

BRIDGING FINANCE AND SURETYSHIP AGREEMENT



Tel: 0861 776 7346
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Entered into between
LONDONBRIDGE PROPERTY FINANCE (PTY) LTD
Registration Number 2007/013360/07
and

APPLICANT (Full Name/Surname or Full Legal Entity Name)(Hereinafter referred to as the "CLIENT"),

Identity/Registration/ CK Number , VAT Number (If applicable).....

of physical Address

(chosen *domicilium citandi et excutandi*)

If Legal Entity

Telephone Number	
Fax Number	
Email Address	

If Individual

Email Address		Work Number	
Marital Status		Home Number	
Employer Name		Cell Number	

Property Description (Deeds office format)			
Name of Conveyancing Firm	Email	Firms ref no.	
Name of Firm's Representative	Telephone Number	Fax Number	

TRANSACTION TYPE	TRANSFER (SALE PROCEEDS)	RATES/LEVIES	TRANSFER DUTY	SWITCH	FURTHER ADVANCE	SECOND BOND
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TRANSACTION DETAILS (TO BE COMPLETED IN FULL)	
Purchase Price of Property / Bond Proceeds	R
Less Bond Cancellation Amount (Transfer/ Switch only)	R
Less Bond /Cancellation and Transfer Costs	R
Less Rates /Levies	R
Less Agents Commissions	R
Less Any Other necessary deductions (stipulate)	R
A SURPLUS EQUITY AVAILABLE	R
B AMOUNT TO BE ADVANCED TO CLIENT (not to exceed 80% of A)	R
* FINANCE CHARGES * 2.99 % per month (98 cents per R1 000.00 per day) plus the Initiation Fee charged in accordance with the National Credit Act 34 of 2005.	

THE CONVEYANCER CONFIRMS THE FOLLOWING

- I have received instructions from the client to attend to the transfer of the property and/or the registration of the mortgage Bond
- The purchase price of the property together with all conveyancing costs have been secured.
- The necessary transfer and bond documents have been duly signed by all the relevant parties.
- There are no attachments/interdicts registered over the property.
- There are sufficient funds available to cover all other Letters of Undertaking and liabilities.
- Transfer duty figures and rates/levies figures have been obtained.
- The expected date of lodgement is 2007 / 11 / 09
- The matter is to be registered in the _____ Deeds Registry Office.
- The transfer is not linked to the opening of a Sectional Title Register or to a Deceased Estate.
- To the best of our knowledge there are no circumstances which would have the affect of delaying registration of the transfer/bond beyond a period of 60 days.
- A Copy of the **Client's Identity document**, the relevant **Bank Guarantee** and the **Conveyancer's Undertaking** have all been annexed to this agreement.

I hereby warrant as the conveyancer attending to the registration of this matter, that the above information is true and correct.

Signed aton this the.....day of.....20.....

Name of CONVEYANCER CONVEYANCERS Signature

FOR THE CLIENT TO SIGN

Signed aton the.....day of20.....

.....
CLIENT name **CLIENT Signature**

Witness Name..... Witness Signature.....

.....
CLIENT name **CLIENT Signature**

Witness Name..... Witness Signature.....

LONDONBRIDGE OFFICE USE ONLY

Signed aton this the.....day of.....20.....

Name..... Signature

for and on behalf of LONDONBRIDGE PROPERTY FINANCE (PTY) LTD

<p>RESOLUTION (TO BE COMPLETED IF APPLICANT IS A LEGAL ENTITY)</p> <p>Extract of the minutes of a meeting of The CLIENT held aton the.....day of.....20..... Resolved : That The CLIENT enters into a Sale of Equity Agreement with Londonbridge Property Finance (Pty) Ltd upon the terms and conditions set out above.</p> <p>That.....in his/her capacity as of the CLIENT be and is hereby authorised to do whatever may be necessary to give effect to this resolution and to enter into and sign such agreement and all documents for and on behalf of the CLIENT. I do hereby certify and warrant that the aforesaid is a true and correct extract of the minutes of a meeting of the members of The CLIENT as stated above.</p>	<p>Signature of Director/Member/ Partner</p>
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DEED OF SURETYSHIP – I/We hereby bind my/ourselves as surety/ies and co-principal debtor/s in accordance with the Suretyship terms & conditions set out overleaf.

Full Name of Surety	Physical Address	ID Number	Signature	Witness

WHEREAS the Client has entered into a transaction constituting a transfer of immovable property and/or a registration of a mortgage bond, from which a surplus in equity has resulted, AND WHEREAS the Client desires that the proceeds of the surplus equity be advanced to him/herself prior to the Registration Date, AND WHEREAS Londonbridge desires to make the advance to the Client, NOW THEREFORE the parties enter into this agreement on the following terms and conditions;

1. **Definitions**
The following terms shall have the meaning assigned to them hereunder and cognate expressions shall have the corresponding meanings, namely –

1.1 “**Agreement**” shall mean this Bridging Finance Agreement constituted by Londonbridge’s acceptance of the terms and conditions herein contained. Which Agreement constitutes an unsecured credit agreement as defined by the National Credit Act 34 Of 2005 as amended from time to time

1.2 “**Conveyancer**” shall mean the conveyancing attorney nominated in terms of the Third Party Agreement or later nominated by either the property seller, property purchaser, financial institution or the agency as the case may be, to implement the terms of the Third Party Agreement and/or to attend to the registration of the Mortgage Bond;

1.3 “**Finance Charge**” shall mean the interest payable by the Client to Londonbridge, on the Principal Debt, **calculated at the rate of 35.88% (Thirty Five point Eight Eight Percent) per annum**, compounded daily, from the Date on which the advance was made by Londonbridge up to and including the Settlement Date.

1.4 “**Initiation Fee**” shall mean the fee charged for the preparation of this Agreement which shall be calculated at 1% (one percent) of the advanced amount, subject to a minimum fee of R500.00 (Five Hundred Rand) and a maximum fee of R1000.00 (One Thousand Rand) Excluding Vat. The Client shall have the option to pay this fee upon signature of this Agreement alternatively to have this fee included in the Principal Debt. If it is included in the Principal Debt then interest shall accrue on the Fee.

1.5 “**Principal Debt**” shall be comprised of ;

1.5.1 The amount advanced to the Client by Londonbridge (which amount shall never exceed 80% (eighty Percent) of the Surplus Equity due to the Client) and

1.5.2 The Initiation Fee (if the Client fails to make payment of the Initiation Fee upon signature of this Agreement) and

1.5.3 Other costs which are added, as and when they become payable.

1.6 “**Property**” shall mean any immovable property being the subject matter of the Third Party Agreement;

1.7 “**Registration Date**” shall mean the date on which the mortgage bond or transfer of the property is registered, in the appropriate Deeds Registry Office.

1.8 “**Settlement Date**” shall mean the Registration Date or 90 (Ninety) days after the date on which the loan amount was advanced by Londonbridge, whichever date shall be the soonest.

1.9 “**Surplus Equity**” shall mean the purchase price of a Property in a Third Party Agreement or the proceeds of a mortgage bond, less the sum of any bond cancellation amount, rates/levies and taxes, agents commission and other necessary conveyancing fees and costs.

1.10 “**Third Party Agreement**” shall mean any Property related agreement entered into between third parties, from which agreement the Client derives a right to the Surplus Equity.

2. **The Loan**

2.1 Londonbridge hereby agrees to lend the advanced amount to the Client.

2.2 The Client hereby admits that he/she/it is liable and holds him/herself bound to Londonbridge for the due and proper payment of the Principal Debt, by reason of the fact that the amount was lent and advanced to him/herself by Londonbridge.

2.3 The Principal Debt shall bear interest at the rate 35.88% (Thirty Five point Eight Eight Percent) per annum, compounded daily (hereinafter referred to as the “Finance Charge”), from the Date on which the advance was made by Londonbridge up to and including the Settlement Date.

2.4 An Initiation Fee shall be charged for the preparation of this Agreement which shall be calculated at 1% (one percent) of the advanced amount, subject to a minimum fee of R500.00 (Five Hundred Rand) Excluding Vat and a maximum fee of R1000.00 (One Thousand Rand) Excluding Vat. The Client shall have the option to pay this fee upon signature of this Agreement alternatively to have this fee included in the Principal Debt. If it is included in the Principal Debt then interest shall accrue on the Fee.

2.5 The Principal Debt and Finance Charges shall be paid in full to Londonbridge by the Conveyancer, on behalf of the Client, on or before the Settlement Date.

2.6 The Client shall be considered in default of the terms of this Agreement if the Principal Debt and Finance Charges have not been paid in full at the time it is due and payable in terms of clause 2.5.

2.7 Notwithstanding the contents of Clause 2.5 and 2.6 above, and without prejudice to any rights that Londonbridge may have in terms of this Agreement and/or in law, Londonbridge shall in the event of it not receiving payment of the Principal Debt and Finance Charges on the date stated in 2.5 above, be entitled at its sole discretion, to extend the payment date, and further interest shall accrue in accordance with clause 2.3 and any other terms relating thereto.

2.8 Should a shortfall occur after payment has been received from the Conveyancer in terms of the Letter of Undertaking, the shortfall shall be payable by the Client to Londonbridge within 7(seven) days after demand has been made for such payment.

2.9 In the event of the transaction being cancelled, the Client and Conveyancer shall immediately advise Londonbridge within 24(twenty four) hours of such occurrence and the Client shall be liable to pay all liquidated damages being the sum of the Principal Debt and Finance Charges, within 7(Seven) days of the date of cancellation.

2.10 If there is more than one Client, each and every Client accepts that his liability shall be *in solidum* and that Londonbridge shall at all times be at liberty to proceed with collection and excussion proceedings against the Client of it’s choice.

2.11 The Client expressly renounces the benefits of the *non causa Debitori, the errorer calculi*, the revision of accounts, no value recorded and if there is more than one Client, the *de duobus vel pluribus reis debendi* or the *ordinis seu excussionis et divisionis*.

2.12 The acceptance by Londonbridge of the terms and conditions stated in this Agreement shall constitute a valid and binding Agreement and Londonbridge shall make payment of the amount to be lent and advanced to the Client as soon as it is reasonably possible after the Agreement is accepted;

3. **Warranties Furnished by the Client**
The Client warrants (and each warranty shall be deemed to be a material warranty relied upon by Londonbridge in concluding this agreement) in favour of Londonbridge that:

3.1 The Third Party Agreement is a legally binding agreement which is enforceable in law and which contains all the terms and conditions between the purchaser and the Client;

3.2 To the extent that the Third Party Agreement contains any suspensive conditions, such conditions have been fulfilled;

3.3 The Client is not aware of any facts or circumstances which may cause a delay in the transfer of the Property referred to in the Third Party Agreement; or registration of the bond;

3.4 The Conveyancer has received an irrevocable instruction from the Client that upon the registration of the transfer of the Property and/or registration of the Mortgage Bond he/she is to make payment of the sum of the Principal Debt, Finance Charges and Initiation Fee to Londonbridge and that the Conveyancer has accepted such instruction to settle the Client’s indebtedness to Londonbridge in full and that Londonbridge shall receive an independent undertaking, in the form prescribed by Londonbridge, from the Conveyancer which shall not in any way derogate from this warranty;

3.5 The Client shall not terminate the Conveyancer’s mandate in any circumstances or for whatever reason, save where the Conveyancer has acted dishonestly, or where the Conveyancer has breached a material term of the relationship, in which instance the Client is obliged to advise Londonbridge in writing;

3.6 The Client shall keep Londonbridge apprised in regard to matters relating to the transfer of the Property or registration of the Bond, in general and in particular in regard to cancellation or any event or circumstances which may arise subsequent to the signing of this Agreement;

3.7 The Client shall not agree to nor effect any amendments to the Third Party Agreement or Bond documents without Londonbridge’s prior written consent;

3.8 In the event that an existing Mortgage Bond is registered over the Property then, the bond cancellation amount owing to the current bondholder was the amount owing immediately preceding the signature of this Agreement;

3.9 The Client has complied timeously with all his/hers/its obligations to the bondholder in respect of the mortgage bond registered over the Property;

3.10 The Client has undertaken not to encumber or hypothecate the Property in any manner that is inconsistent with any matter, acknowledgement or warranty contained in this Agreement;

3.11 No other person has any claim to the Surplus Equity or ancillary rights nor have the rights and claims been ceded to any third party;

3.12 The Client has not been sequestered during the past ten years and if indeed the Client has been sequestered during this period, a copy of the rehabilitation order shall be furnished to Londonbridge;

3.13 No undisclosed undertakings have been made or given to any third party which would reduce the proceeds and/or lower the amount of the Surplus Proceeds, nor will any be made in future without the written consent of Londonbridge.

3.14 The information contained herein is correct, complete and accurate in every way;

3.15 The Client acknowledges that Londonbridge has relied on the correctness of the aforementioned warranties in determining whether to conclude this Agreement and confirms that Londonbridge may itself at any time make any independent enquiries as to the correctness or otherwise of the information and/or warranties;

4. **Warranties Furnished by the Conveyancer**
The Conveyancer warrants that to the best of his/her knowledge (and each warranty shall be deemed to be a material warranty relied upon by Londonbridge in concluding this Agreement. In the event that a misrepresentation is made by the conveyancer or the duly authorised representative of the conveyancer, to Londonbridge then the conveyancer shall become liable to Londonbridge for the due fulfilment of the client’s obligations in respect of this agreement, including but not limited to payment of the sum of the Principal debt and, Finance Charges to Londonbridge.)

4.1 The Conveyancer has been instructed to attend to and is proceeding with the transfer of the property and/or the registration of the Mortgage Bond;

4.2 The Third Party Agreement is a legally binding agreement which is enforceable in law and which contains all the terms and conditions agreed to between the purchaser and the Client;

4.3 To the extent that the Third Party Agreement contains any suspensive conditions, such conditions have been fulfilled;

4.4 The Purchase Price of the Immovable Property together with all conveying costs and fees relating to the transfer of the Property and/or registration of the Mortgage Bond have been secured.

4.5 The bond cancellation amount owing to the current bondholder was the amount owing immediately preceding the signature of this Agreement;

4.6 All necessary documentation required for the registration of the transfer of the Property and/or the Registration of the Mortgage Bond has been signed by all relevant parties.

4.7 The Conveyancer has received an irrevocable instruction that upon the registration of the transfer of the Property and/or registration of the Mortgage Bond he/she is to make payment of the sum of the Principal Debt and Finance Charges to Londonbridge and that the Conveyancer has accepted such instruction to settle the Client’s indebtedness to Londonbridge in full and that Londonbridge shall receive an independent undertaking, in the form prescribed by Londonbridge, from the Conveyancer which shall not in any way derogate from this warranty;

4.8 No other person has any claim to the proceeds of the Surplus Equity or ancillary rights nor have any rights or claims been ceded, to the best of the Conveyancer’s knowledge;

4.9 No other undertakings have been made or given which would reduce the proceeds to an amount lower than the amount payable to Londonbridge, to the best of the Conveyancer’s knowledge;

4.10 The Conveyancer shall furnish Londonbridge with a Letter of Undertaking, in the form prescribed by Londonbridge, to pay to Londonbridge the amount due owing and payable in terms of this Agreement on the Registration Date of the transaction as recorded.

4.11 In the event of the transaction being cancelled, the Conveyancer shall immediately advise Londonbridge within 24 (twenty four) hours of such occurrence and the Client shall be liable to pay the sum of the Principal Debt and Finance Charges, within 7 (Seven) days of the date of cancellation.

5. **Breach**
Should the Principal Debt and Finance Charges not be paid on Settlement Date or any extended date and should the Client:

5.1 Fail to make payment of any amount owing in terms of this agreement; or

5.2 breach any of the terms, conditions and/or warranties of this agreement or if any surety for, or co-principal debtor with the Client breaches any of the terms, conditions and/or warranties of any agreement between it and Londonbridge or if the Conveyancer breaches any of the terms, conditions and/or warranties of any agreement between it and Londonbridge, or

5.3 Allow any judgment against the Client to remain unsatisfied for a period of 14 (fourteen) days; or commit any act referred to as an act of insolvency in the Insolvency Act No 24 of 1934 (as amended); or

5.4 Compromise or attempt to compromise, or defer payment of any debt owing by him/hers/it to any of its Creditors; or

5.5 Be provisionally or finally sequestered in the event of the client being a natural person or partnership;

5.6 Be provisionally or finally wound up, liquidated or placed under judicial management in the event of the Client being a Company or Close Corporation;

Then upon the happening of any of the aforesaid events, Londonbridge shall have the right without prejudice to any other rights, which may thereupon be available to it, to claim immediate payment of the outstanding amounts due in terms of this agreement. In this instance the Client shall be liable to pay all legal costs on the Attorney & own Client scale, collection commission and tracing agent charges.

6. **Domicilium Citandi et Executandi.**
6.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the following addresses:
Londonbridge Property Finance(Pty)Ltd
Ground Floor, Block C, Coachman’s Crossing, 4 Brian Street, Peter Place, Bryanston
The given address as furnished by the client on the Client Details contained overleaf in this Agreement shall be the Client’s chosen *domicilium citandi et executandi*.

6.2 Each of the parties shall be entitled from time to time by written notice to the other to change its *domicilium* to any other address within the Republic of South Africa which is not a post box or *poste restante*.

6.3 Any notice given and any payment made by either party to the other (“the addressee”) which:

6.3.1 is delivered by and during the normal business hours of the addressee at the addressee’s *domicilium* for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the date of delivery,

6.3.2 is posted by prepaid registered post to an address within the Republic of South Africa to the addressee at the addressee’s *domicilium* for the time being, shall have been received by the addressee on the 7 (seventh) day after the date of posting.

6.4 Where in terms of this agreement any communication is required to be in writing, the term “written” shall include communications by telegram and/or facsimile. Communication by telegram and/or facsimile shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee 48 (forty eight) hours after the time of transmission.

6.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party shall be adequate written notice or communication to it notwithstanding that it was not sent to or delivered to its chosen *domicilium citandi et executandi*.

7. **General**
7.1 This Agreement constitutes the whole Agreement between the parties and no addition to or variation, agreed cancellation or novation of this Agreement and no waiver of any rights arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by the parties

7.2 Any provision in this Agreement, which is found to be inoperative, shall be severable from the remaining provisions, which remaining provisions shall be deemed to be the agreement between the Client and Londonbridge.

7.3 The Client agrees that Londonbridge may:

7.3.1 Make inquiries to confirm any information provided by the Client in this Agreement or otherwise; or

7.3.2 Seek information from any credit bureau, financial institution, bank or any third party when assessing the Client’s application and at any time during the existence of this Agreement.

7.4 For the purpose of all or any proceedings hereunder the parties consent to the jurisdiction of the magistrates’ court having territorial jurisdiction, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the required written consent conferring jurisdiction upon the said court pursuant to section 45 of the Magistrates’ Court Act 1944, provided, nevertheless, that any party shall have the right at its sole option and discretion to institute proceedings in any other competent court.

7.5 The Client does irrevocably waive and abandon any right that it may have, to call upon Londonbridge, in any litigation or other proceedings, to furnish security for costs, whether such right is embodied in the Companies Act No. 61 of 1973 (as amended), or the Magistrates’ Court Act No. 32 of 1944 (as amended), or the Supreme Court Act No. 59 of 1959 (as amended) or Rules promulgated pursuant to or in connection with any of the aforesaid Act.

7.6 The amount of the Client’s indebtedness to Londonbridge in terms of this Agreement at anytime shall be determined and proved by a certificate signed by any one of Londonbridge’s authorised representatives, whose appointment, qualification and authority need not be proved.

7.7 A Certificate issued pursuant to 7.6 shall be binding on the Client as *prima facie* proof of the amount of the Client’s indebtedness in terms of this Agreement and valid as a liquid document against the Client in any competent Court for the purpose of obtaining Provisional Sentence and/or Judgment against the Client thereon.

7.8 The Client shall not be entitled to cede any of its rights or assign any of its rights and obligations in terms of this Agreement without the prior written consent of Londonbridge.

7.9 Londonbridge shall have the right to cede or assign any of its rights and obligations in terms of this Agreement to any person or legal entity, at its sole and absolute discretion, without obtaining the prior consent of the Client.

Suretyship Terms and Conditions

The surety/ies does/do hereby bind himself/herself/ themselves jointly and severally as unlimited surety/ sureties and co-principal debtor(s) *in solidum* for the due fulfilment by the client, described in the Bridging Finance Agreement above, of all obligations to Londonbridge Property Finance (Pty) Limited arising under and/or out and/or in connection with the Bridging Finance Agreement concluded between the client and Londonbridge, both current and future. The surety/ies confirm that the agreement has been completed in full upon signature hereof and understands the consequence of binding him/herself jointly and severally as surety/ies and co-principal debtor(s). Unless the context indicates otherwise, any reference to Londonbridge in this Agreement shall be deemed to include anyone who takes transfer of Londonbridge’s right title and interest in and to this suretyship. The surety/ies renounce/s the benefits of excussion, division and cession of action, the nature and extent of which the surety/ies acknowledge himself/ herself/ themselves to be aware. No extension of time or indulgence that may be granted to the client at any time nor any release of any other security or suretyship shall in any way affect the surety/s/ sureties’ liability hereunder. The surety/ies consent to the jurisdiction of the Magistrate’s Court provided Londonbridge shall be entitled to institute action in any other court. The surety/ies agree to make payment of any legal costs that may be awarded against him/ her/ them on an attorney and own client scale. The surety/ies choose as his/her/their domicile citandi et executandi for all purposes arising out of this suretyship, the address/ies set out overleaf, next to his/her/their respective signatures. The surety/ies indemnifies/ly and hold Londonbridge and its cessionary/ies in the event of a cession harmless against any claim arising out of or incidental to the Agreement to it’s breach or it’s termination for any reason whatsoever. The surety/ies warrant and represent that he/she/they have received and will continue to receive adequate value for the granting of this suretyship. The surety/ies agree that where it is contemplated that more than one person will sign as surety, any surety/ies who may have signed as surety/ies shall be bound in solidum, irrespective of whether or not the other/s referred to will have executed this document or become bound in terms thereof. The surety/ies agree that no termination, cancellation, limitation or variation of his/her/their obligations in terms of this suretyship shall be of any force or effect unless it is agreed to in writing and signed by Londonbridge or it’s cessionary/ies, in the event of a cession in terms of this agreement. The terms of clause 7.6 and 7.7 of the Bridging Finance Agreement shall apply hereto *mutatis mutandis*.

Initial