

APPLICATION FOR CREDIT FACILITIES

By and between:

_____ - (Registration No. _____)
 (Hereinafter referred to as "the Provider")

And

 (Hereinafter referred to as "the Applicant" or "Customer")

(Collectively referred to as "the Parties" where the context requires)

This application is complimented and completed by:**Part A** – Application for credit facilities. **Part B** – Provider's standard terms and conditions.**Part C** – Suretyship agreement. **Part D** – POPIA disclaimer.**PART A – APPLICATION**

This application made by Applicant to Provider for credit facilities is subject to the approval or rejection of the Provider, which Provider may approve or reject in their sole discretion. If this application/agreement is granted by Provider, it shall become subject to all the terms and conditions contained in Part A, Part B and Part C hereof.

Applicant's registered name: _____

Applicant's identity or registration number: _____

Applicant's trading name (if different): _____

Applicant's VAT number: _____

Applicant's duly authorized person - name: _____

Applicant's duly authorized person – identity No: _____

Applicant's physical address: _____**(This address is elected as Applicant's** _____**domicilium citandi et executandi for** _____**all legal notices or otherwise)** _____

Applicant's postal address: _____

Entity type (tick one): ☐ Company ☐ Close Corporation ☐ Partnership ☐ Trust☐ Sole Proprietor ☐ Other: _____

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

Applicant's contact numbers: _____

Applicant's contact email addresses: _____

Applicant's accounts department email: _____

Applicant's formation documents:

(Tick box once attached and where applicable).

- ☐ CM1 – proof of company incorporation / registration (Company).
- ☐ CK1 & CK2 – Founding forms (Close Corporations).
- ☐ Most recent Letter of authority (Trusts).
- ☐ Any other certificates or forms necessary to prove Applicant's registration and formation.

Applicant's representative documents:

(Tick box once attached and where applicable).

- ☐ (Company) – Copies of all identity documents of all directors of the Company.
- ☐ (Close Corp) – Copies of all identity documents of the members of the CC.
- ☐ (Trust) – Copies of all identity documents of all of the trustees.
- ☐ Copies of all identity or registration documents of all other persons or entities who act in an authoritative/supervisory capacity in relation to the Applicant.

Residential information of representatives:

(Residential information for directors, members, partners, trustees or similar of the Applicant)

Full Name:	ID Number:	Residential Address:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Applicant's banking information:

(Tick box once attached).

- ☐ Letter from Applicant's bank proving banking account of the Applicant.

Applicant's Bank: _____

Applicant's Bank Branch and code: _____

Applicant's Bank – type of account: _____

Applicant's Bank – Account Number: _____

Applicant's Bank – Account Holder Name: _____

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

Applicant's Auditors:

(Tick box once attached).

- ☐ Letter from auditor confirming their position as the auditor of the Applicant.
- ☐ A copy of the Applicant's most recent financial statements.

Applicant's Auditor name: _____

Applicant's Auditor registration number: _____

Applicant's Auditor contact number: _____

Applicant's Auditor email address: _____

National Credit Act 34 of 2005 (section 4):

We, the Applicant/Customer, hereby confirm that our asset value or annual turnover, as at the date on which this agreement is concluded with _____ (the Provider) in terms of which we are extended credit:

(Tick box)

- ☐ equals or exceeds R 1 000 000,00; or
- ☐ does not equal or exceed R 1 000 000,00; or

It is warranted that the information furnished above is true and correct in every aspect as envisaged in terms of the National Credit Act, Act 34 of 2005.

Credit facilities request:

By signing this application and submitting same, the Applicant's representative, on behalf of the Applicant, warrants that they are solvent as at the date of submission, and that both their nett asset value and turnover value per financial year is correctly reflected in their submitted financial statements.

- | | |
|--|----------|
| A. Is there a general notarial bond registered over your movable assets? | Yes / No |
| B. Has a cession of your book debt been given to any party? | Yes / No |
| C. Has security been given for an overdraft? | Yes / No |
| D. Have any of the owners / partners / directors ever been declared insolvent? | Yes / No |

Trade References:

Name of Reference Company	Contact No.	Email	Average Monthly Purchase
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

Applicant requests a credit facility up to the maximum amount of R _____

- ☐ Written resolution attached by the Applicant, authorizing the Applicant's representative to submit this application on behalf of said Applicant, for the requested credit amount as detailed above.

FOR INTERNAL USE ONLY:									
CREDIT	FACILITY	MAXIMUM	AMOUNT	APPROVED	AND	ACCORDINGLY	GRANTED	BY	PROVIDER:
R _____ Provider Representative approving credit amount: Name: _____ ID: _____ Date: _____ Sign: _____									

PART B - STANDARD TERMS AND CONDITIONS

1. INTRODUCTION

In these terms and conditions, the following words shall bear the meanings assigned to them below:

- 1.1 **"the Provider"** means _____ and includes the Provider's servants and agents and any person or persons carrying any goods forming the subject matter of this contract under and in terms of a subcontract with the Provider.
- 1.2 **"the Customer" or "the Applicant"** means the party referred to in **Part A** hereto as the **Applicant**, whether acting on their own behalf or in their capacity as agent or in any other capacity for a third party.
- 1.3 **"the Goods" or "the services"** means the goods or services forming the subject matter of this agreement.

2. PAYMENT

- 2.1 Any monies payable to the Provider by the Customer will be in accordance with any written quotation or invoice on an official letterhead of the Provider delivered or transmitted to the Customer, alternatively any monies payable by the Customer to the Provider shall be in accordance with any invoice issued by the Provider to the Customer from time to time.
- 2.2 All quotations will remain valid for a period of 14 (fourteen) days from the date of the quotation, or until the date of issue of a revised quotation, whichever occurs first. The quotation shall become a binding agreement immediately upon the Customer having accepted and signed it, and the Provider subsequently counter-accepting same. Alternatively, the quotation will be deemed to be accepted by the Customer if they accept the terms and amounts of the relevant quote by conduct.
- 2.3 In the event of the Provider being obliged to take out or obtain any licences or permits, or to comply with the requirements of any lawful authority, the Provider shall be entitled to make an additional charge to cover any expenses resulting therefrom not already included in the Provider's standard tariffs.

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

- 2.4 In the absence of any special provisions to the contrary, approved by the Provider, payment shall be effected by the Customer in direct bank transfer (EFT), (within 30 days after the date of the Provider's statement with consideration of the cut off dates). Interest of 2% per month will accrue on all payments not made on their due date (from the due date to the date on which payment is effected).

(Note: should cash be used as a method of payment in any respect, the Provider will charge a "cash deposit fee" and/or banking charge fee.

- 2.5 The Provider shall in its absolute discretion be entitled to appropriate all payments made by the customer towards the payment of any debt or obligation of whatsoever nature owing by the customer to the Provider, irrespective of when such debt or obligation arose.
- 2.6 The Customer may not raise any claim, dispute or counter-claim as a reason for deferring payment and the customer may not withhold any payment or set off any claim or counter-claim which it may wish to raise against the amount invoiced by the Provider.
- 2.7 The Provider reserves the right to vary its current prices from time to time, without prior notice, unless such prices are subject to an existing contract. The Provider shall, however, be entitled to increase its prices and recover payment from the customer in respect of any additional amount the Provider has been required to pay in respect of excise duty or any other statutory imposts between the date of acceptance of any order and the date of delivery of the relevant goods to the customer.
- 2.8 The Applicant/Customer shall not be entitled to any discount or allowance unless same is specified in the Provider's relevant invoice. All payments will be free of free of any deductions or set-off.

3. LOGISTICS

- 3.1 The onus of proving any deficiency in the quantity, type, physical properties, installation, work or composition, and the condition of the goods or services shall at all times remain with the Customer. The onus is on the Customer to inspect the goods/services upon receipt and satisfy themselves as to correctness of said goods or services (as applicable).
- 3.2 The Customer, by signing the appropriate release note/note of receipt, or by making full payment, warrants and accepts that the goods and/or services (as applicable) were effected to their satisfaction. Should any further material deficiencies or defects be discovered by the Customer, said Customer must immediately notify the Provider in writing within 48 hours from delivery. Should the Customer fail to timeously notify the Provider as per the above timeframe, they will be deemed to have accepted such goods and/or services as is.
- 3.3 Goods conveyed by the South African Railways or by an independent cartage contractor are conveyed at the Applicant/Customer's sole risk and all claims for damages, breakage or non-deliveries must be lodged by the Applicant/Customer with the South African Railways or cartage contractor, as the case may be and the Applicant/Customer shall not have any claim against the Provider in respect thereof.
- 3.4 Return of Goods:

All goods that are returned for credit by the Applicant/Customer must be accompanied by return for credit documentation. The Provider shall not be held responsible for goods which have not been returned together with the relevant documentation.

The Provider shall be entitled to levy a 10% handling fee on all returned goods which are a result of Applicant/Customer oversights or inaccuracies.

4. CUSTOMER WARRANTIES

The Customer warrants that:

- 4.1 the accuracy of all descriptions, values and other particulars furnished to the Provider are true and correct (is accurate). The Customer further indemnifies the Provider against all expenses, claims or fines arising from any inaccuracy or omission of descriptions, values or other particulars (even if the inaccuracy or omission of descriptions, values or other particulars occurs with or without negligence).

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

4.2 the person signing this application/agreement on behalf of the Customer is duly authorized and able to sign this agreement, and furthermore, that the person signing on behalf of the Customer has the necessary authority to bind the Customer to this agreement.

4.3 the Customer is able to give full effect to the provisions of this application and perform in terms of these terms and conditions.

5. **PROVIDER WARRANTIES**

5.1 The Provider warrants that all goods manufactured and sold by it shall conform to its usual standard of quality and tolerances and to such other standards by the Provider in writing.

5.1.1 the Provider's liability for breach of the aforementioned warranty shall be limited to either rectifying or replacing substandard or defective goods, or the Provider shall be entitled, at its option, to require that the customer return such goods against the Provider passing a credit in respect of the purchase price of the goods and no further liability whatsoever shall attach to the Provider.

5.1.2 No other liability of whatsoever nature shall attach to the Provider whether arising out of contract or delict and, in particular, liability is excluded for all loss or damage of whatsoever nature and howsoever occasioned whether directly or indirectly, including consequential loss.

5.2 Goods ordered by the customer, which are not manufactured by the Provider, carry only such warranties as are provided by the manufacturer thereof and the Provider shall, on request, cede all its rights thereto to the customer and the Provider accepts no liability thereunder or in respect thereof whatsoever.

5.3 No other express or implied warranties or representations of any nature, whatsoever, are given or made in regard to any goods sold by the Provider and all implied warranties are specifically excluded.

5.4 Under no circumstances will the Provider be liable for consequential or general or special damages, howsoever arising, which the customer may suffer because of breach of the foregoing warranty or because of a breach of any of the other obligations assumed by the Provider.

6. **OTHER**

6.1 The Provider shall not be liable for demurrage or storage charges of any nature whatsoever and howsoever arising. Where any such demurrage and/or storage charges are paid by the Provider, such charges shall be refunded to the Provider by the Customer on demand. The Customer hereby appoints the Provider irrevocably and *in rem suam* as its agent and in its name, place and stead, to contract for the storage of the goods upon such terms and conditions as the Provider may, in its sole discretion elect, and without any liability whatsoever attaching to the Provider to attend to such storage.

6.2 The Provider reserves the right to employ subcontractors or agents to act for it.

6.3 The Customer shall provide any and all assistance and information required by the Provider for the purpose of applying for or obtaining any permit, consent or approval (where applicable or necessary).

6.4 The Provider shall not be liable for any delay occasioned by compliance with any instructions issued by the police or any other competent authority, but any extra costs incurred by the Provider as a result of compliance with any such instructions shall be added to its charges.

6.5 With respect to force majeure events;

6.5.1 **"Force Majeure"** means an event beyond the control of the Provider and/or the Customer, which prevents a party from complying with any of its obligations (excluding payment obligations) under this application/agreement, including but not limited to, acts of God, war, hostilities, rebellion, revolution, insurrection, military or usurped power, civil war, mass unrest, contamination by various chemical or nuclear agents, or riots.

6.5.2 Neither party shall be considered in breach of this agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by an event of force majeure.

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

- 6.5.3 The party prevented from carrying out its obligations hereunder shall give notice to the other party of an event of force majeure upon it being foreseen by, or becoming known to, the Affected Party.
- 6.5.4 The obligations of the affected party shall be held in stasis (temporarily suspended) until such time as the force majeure event subsides and operations can continue on.

7. GENERAL

- 7.1 This agreement, as well as its terms and conditions, shall be binding upon the heirs, assigns, successors-in-title and parent companies, subsidiaries and affiliates of the parties.
- 7.2 No amendment, deletion, alteration, cancellation, interpretation or waiver of any of the provisions of this agreement shall be effective unless made in writing and signed by the parties to this agreement.
- 7.3 The failure to enforce or to require the performance at any time of any one of the provisions of this agreement shall not be construed to be a waiver of such provision, and, shall not affect either the validity of this agreement or any part hereof or the right of any party thereafter to enforce each and every provision in accordance with the terms of this agreement.
- 7.4 No relaxation or indulgence which the Provider may grant to the Customer shall constitute a waiver of the rights of the Provider and shall not preclude the Provider from exercising any of its rights which may have arisen in the past or which might arise in the future.
- 7.5 This agreement contains the entire agreement of the parties in respect of the subject matter of this agreement and supersedes all prior agreements between the parties, whether written or oral, with respect to the subject matter of this agreement.
- 7.6 In the event any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or un-enforceability shall not affect any other provision of this agreement, but this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein, and the agreement shall be carried out as nearly as possible according to its original terms and intent.
- The parties further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- 7.7 The Customer chooses its street address set out in page 1 - Part A (Application) of this agreement as its *domicilium citandi et executandi* ("domicilium") for all purposes under this agreement, whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this agreement.
- 7.8 This agreement shall be subject to, and interpreted by, the laws of the Republic of South Africa.
- 7.9 The rule of construction (the principle of *contra proferentem*) that this agreement shall be interpreted against the party responsible for the drafting of this agreement, **shall not apply**.

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

SIGNATURES

THE PROVIDER

Dated at _____ on this _____ day of _____ 2024.

Name of signatory: _____ Signatory Sign: _____

Witness name: _____ Witness sign: _____

Witness name: _____ Witness sign: _____

THE APPLICANT / CUSTOMER

Dated at _____ on this _____ day of _____ 2024.

Name of signatory: _____ Signatory Sign: _____

Witness name: _____ Witness sign: _____

Witness name: _____ Witness sign: _____

PART C – SURETYSHIP

Surety applicable to this application and agreement (tick one): ☐ Yes ☐ No

I, _____, with ID number _____, being the
Surety in this application (**hereinafter referred to as “the Surety”**), and with registered address being located at

Email: _____

Contact No: _____

which address the Surety chooses as their *domicilium citandi et executandi*, do hereby admit that the Surety is
liable to, and holds itself bound to:

_____ - (Registration No. _____)

(referred to as “the Creditor” or “the Provider”)

and its successors in title for the due and proper fulfilment of all the obligations of and for the punctual payment
of all sums which are or may become due by:

(referred to as “the Debtor” or “the Applicant” or “the Customer”)

in terms of, or in connection with or arising in any way whatsoever out of:

This written application and agreement in terms of which goods/services are to be sold and delivered,
alternatively services to be rendered, by the Creditor to the Debtor (Applicant/Customer).

I, being the Surety, alternatively the duly authorized representative of the Surety, agree and declare that:

1. I am fully acquainted with all the terms and conditions of this agreement and the above application and accept same.
2. No act of indulgence, relaxation or grace granted by the Creditor to the Debtor or Surety (including any act of accepting payment after due date or in accepting a lesser sum than the amount due), shall prejudice or affect the Creditor’s rights in terms hereof; and if any action by the Creditor results in terms hereof, and if any action by the Creditor results in a novation of any debt or liability between the Creditor and the Debtor or if any transaction between the Debtor and Creditor is terminated in terms of section 6C of the Usury Act, 1968 as amended, and a new transaction concluded in place thereof, then Surety undertakes and agrees to be similarly bound as Surety and Co-Principal Debtor in favour of the Creditor for such novated debt or liability or such newly concluded transaction.
3. This Suretyship shall remain in force as a continuing security until such time as all the obligations of the Debtor to the Creditor in terms of the said Agreement aforesaid have been duly and properly fulfilled.

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

4. This Suretyship shall be in addition to and without prejudice to any other Suretyship or securities now held or hereafter held by the Creditor from or on behalf of the Debtor.
5. I, as the Surety or acting on behalf of the Surety, renounce the benefits of excursion, division and cession of action, the full meaning and effect whereof I know and understand.
6. If the Debtor is placed under provisional or final winding up, the Surety's liability hereunder shall not be affected in any way. In particular, this Suretyship shall continue to guarantee, subject to all the provisions set out in this document, the payment of any indebtedness of whatsoever nature which may become due.
7. This Suretyship constitutes the entire surety agreement between the Creditor and the Surety and no variation thereof shall be of any force or effect unless it is in writing and signed by both the Creditor and the Surety or Surety's duly authorized representative.
8. Each signatory (where applicable) who is married warrants and represents to the Creditor that no consent from such signatory's spouse is required in terms of the Matrimonial Property Act, No. 88 of 1984 (as amended) to bind the joint estate of such signatory and his spouse (where applicable). Each such signatory acknowledges that they know and understand the full meaning and effect of the foregoing.
9. I acknowledge that no representations whatever have been made to me in order to induce me to sign this Suretyship; same is true on behalf of the Surety as applicable.
10. Should any provision or term of this agreement be held to be invalid or unenforceable, then such term or provision shall be severed from this agreement, and, accordingly, this agreement shall be construed as if such invalid or unenforceable term or provision was never a part hereof. The parties agree to substitute such invalid or unenforceable term or provision with a replacement that most closely approximates and confers the effect and economic intent of the parties.
11. **The signatories to this surety agreement warrant and undertake that they are duly authorized and able to sign this agreement on behalf of the parties; such signatories also warrant and undertake that they are fully able to bind the parties to the provisions and conditions of this agreement.**

SURETY SIGNATURES

THE CREDITOR (THE PROVIDER)

Dated at _____ on this _____ day of _____ 2024.

(Sign)

(Name of Creditor Representative)

THE SURETY

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____

Dated at _____ on this _____ day of _____ 2024.

(Sign)

(Print Name)

Witness 1

Full Names and Surname:

Identity Number:

Signature:

Address:

Contact number:

Witness 2

Full names and Surname

Identity Number:

Signature:

Address:

Contact number:

PART D – POPIA DISCLAIMER

In order to give effect to this credit application, the Provider is necessarily involved in the collection, use and disclosure of certain aspects of the personal information of the Applicant. The Applicant, by providing the information in question, understands that disclosing such information to the Provider is necessary to give effect to the provisions of this agreement.

1. Given the importance of privacy and the protection of sensitive information, the Provider is committed to effectively managing personal or confidential information in accordance with the provisions of POPIA.
2. The Provider will under no circumstances distribute or share the Applicant's personal or confidential information between separate legal entities, associated organizations or with any individuals that are not directly involved with facilitating the purpose for which the information was originally collected. The Provider will process personal information only for specific, defined, and legitimate reasons; the Provider shall also only use and process personal or confidential information where the object of the legal process (the reason why you engaged our services or relationship) requires the use or disclose of such personal or confidential information.
3. Personal or confidential information will not be processed for a secondary purpose unless that processing is compatible with the original purpose.
4. The Provider will manage the security of its filing / data record-keeping system to ensure that personal or confidential information is adequately protected. To this end, security controls will be implemented in order to minimize the risk of loss, unauthorized access, disclosure, interference, modification or destruction of any personal or confidential information.
5. Employees and other persons acting on behalf of the Provider will, during the course of the performance of their services, gain access to and become acquainted with the personal or confidential information of the Applicant. Employees and other persons acting on behalf of the Provider are required to treat personal or confidential information as a confidential business asset and to respect the privacy of the Applicant.
6. The Provider cannot effectively provide the necessary or requisite services or goods or relationship without obtaining and processing certain personal or confidential information of the Applicant.
7. By signing this application form, or providing your personal or confidential information, the Applicant accepts and acknowledges that the disclosure of some of their information, documents or other related information is necessary in order to fulfil the point and purpose for which the information is so provided.
8. The Applicant and their duly authorized representative hereby gives full and complete consent, to the Provider, to use the Applicant-supplied information, documents or similar for the purposes of handling or dealing with the Applicant's matter.
9. The Applicant irrevocably agrees and acknowledges that some of or all of the information provided, whether personal or otherwise, may be used and processed by the Provider and such use may include placing such information in the public domain in limited circumstances.

Should you (the Applicant) not agree to the terms and conditions as set out in this document, you must notify the Provider immediately, failing which it will be deemed that you (the Applicant) accept and agree to the terms and conditions set out above.

THE APPLICANT / CUSTOMER

Name of signatory: _____ Signatory Sign: _____

Witness name: _____ Witness sign: _____

Witness name: _____ Witness sign: _____

Provider initial: _____ Applicant initial: _____ Witnesses initial: _____