgagor stops payment or agrees to declare a moratorium or becomes or is deemed to be insolvent or unable to make his monthly repayment as and when they fall due;

e) If any material part of the home is sold or disposed of or threatened to be sold or disposed of whether in a single transaction or a number of transactions

f) If this Deed of Mortgage or any guarantee, indemnity or other security for any money obligation or liability hereby secured fails or ceases in any respect to have full force and effect or to be continuing or is terminated or disputed or becomes in jeopardy, invalid or unenforceable;

g) If any licence, authorization, consent or registration at any time necessary or desirable to enable the Mortgagor to comply with his business in the normal course or remain in a salaried employment shall be revoked withheld or materially modified

SAMPLE

or shall fail to be granted or perfected or shall cease to remain in full force and effect and ;

h) If any of the foregoing events occur without the prior consent in writing of the Mortgagee in relation to any third party who now or hereafter has guaranteed or provided security for or given an indemnity in respect of any money, obligation or liability hereby secured.

8.2 The Mortgagor hereby covenants immediately to notify the Mortgagee through its Agent in writing of the occurrence of any of the events of default specified in Clause 8.1 or of the occurrence of any event which with the lapse of time or giving of notice would or may constitute any of the same.

9. FORFEITURE

9.1 The Mortgagor covenants that the occurrence of any of the events of default and or default in repayment of 3 (three) consecutive months shall be an act of forfeiture and shall without more, immediately entitle the Agent to exercise any of the following powers:

i. repossess the home and take or defend proceedings in the name of the Mortgagor or otherwise.

ii. Sell the home and carry out any such sale into effect in the name and on behalf of the Mortgagor.

9.2. Without prejudice to Clause 12, the Mortgagor agrees that he shall in no event seek relief against repossession unless he tenders proof of payments of the entire outstanding principal sum.

9.3. Upon foreclosure, the Mortgagor will only be entitled to receive an amount equal to the capital value as at the date of contracting or the current market value whichever is less.

10. POWERS OF THE MORTGAGEE AND APPOINTMENT OF AN AGENT

10.1. The Mortgagee has appointed the Agent for the management of this Mortgage transaction under the terms and conditions detailed herein and the Agent is hereby empowered to act on behalf of the Mortgagee in the exercise of all Rights and Powers of the Mortgagee under this Deed of Mortgage and in accordance with the provisions of Section 43 of the Lagos State Mortgage and Property Law 2010.

10.2. Without prejudice to the generality of the foregoing, the Agent shall on behalf of the Mortgagee diligently collect from the Mortgagor all such payments as may fall due under this Deed of Mortgage.

SAMPLE

10.1 Without prejudice to Clause 9, at any time after the Agent shall have demanded payment of any money or the discharge of any obligation or liability hereby secured and the Mortgagor defaults, the Agent may exercise all the powers conferred on the Mortgagee by the Lagos State Mortgage and Property Law 2010.

10.2 No purchaser or other person shall be bound to enquire whether the right of the Mortgagee to exercise any of the powers hereby conferred has arisen or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

10.3 At any time after the Agent shall have demanded payment of any money or the discharge of any obligation or liability hereby secured or if requested by the Mortgagor, the Agent may in writing under its common seal or under the hand of any Director or Manager of the Agent exercise any power independently of any other joint receiver and/or manager and may from time to time fix his or their remuneration and may remove any receiver and/or manager so appointed and appoint another in his place as to the whole or any part of the home.

10.4 The Mortgagor hereby covenants with the Mortgagee to pay on demand all costs, charges and expenses incurred by the Mortgagee or its Agent or which it or he shall properly incur in or about the enforcement preservation or attempted preservation of this security or of the home or any of it or in the exercise or purported exercise of any of the powers herein contained on a full indemnity basis with interest at the default rate from the date of payment by the Mortgagee or such receiver.

11. MISCELLANEOUS

11.1 No failure or delay by the Mortgagee or its Agent in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any right or remedy preclude its further exercise or the exercise of any other right remedy.

11.2 Each of the provisions of this Deed of Mortgage is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

11.3 Any notice or demand for payment by the Mortgagee hereunder shall without prejudice to any other effective mode of making the same be deemed to have been properly served on the Mortgagor if served on the Mortgagor or his personal representatives personally or delivered or sent by registered mail or courier to the Mortgagor or his personal representatives at his or their usual or last known place of abode or business.

11.4 In the case of the death of the Mortgagor and until receipt by the Mortgagee of notice in writing of the grant of representation to the estate of the deceased Mortgagor any

SAMPLE

notice or demand by the Agent sent by registered mail or courier as aforesaid addressed to the deceased or to his personal representatives at the usual or last known place of abode or business of the deceased shall for all purposes be deemed a sufficient service of a notice or demand by the Mortgagee on the deceased and his personal representatives and shall be as effectual as if the deceased were still living.

11.5 In this Deed of Mortgage the headings to clauses are for convenience only and have no legal effect and references to clauses and schedules are to clauses and schedules of this Deed of Mortgage unless otherwise stated.

11.6 In this Deed of Mortgage the expressions "the Mortgagee" and "the Mortgagor" where the context so admits include their respective successors and assigns whether immediate or derivative.

11.7 Any change in the constitution of the Mortgagee or its absorption in or amalgamation with any other Ministry, Department or Agency of the Government of Lagos State shall not in any way prejudice or affect its rights or obligations hereunder.

11.8 Any appointment or removal of a receiver under Clause 10.3 and any consents hereunder may be made or given in writing, signed or sealed by any such successors or assigns referred to in Clause 11.7.

12. DISPUTE RESOLUTION

12.1 If at any time a dispute shall arise between the parties on matters relating to the interpretation or implementation of this Deed, the parties hereto shall endeavour in good faith to resolve any such dispute through amicable discussion but within a period of twenty (20) days commencing on the date either party serves written notice upon the other outlining the nature and substance of any such dispute.

12.2 Failing amicable resolution of any such dispute, the dispute shall be referred to arbitration under the Arbitration Law of Lagos State 2009.

12.3 The arbitration shall be in Lagos and shall be by a single arbitrator, such arbitrator to be appointed after a request by either party to the President of the Lagos Court of Arbitration.

12.4 The arbitration shall be conducted under the Lagos Home Ownership and Mortgage Scheme Housing Arbitration Rules.

12.5 The issuance of a notice of dispute shall be sufficient to commence Arbitration Proceedings.

SAMPLE

12.6 The arbitrator shall apply Nigerian law.

12.7 The costs of the arbitration shall be shared equally between the parties herein.

12.8 The decision of the arbitration shall be final and binding on the parties.

In witness whereof the Mortgagee has caused its common seal to be affixed and the Mortgagor has set his/her hand and seal the date and year first above written.

The Common Seal of the MORTGAGEE, LAGOS MORTGAGE BOARD, is hereto affixed

…… **……..**
DIRECTOR **DIRECTOR**

SIGNED SEALED and **DELIVERED**
By the within-named **MORTGAGOR**

……

In the presence of:

NAME:…….

OCCUPATION:……..……

ADDRESS:…….……..

SIGNATURE:……..…….

SAMPLE

I consent to the transaction herein contained

This …… day of ……20……..

……

FOR: GOVERNOR OF LAGOS STATE

SAMPLE

SCHEDULE I

DESCRIPTION	PARTICULARS
ALL that entire Flat/Apartment situates at BLOCK..... FLAT ..... in SHOGUNRO SCHEME,..... Local Government Area of Lagos State	Covered by ……. dated …….. Day of ……..……. and registered as No……. at page……. in volume …….. Of the Lands Registry in the office at Lagos.

SAMPLE