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“THE CREDITOR”

This document consists of 4 pages

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2008

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APPLICATION FOR CREDIT (INCLUDING DEED OF SURETYSHIP)

A.

REGISTERED NAME OF “THE APPLICANT” _____

TRADING NAME/STYLE OF “THE APPLICANT” _____

*SOLE OWNER / *PARTNERSHIP / PTY LTD / CC: (Please indicate) _____

COMPANY / REGISTRATION NO: _____ VAT NO: _____

*IDENTITY NUMBER _____

REGISTERED OFFICE OF THE CO/CC _____

HOLDING COMPANY _____

NAME & ADDRESS OF AUDITORS _____

CHOSEN DOMICILIUM ADDRESS: _____

POSTAL ADDRESS: PO BOX _____ TOWN _____ POSTAL CODE _____

PHYSICAL / ADDRESS: _____

SUBURB _____ TOWN _____ POSTAL CODE _____

CONTACT PERSON (CREDITORS)

NAME _____ TEL NO: _____ FAX NO: _____

CONTACT NAME (BUYER)

NAME _____ TEL NO: _____ FAX NO: _____

WEB ADDRESS: _____

E-MAIL ADDRESS: _____

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- B. THE APPLICANT or its duly authorised agent does hereby apply for credit facilities with THE CREDITOR and in consideration thereof THE APPLICANT (as well as any surety for THE APPLICANT - whose signature appears below) does hereby irrevocably accept the following terms and conditions.
- 1 A certificate signed by the secretary/manager or any director of THE CREDITOR reflecting the amount owing by THE APPLICANT to THE CREDITOR in respect of the credit facilities granted to THE APPLICANT in terms hereof relating to THE APPLICANT'S dealings with THE CREDITOR and of the fact that such amount is due, owing and unpaid shall be prima facie proof of the effects therein stated for the purpose of any action (whether by way of provisional sentence or otherwise), proof of debt on insolvency or for any purpose whatsoever where the amount of such claims is required to be established and it shall rest with THE APPLICANT to prove that such amount is not owing and/or due and unpaid.
 - 2 All overdue sums/amounts shall bear interest at the maximum permissible rate of interest as determined by the Usury Act (Formerly known as the Limitation and Disclosure of Finance Charges Act) No. 73 of 1968 as amended (or any other relevant law), from time to time, such interest to be reckoned monthly in advance from due date to date of payment.
 - 3 Notwithstanding the amount which may at any time be owing by THE APPLICANT to THE CREDITOR, the parties do hereby consent, in terms of Section 45 of the Magistrates Court Act (No 32 of 1944 as amended) to the Jurisdiction of the Magistrate's Court having Jurisdiction for the determination of any action or proceeding otherwise beyond the jurisdiction of the said court which may be brought by THE CREDITOR against THE APPLICANT arising out of any transaction between the parties, it being recorded that THE CREDITOR shall be entitled, but not obliged, to bring any action or proceeding in the said court and that all costs incurred in any action against the applicant in any competent court including costs on an attorney/client scale and attorneys collection commissions will be paid by THE APPLICANT.
 4. In the event of THE APPLICANT defaulting in making payment of any amount that has become due and owing then the full balance outstanding (whether due or not) will immediately become due and payable without notice to THE APPLICANT.

DEED OF SURETYSHIP

- 5.1 I, by my signature hereto (which appears below) do, in addition to the above, hereby bind myself in my private and individual capacity as surety for and co-principal debtor in solidum with THE APPLICANT in favour of THE CREDITOR for the due performance of any obligation of THE APPLICANT and for the payment to THE CREDITOR by THE APPLICANT of any amounts which may at any time become owing to THE CREDITOR by THE APPLICANT from whatsoever cause arising and including, but without limiting the generality of the foregoing, any claims for damages and actions against THE APPLICANT acquired by way of cession. This suretyship shall be a continuing covering guarantee/surety which may only be cancelled, in writing, by THE CREDITOR and then only, provided that all sums then owing by THE APPLICANT (whether due or not) to THE CREDITOR have been paid in full. I hereby renounce the benefits of the legal exceptions "Non causa Dabit" "Ordinis Seu Excussionis Et Divisionis" and "Cession of Action", with the force, meaning and effect of which I declare myself to be fully acquainted. I, furthermore bind myself irrevocably to all of the terms and conditions contained herein. Any other documents signed with the Creditor hereafter do not automatically affect and bring into existence a new contract which would have the effect of compromising the Creditor's rights to enforce the security contained herein.
- 5.2 I furthermore record that if more than one person has appended his signature hereto, there shall come into existence a separate distinct and independent contract of suretyship/guarantee which is brought into existence by each separate signatory hereto. If for any reason this suretyship/guarantee is not binding (for whatsoever reason) on any one signatory then the obligations of the remaining signatories shall nevertheless be and remain of full force and effect.

FURTHER TERMS AND CONDITIONS OF SALE

- C.
1. THE APPLICANT and I (the signatory at page 4 hereof) choose Domicilium Citandi et Executandi for all purposes arising out of this application and Deed of Suretyship at the address stipulated at paragraph A of page 2 hereof.
 2. THE APPLICANT and I undertake to notify THE CREDITOR forthwith in writing of any change of address.
 3. if THE APPLICANT should fail to object to any item appearing on THE CREDITOR'S statement of account within fourteen days of date of the dispatch of the statements, the accounts shall be deemed to be in order.
 4. Unless the context otherwise requires, the words importing the singular shall include the plural and vice versa, a natural person shall include an artificial person and vice versa and the one gender shall include the other gender and vice versa.
 5. THE APPLICANT undertakes to notify THE CREDITOR, in writing, within seven days of any change in ownership of THE APPLICANT'S business, or should THE APPLICANT be a company, of its share transactions whereby the majority shareholding is affected, failing which notice the entire balance owing, whether due or not, will immediately be deemed to be due and payable by THE APPLICANT. In addition to the foregoing, THE APPLICANT acknowledges that immediately upon any change of ownership in THE APPLICANT any outstanding amount whether due or not shall be deemed to be forthwith payable by THE APPLICANT to THE CREDITOR.
 6. Until such time as THE APPLICANT has paid the purchase price in full in respect of any purchase of goods, the ownership in and to all such goods shall remain vested in THE CREDITOR. THE CREDITOR shall, in its sole discretion, without notice to THE APPLICANT, be entitled to take possession of any such goods which have not been paid for and in respect of which payment is overdue, in which event THE APPLICANT shall be entitled to a credit in respect of the goods so returned being the price at which the goods are sold or the value thereof as determined by THE CREDITOR. THE APPLICANT hereby waives any right it may have for a spoliation order against THE CREDITOR in the event that THE CREDITOR takes possession of any goods.
 - 7.1 THE APPLICANT does hereby irrevocably and in Rem Suam cede, pledge, assign, transfer and make over unto and in favour of THE CREDITOR, all of its right, title, interest, claim and demand in and to all claims/debts/book debts of whatsoever nature and description and howsoever arising which THE APPLICANT may now or at any time hereafter have against all and any persons, companies, corporations, firms, partnerships, associations, syndicates and other legal personae whomsoever ("THE APPLICANT'S debtors") without exception as a continuing covering security for the due payment of every sum of money which may now or at any time hereafter be or become owing by THE APPLICANT to THE CREDITOR from whatsoever cause or obligation howsoever arising which THE APPLICANT may be or become bound to perform in favour of THE CREDITOR.
 - 7.2 Should it transpire that THE APPLICANT at any time entered into prior deeds of cession or otherwise disposed of any of the right, title and interest in and to any of the debts which will from time to time be subject to this cession, then this cession shall operate as a cession of all THE APPLICANT'S revisionary rights. Notwithstanding the terms of the foregoing cession THE APPLICANT shall be entitled to institute action against any of its debtors provided that all sums of money which THE APPLICANT collects from its debtors shall be collected on THE CREDITOR'S behalf and provided further that THE CREDITOR shall at any time be entitled to terminate THE APPLICANT'S right to collect such monies/debts.
 - 7.3 THE APPLICANT agrees that THE CREDITOR shall be entitled at any time or times hereafter to give notice of this cession to all or any of THE APPLICANT'S debtors.
 - 7.4 THE APPLICANT further agrees that THE CREDITOR shall, at any time, be entitled to inspect any of THE APPLICANT'S books or records and in addition shall be entitled to take possession of such books and records (of whatsoever nature) to give effect to the terms of this cession.
 8. The goods shall be regarded as having been sold "voelstoets" without warranty against latent defects therein. No liability whatsoever shall arise furthermore on the part of THE CREDITOR for any representation or warranty made or alleged to have been made at any time in respect of the goods sold by THE CREDITOR to THE APPLICANT.
 9. In the event of any order being given to THE CREDITOR on an order form reflecting THE APPLICANT'S name as the entity from which the order emanates, such order shall be deemed to have emanated from THE APPLICANT, notwithstanding the fact that such order may have given or signed by a person not authorised by THE APPLICANT and such order will be deemed to constitute valid delivery.
 10. It is agreed that set-off shall operate automatically as a matter of law at the moment reciprocal debts between THE CREDITOR and THE APPLICANT come into existence and independently of the will of the parties and it shall not be necessary for either THE CREDITOR or THE APPLICANT to specifically raise set-off.
 11. Signature by THE APPLICANT or by any representative of THE APPLICANT of THE CREDITOR'S delivery note, shall be regarded as acceptance by THE APPLICANT that the goods reflected in such delivery note have been properly and completely delivered.
 12. THE APPLICANT acknowledges that THE CREDITOR is not the manufacturer of the goods. THE APPLICANT accordingly indemnifies and holds THE CREDITOR harmless against any claim that may be brought against THE CREDITOR in consequences of such goods being defective and causing any damage whatsoever, whether through accident or negligence, gross negligence or any other cause.

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13. The risk in and to the goods shall pass from THE CREDITOR to THE APPLICANT on the date of delivery notwithstanding that ownership will not pass to THE APPLICANT until full payment of the purchase price. Delivery shall be deemed to have taken place against signature of THE CREDITOR'S delivery note, proof of posting if the goods are posted to the customer, or delivery to the South African Transport Services or Road Carrier if the goods are rail or transported by THE CREDITOR. The Post Office/South African Transport Services or Road Carrier shall act as the agent of THE APPLICANT.
14. THE CREDITOR shall, at any time, in its sole discretion, be entitled to cede all or any of its rights in terms of this application for credit facilities and deed of suretyship to any third party without prior notice to THE APPLICANT.
15. Any condonation of any breach of any of the provisions hereof or other act or relaxation, indulgence or grace on the part of THE CREDITOR shall not in any way operate as or be deemed to be a waiver by THE CREDITOR of any rights under this contract, or be construed as a novation thereof.
16. Each clause of these conditions of sale (at Pages 3 and 4) is severable, the one from the other and if any one or more clauses are found to be invalid or unenforceable, that clause/clauses shall not affect the balance of these conditions of sale, which shall remain of full force and effect.
17. This contract contains the entire agreement between the parties and any other terms thereof whether express or implied or excluded herefrom and any variations, cancellations or additions to this contract shall not be of any force or effect unless reduced to writing and signed by the parties or their duly authorised signatories.
18. THE APPLICANT acknowledges that in the event of it being a proprietorship, partnership, a company or a close corporation and converting from a proprietorship, or company to a close corporation or from a proprietorship, partnership or a close corporation to a company at any time hereafter, as the case may be, any surety/signatory in terms of this application for credit shall nevertheless still remain bond as a surety.
19. THE APPLICANT acknowledges that no terms at variance with the terms and conditions of this application for credit and which have been sought to be introduced by THE APPLICANT at any time shall be of any force of effect unless THE CREDITOR has, in writing, expressly and unambiguously agreed that the terms so sought to be introduced by THE APPLICANT shall apply. Without derogating from the generality of the foregoing, THE CREDITOR shall not be regarded as having so expressly agreed by virtue merely of THE CREDITOR having agreed to execute an order in which inconsistent terms have been introduced by THE APPLICANT and notwithstanding that THE CREDITOR has not rejected such inconsistent terms.
20. THE APPLICANT acknowledges that should the correct goods be supplied and delivered and should these be returned at THE APPLICANT'S request due to no fault accruing to THE CREDITOR, then such goods will be such subject to a 10% handling charge which shall immediately become due and payable by THE APPLICANT. All payments and returns of goods to representatives or agents of THE CREDITOR are entirely at the risk of THE APPLICANT. Goods should be returned directly to THE CREDITOR'S place of business from where the goods were ordered.
21. THE APPLICANT and I warrant that the information submitted above is true and correct in all aspects and that the further terms and conditions of sale with THE CREDITOR are those reflected at Pages 3 and 4 hereof, which further terms and conditions THE APPLICANT and I are entirely familiar with and which terms and conditions are deemed to be incorporated herein and form part hereof.
22. THE CREDITOR does not appoint the Post Office as its agents for payments by post. All payments shall be made to THE CREDITOR'S place of business from where the goods were ordered. In the event of any payments being mislaid or lost in the post, THE APPLICANT shall still be liable to THE CREDITOR for payment.
23. The credit terms granted are, unless amended in writing by a director/manager of THE CREDITOR, 30 (thirty) days net.
24. The APPLICANT consents to THE CREDITOR sharing information on his account with THE CREDITOR, with other credit grantors and credit bureaux. Information shared with such credit grantors and bureaux is used to make credit granting decisions to prevent fraud and manage risk.
25. The Applicant agrees that the signature of any agent, contractor, sub-contractor or employee of the Applicant on the Creditor's official delivery note/invoice/waybill, or the delivery note of any authorised independent carrier will constitute delivery of the goods purchased.
26. In the event that the Creditor agrees to effect delivery by its own vehicles or those of a transport contractor to the customer at its place of business, then offloading will be effected by the Applicant's own employees at the sole risk of the Applicant who will be responsible for all damage of whatsoever nature caused by or as a result of such offloading. The Creditor's employees may, if so requested, assist with such offloading, but only at the sole risk of the Applicant.
27. When the Applicant collects goods from the Creditor using its own or its agent's transport, then such collection will be entirely at the Applicant's risk and the Applicant will be liable for all damage of whatsoever nature caused as a result of or during such collection. The Applicant will be liable for loading the goods onto its transport provided that the Creditor may, if so requested, assist the Applicant with such loading, but only at the sole risk of the Applicant.
28. In the event of the Creditor acceding to any request by the Applicant to postpone delivery of the goods, or in the event of the Applicant failing to give the Creditor sufficient information to enable it to process any order, the Applicant will pay any costs and expenses thereby incurred by the Creditor.
29. Ownership of all returnable containers shall remain vested in the Creditor at all times. The Applicant will be required to pay a deposit for each container which deposit will be refunded to the Applicant on return of the container to the Creditor, WITHIN 3 MONTHS OF INVOICE, in good condition, together with the cap. Fair wear and tear accepted.
 Flobins which are not returned within 45 days of delivery will be subject to an additional daily rental fee. The onus rests with the Applicant to return the containers to the branch from which the goods were bought.
 No responsibility will be accepted for any loss of mass or volume of products while in transit occasioned through drying or evaporation. The Creditor shall not be responsible for damages suffered by the Applicant relating to mass and quality or non-delivery of goods where delivery is effected by a third party.

SIGNED BY THE APPLICANT OR ITS DULY AUTHORISED AGENT/SIGNATORY (AND BY MYSELF IN MY PERSONAL CAPACITY AS SURETY) WHO HEREBY WARRANTS THAT HE/SHE IS AUTHORISED TO SIGN ON BEHALF OF THE APPLICANT.

Signed at _____ this _____ day of _____ 200_____

before the undersigned witnesses:

Signature: 1. _____ Full Name: (Please print) _____

2. _____ Full Name: (Please print) _____

3. _____ Full Name: (Please print) _____

Witnesses: 1. _____ Full Name: (Please print) _____

2. _____

Full Name: (Please print) _____