



INTERNATIONAL  
**TRADING**  
AGENCY

ONBOARDING AND CREDIT APPLICATION FORM INCLUDING STANDARD TERMS  
AND CONDITIONS

Name of Salesperson	
Date	



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Type of trading entity (Tick applicable box)	Sole Proprietor	Partnership	Private Company	Close Corporation	Specify Other
Registered Name					
Trading Name					
Registration No.			Vat Registration No.		
Nature of Business					
Holding Company Name					
Date Established			No. of staff		
Years Under Present Ownership			Annual Turnover		
Auditors			Contact Person and Number		
Physical Business Address					
Postal Address					
Delivery Address					
Contact Person			Designation		
Telephone Number			Facsimile		
E-mail Address			Website		
Bankers Name			Branch		
Account Type			Account No.		
How long has the bank account been established?					
Has security been given for any overdraft?	Yes	No	If "Yes", to whom and what form of security?		
<b>Details of Directors / Members / Trustees / Partners / Owners</b>					
Name	Designation	ID No.	% Holding	Residential Address	
Have any guarantees in favour of other suppliers been issued / signed by the applicant or any directors / members / trustees / partners / owners?	Yes	No	If "Yes", please specify?		
Are the assets of the applicant bonded or otherwise encumbered?	Yes	No	If "Yes", in favour of who?		

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Have any Directors / Members / Trustees / Partners / Owners ever been declared insolvent	Yes	No	If "Yes", please specify?	
Are financial statements available for inspection	Yes	No	F.Y.E. Date	
Are the purchaser's business premises rented?	Yes	No	If "Yes", please provide the Name of Landlord and contact details.	
<i>With reference to the Consumer Protection Act, where the applicant is a juristic person as defined in the CPA, do the assets and / or annual turnover of the applicant exceed R2 million, or the current threshold of the CPA?</i>				
Yes		No		
Please provide three current trade references				
Reference Name	Monthly Spend	Contact Person	Address & Telephone Number	
Please confirm credit facilities required				
Operating Company	Initial Order Value	Estimated Annual Purchases	Credit Limit Required	

- "The Trading Agent " means International Trading Agency (Pty) Ltd, Registration Number 2018/040842/07, its successors in title and or associate entities.
- The Purchaser warrants that all the information contained in this Onboarding and Credit Application form is true and correct in each and every respect and authorises the Trading Agent to use any reasonable means to verify this information.
- The Purchaser hereby irrevocably and unconditionally consents and authorises the Trading Agent, to conduct credit checks with all credit bureaus for the duration of this Agreement, from time to time, in the absolute and sole discretion of the Trading Agent for whatsoever reason it may deem fit including but not limited to track the credit histories of the Purchaser, minimise risk, verify and audit the Purchaser's information, determine interest rates, fraud prevention or detection, the viability and sustainability of a long-term partnership between the Purchaser and the Trading Agent.
- The signatory signing this application on behalf of the Purchaser warrants that he/she has the necessary authority to bind the Purchaser. In the event that it transpires that the said signatory did not have the necessary authority, then in that event, the said signatory will be liable for all the obligations of the Purchaser, in his/her capacity as co-principal debtor.
- The Purchaser hereby accepts and agrees that all business is undertaken in terms of the Trading Agent's Standard Terms and Conditions which terms and conditions the Purchaser acknowledges having read and understood.

**PURCHASER'S SIGNATURE**

Sign:	
Name of signatory:	
Designation of signatory:	
Date:	
Place:	
Witness:	
The abovementioned signatory warrants by his signature that he is duly authorised hereto	

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**TRADING AGENT'S SIGNATURE**

Sign:	
Name of signatory:	
Designation of signatory:	
Date:	
Place:	
Witness:	
The abovementioned signatory warrants by his signature that he is duly authorised hereto	

**FOR OFFICE USE ONLY**

Account number assigned	
Date approved	
Credit limit granted	
Payment terms granted	
Account executive	
Branch	

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**Kindly attach the following Requirements:**

<b>Company Information</b>	<b>Documentation Required</b>
<b>Registered Name and Company documents</b>	<p>Certification of Incorporation (CM1) and Memorandum of Incorporation (CM2) and any other forms amending company information, as applicable (e.g. Certificate of change of name of company (CM9)), share register</p> <p>OR</p> <p>Registration Certificate (COR14.3) and Memorandum of Incorporation (COR15.3) and any other forms amending company information, as applicable (e.g. Amendment of memorandum of incorporation (COR15.2)), share register</p>
<b>Registered Address</b>	<p>Notice of Registered Office &amp; Postal Address (CM22)</p> <p>OR</p> <p>Registration Certificate (COR14.3) or Notice Of Change Of Registered Address (COR21), if applicable</p>
<b>Trading/Operating Name</b> <b>(if different from registered name)</b>	<p>Independent documentary evidence reflecting the Business / Trading Name (e.g. letterhead, proof of address, business invoice)</p>
<b>Operating Address</b> <b>(if different from registered address)</b>	<p>Recent documentary evidence of the operating address (e.g. utility bill)</p>
<b>Contact Details</b>	Verification not required
<b>Proof of Bank Details</b>	Bank confirmation letter
<b>SA Income Tax &amp; VAT Registration Numbers, where applicable</b>	<p>Notice of Income Tax Registration</p> <p>Notice of VAT Registration</p>

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## STANDARD TERMS AND CONDITIONS

### 1. Interpretation

#### 1.1 Any reference in these Terms and Conditions to:

- 1.1.1 a clause is, subject to any contrary indication, a reference to a clause of these Terms and Conditions;
- 1.1.2 a person is a reference to any natural or juristic person, firm, company, corporation, government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality);
- 1.1.3 any statute, regulation or other legislation is a reference to that statute, regulation or other legislation as amended or substituted from time to time;
- 1.1.4 “for any reason whatsoever” is interpreted in its broadest sense and shall include but not be limited to any action, failure to take action, fault, omission or negligence;
- 1.1.5 a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time;
- 1.1.6 “including” or “in particular” does not limit the meaning of the preceding general words.

#### 1.2 Headings are included in these Terms and Conditions for the purpose of convenience only and will not be used in its interpretation.

#### 1.3 Unless the context indicates otherwise, in these Terms and Conditions a reference to the singular includes the plural and vice versa and a reference to any gender includes the other genders.

#### 1.4 When any number of days is prescribed in these Terms and Conditions, the number excludes the first and includes the last day unless the last day falls on a day which is not a Business Day, in which case the last day will be the next Business Day. Any reference to times of the day must be interpreted as references to local times in the relevant jurisdiction, unless the context indicates otherwise.

#### 1.5 If a definition in these Terms and Conditions is substantive, conferring rights or imposing obligations, or both, on a Party, effect will be given to it as if it were a substantive term in the body of these Terms and Conditions.

#### 1.6 The termination or expiration of this Agreement will not affect those terms in this Agreement which expressly provide that they will operate after termination or expiration or which of necessity must continue to have effect after termination or expiration, notwithstanding that the terms do not expressly provide this.

#### 1.7 The terms of this Agreement have been negotiated by the Parties and drafted for the benefit of the Parties, and accordingly the rule of construction that a contract will be interpreted against or to the disadvantage of the party responsible for drafting the contract, will not apply.

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## 2. Definitions

- 2.1 “**Supplier**” means the company from which the Purchaser purchases or obtains the Products and or Services;
- 2.2 “**Trading Agent**” means International Trading Agency (Pty) Ltd, registration number 2018/040842/07, its successors in title and / or associate entities;
- 2.3 “**Purchaser**” means the party purchasing Products and/or Services from the Supplier;
- 2.4 “**Party**” and Parties means the Trading Agent and or Supplier and Purchaser and “**Party**” means any one of them as the context may require;
- 2.5 “**Products and Services**” means the Products and Services which are the subject of a sale between the Trading Agent and or Supplier and the Purchaser, and or Services to be provided by the Supplier to the Purchaser.
- 2.6 “**STC**” means these standard terms and conditions applicable in terms of this agreement.

## 3. Application of the STC

- 3.1 All Products and Services purchased or provided by the Supplier shall be subject to these STC.
- 3.2 Each provision contained herein is deemed to be incorporated in any transaction or supply of any Products and Services.
- 3.3 These STC replace all previous terms of sale and apply despite anything to the contrary set out in any invoices, delivery notes, quotations and other stationery as may be imposed by the Parties.
- 3.4 Any conflicting provisions contained in other documentation or correspondence of the Purchaser or Supplier shall be null and void unless such terms have been expressly reduced to writing, hardcopy written version must be signed by means of handwritten signatures by or on behalf of the Parties. These STC shall prevail over any STC of Purchaser notwithstanding the date of such conflicting standard terms and conditions.

## 4. Ordering procedure

- 4.1 The Purchaser may place an order in respect of Products and Services orally or in writing with the Supplier which order if accepted by the Supplier and subsequently the Trading Agent, must be accepted by a duly authorized person acting on behalf of the Trading Agent and Supplier in writing.
- 4.2 Upon acceptance by the Trading Agent and the Supplier of an order, orders shall not be subject to cancellation or amendment by the Purchaser in any manner whatsoever without the prior written consent to such cancellation or amendment by an authorized person of the Trading Agent.
- 4.3 Notwithstanding the acceptance of the cancellation or amendment of an order by the Trading Agent, the Trading Agent shall be entitled to recover all damages incurred by it arising from or in connection with such cancellation or amendment, including but not being limited to all costs, expenses and loss of profit.
- 4.4 The Purchaser must provide the Trading Agent and Supplier with all the information relating to any order. Failure to provide any material information within seven days of a written request from the Trading Agent and / or the Supplier is a material breach and entitles the Trading Agent and / or the Supplier to cancel the order.

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**5. Quotations**

- 5.1 Any quote given by the Trading Agent and/or Supplier to the Purchaser shall not exceed the time period specified on that quote, unless otherwise agreed in writing by the Trading Agent and / or Supplier.
- 5.2 Any additional Products and Services which the Trading Agent and / or Supplier is obliged or entitled to provide, which have not been quoted for, shall be charged at the usual rate of the Trading Agent and / or Supplier in respect of such Products and Services, or where there is no usual rate, at a reasonable charge.
- 5.3 The Trading Agent and / or Supplier shall be entitled by notice to the Purchaser to cancel or resile from any quote or agreement in the event that it becomes either impracticable or uneconomical for the Trading Agent and / or Supplier to carry out the contract at the quoted rate and the Purchaser shall have no claim whatsoever against the Trading Agent and / or Supplier and indemnify the Trading Agent and / or Supplier against all damages, loss, expenses, fees, legal actions and other costs incurred by the Purchaser for any reason whatsoever.
- 5.4 The price of any Products and Services sold by the Trading Agent and / or Supplier will be the agreed price sent to the Purchaser by the Trading Agent and / or Supplier. If there is any change in the price between the date of order and the date of delivery note, the Trading Agent and / or Supplier will notify the Purchaser.
- 5.5 Regardless of the price and/or discount as reflected on the face of any invoice, statement of account and/or order, the Trading Agent will be entitled to enforce the prices and discounts which are relevant on the date of delivery of the Products and Services.
- 5.6 The Purchaser is responsible for and undertakes to pay to the Trading Agent at the same time it is obliged to pay any sum in respect of the Products and Services supplied, any tax payable thereon in terms of the Value Added Tax Act 1991.
- 5.7 Without limiting the generality of any other conditions, the Trading Agent and / or Supplier may at its discretion invoice the Purchaser in respect of all delivered portions of any order at such intervals as may be appropriate or convenient.
- 5.8 Prices are not subject to discounts unless agreed in writing by an authorised representative of the Trading Agent and / or Supplier. Discounts will be forfeited by the Purchaser in the event that payment is delayed.
- 5.9 In the event of any increase in the input costs of the Products and Services and/or a fluctuation in the exchange rate causing an increase in the input costs the Trading Agent shall be entitled to amend the price of the Products and Services by giving the necessary notice to the Purchaser in respect thereof.

**6. Payment and Interest**

- 6.1 Payment of the purchase price shall be in accordance with the credit terms reflected on the statement submitted by the Trading Agent to the Purchaser, *alternatively*, within the time period as agreed to in writing between authorised representatives of the Purchaser and Trading Agent provided that such period shall never exceed thirty (30) days after date of statement, free of deduction, setoff and bank exchange in South African currency in cash into the bank account of the Trading Agent, or such other bank account as the Trading Agent may from time to time nominate.

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- 6.2 If the Purchaser fails to pay any amount owing to the Trading Agent on the due date, the Trading Agent shall be entitled to instruct the Supplier to suspend delivery of any order or part thereof.
- 6.3 The Trading Agent reserves the right to unilaterally rescind the Purchaser's credit facilities to the Purchaser and to request that the Purchaser pay in advance of delivery of Products and Services or provide adequate security for payment of the price.
- 6.4 Unless the National Credit Act No 34 of 2005 (**National Credit Act**) is applicable, an amount not paid on due date shall, at the discretion of the Trading Agent, bear interest from the due date until it is paid in full at the rate of five (5) percentage points above the prime interest rate as publicly quoted by the South African Reserve Bank from time to time, calculated per annum and compounded monthly in arrears. Where purchases are made for the account of a third party, the Purchaser will nevertheless remain liable for payment. Payment shall only be effective on the day it is received by the Trading Agent. All payments received from the Purchaser shall be appropriated firstly towards costs, interest and then capital. All payments appropriated for the payment of outstanding capital, will first be applied to the oldest outstanding capital.
- 6.5 A certificate signed by a representative of the Trading Agent (whose authority need not be proved), confirming the total debt owing by the Purchaser at the date of the certificate shall be sufficient and satisfactory proof to enable the Trading Agent to obtain provisional sentence or judgment against the Purchaser.
- 6.6 The Trading Agent is entitled to, under any circumstances and for the duration of this Agreement, to apply set off in respect of any costs, damages, expenses or amounts that might be due by the Purchaser to the Trading Agent.
- 6.7 If the Trading Agent has granted credit terms or credit facilities to the Purchaser in writing, which provide the Purchaser with a deferred period of time to effect payment of any amount due to the Trading Agent, and in the event of the Purchaser being in default of payment of any one or more amount due and payable, or being in default of any other term or condition on which such credit facility was granted, then notwithstanding any other term to the contrary wheresoever contained, the Trading Agent shall be entitled to immediately revoke such credit facilities and declare all amounts immediately due and payable.

## 7. **Ownership**

Ownership of all Products delivered will not pass from the Supplier to the Purchaser until such time as the purchase price has been paid in full.

## 8. **Disclaimer/Indemnity**

- 8.1 The Supplier has outsourced the trading activities of its business to the Trading Agent. The Trading Agent has agreed to fulfil this outsourced function as an agent.
- 8.2 The Purchaser acknowledges that the Trading Agent, as agent for and on behalf of the Supplier in the context of the provision of the Products and Services, concludes any agreement with the Purchaser, such agreement is deemed to be concluded between the Supplier and the Purchaser.
- 8.3 Where the Trading Agent, as agent for and on behalf of the Supplier concludes any contract with the Purchaser, the Purchaser irrevocably agrees that the Trading Agent shall have no responsibility or liability to the Purchaser

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for any act or omission of any nature whatsoever of the Supplier, even though the Trading Agent may receive payment for the Products and Services.

- 8.4 Accordingly, the Purchaser indemnifies and holds the Trading Agent harmless against any cost, expense, loss, damage, duties, taxes, levies, penalties, liability or claim arising from the obligations of the Supplier and the Purchaser shall not be entitled to withhold and / or setoff any payment due to the Trading Agent arising from any breach of obligations by the Supplier. This disclaimer does not affect the Purchaser's statutory rights against the Supplier for any damages the Purchaser might suffer from any act or omission of the Supplier.

## 9. **Credit**

- 9.1 The granting of Credit to the Purchaser in terms hereof shall be entirely in the absolute and sole discretion of the Trading Agent at all times.
- 9.2 The Purchaser shall be entitled to place orders up to the Credit Limit.
- 9.3 Subject to clauses 9.1 and 9.2 the Credit Limit may be reduced by the Trading Agent or the Purchaser on written notice (which shall specify the new Credit Limit and when it will take effect).
- 9.4 The Credit Limit may only be temporarily or permanently increased by written agreement between the Purchaser and the Trading Agent.
- 9.5 Should the Purchaser exceed the Credit Limit at any time, the Trading Agent shall at its sole discretion and without prejudice to any of its rights or remedies in terms hereof and at law, be entitled to refuse to accept an order confirmation, even though any amount in respect the Products and Services already rendered may not yet be due and payable.
- 9.6 The fact that the Purchaser receives Credit in terms of this Agreement does not mean and shall not be construed as obliging the Trading Agent and / or Supplier to provide Products and Services to the Purchaser, it being understood that the Trading Agent and / or Supplier shall always be entitled to refuse to provide or render Products and Services respectively required by the Purchaser.

## 10. **Delivery and Risk**

- 10.1 Risk of loss or damage shall pass to the Purchaser on delivery to or collection by the Purchaser and or the Purchasers subcontractors of Products.
- 10.2 On delivery of Products the Purchaser shall sign a delivery note and such a delivery note signed by the Purchaser or any other person at the place of delivery shall be prima facie proof that the Products has been delivered in good condition.
- 10.3 If the Purchaser fails to take delivery of the Products ordered or in any way delays the delivery of the Products so ordered, then the risk in the Product shall immediately pass to the Purchaser who shall be liable to pay the Trading Agent for the Products as well as the reasonable cost of storing, insuring and handling the Products until delivery takes place, upon demand. The Supplier and Trading Agent will be indemnified against any loss or damage which may be suffered by the Purchaser resulting from such storage.

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**11. Delay**

The Supplier shall take all reasonable steps, within its power to deliver on the required date but does not guarantee timely delivery. Neither the Trading Agent or Supplier shall be liable for any loss or damage as a result of any delay or any other default which may arise from circumstances completely or partly beyond the Supplier's control.

**12. Voetstoots**

The Products are sold "voetstoots" without any express or common law warranty concerning quality and suitability for any purpose. The Purchaser indemnifies the Supplier and / or Trading Agent for any claims of third parties arising out of the supply of Products by the Purchaser to a third party arising from any cause whatsoever or howsoever arising.

**13. Return of Products**

- 13.1 No claim resulting from damage to the Products, or containers or shortages arising during delivery shall be considered unless the delivery note has been signed by or on behalf of the Purchaser, the damages have been specified on the delivery note, and the claim is received by the Supplier within two (2) days after receipt of the Products by the Purchaser.
- 13.2 The Purchaser shall not be entitled to return the Products without the prior written approval of the Supplier, which approval shall not be withheld if the Purchaser can prove that the damage or defect in respect of the Products which is the basis for the proposed return of the Products was in existence or had occurred prior to the delivery of the Products. If Products are returned contrary to what is provided for herein, the Supplier shall be entitled to store the Products at the Purchaser's sole risk and expense.
- 13.3 Products may not be returned by the Purchaser if they have been partially or entirely disassembled, physically altered, or mixed with any other Products.
- 13.4 Agreed returns must be delivered back to the Supplier within thirty (30) days of the Supplier's approval whereafter no returns will be accepted.
- 13.5 The Supplier via the Trading Agent shall in its sole discretion be entitled to charge a handling fee of 10% (ten percent) on all returns.
- 13.6 The Supplier may, at its discretion, replace any defective Products or authorise the Trading Agent to reimburse the Purchaser after receipt of the defective Products from the Purchaser. The decision will be communicated to the Purchaser in writing and will be binding on the Purchaser.
- 13.7 Any Products returned to the Supplier by the Purchaser as "*defective*" that are in fact not defective, may be returned by the Supplier to the Purchaser at the Purchaser's risk and cost.

**14. Anti – Corruption**

- 14.1 The Purchaser hereby agrees and undertakes that in accordance with these STC it will comply with all applicable laws and anti-corruption laws, rules and regulations, decrees and/or official government orders of the Republic of South Africa, with particular reference but not limited to the provisions of the Prevention and Combating of

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Corrupt Activities Act 12 of 2004, the Public Finance Management Act 1 of 1999 and the Constitution of the Republic of South Africa; and the laws of any country where any of the parties will undertake the performance of their obligations in connection with these STC.

- 14.2 The Purchaser represents, warrants and undertakes that it, and each of its owners, directors, officers, employees, and every other person acting on its behalf will not engage in acts or transactions (including any not involving a party), otherwise in violation of or inconsistent with the principles of any applicable anti-corruption legislation, including but not limited to anti-corruption laws of the Republic of South Africa or successor legislation. For the purposes of this undertaking, the applicable laws of the Republic of South Africa, and the laws of any other country where any of the parties will undertake the performance of their obligations, shall be deemed to apply to each party regardless of whether the party is otherwise subject to those laws.
- 14.3 The Purchaser represents and warrants that to the best of its knowledge and belief neither it nor any of its directors, or other officers, employees, partners, shareholders, agents, consultants or representatives:
- 14.3.1 has at any time been found by a court in any jurisdiction to have engaged in any corrupt activity (or similar conduct);
  - 14.3.2 has at any time admitted to having engaged in any corrupt activity;
  - 14.3.3 has at any time been investigated or been suspected in any jurisdiction of having engaged in any corrupt activity (or similar conduct).
- 14.4 The Purchaser confirms that it does not know or have any reason to suspect that:
- 14.4.1 the proceeds, funds or property that are the subject of any transactions under this agreement involving the parties are or will be derived from, or related to, any illegal and fraudulent activities under any applicable laws; and
  - 14.4.2 the proceeds, funds or property that are or will be the subject of such transactions are not intended to commit, further, or sponsor a violation of applicable law, including but not limited to violations of any tax, customs or revenue laws.
- 14.5 The Trading Agent warrants that they shall:
- 14.5.1 Act lawfully, ethically and in the public interest;
  - 14.5.2 Not tolerate behaviour within the Trading Agent by clients or suppliers, or public officials with whom they deal, that is illegal, unethical or breaches human rights;
    - 14.5.3 Not accept or offer bribes, or participate in corrupt practices, and have a zero tolerance for bribery and corruption in any form by any party.
- 14.6 Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with these STC.

## 15. **Errors And Omissions**

- 15.1 The Trading Agent shall not be liable to the Purchaser for any errors and/or omissions contained in any documentation.
- 15.2 All price lists, acknowledgements and invoices are subject to correction by the Trading Agent for any errors or omissions. In particular, the Trading Agent may correct typing and clerical errors in respect of the Trading Agent's documentation.

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**16. Costs**

- 16.1 Each Party is responsible for its own costs in connection with this Agreement including the negotiation, preparation, execution and implementation of this Agreement.
- 16.2 The Purchaser irrevocably and unconditionally undertakes to pay all costs and expenses, including but not limited to, legal fees as between attorney and own client, plus VAT thereon, incurred by the Trading Agent in or in connection with the enforcement, breach, termination, breach notices, all negotiations between the parties and or their legal representatives, amendments, advocates fees (including senior and junior council or both) or indulgences required by the Purchaser of any nature whatsoever in terms of this Agreement. All such cost and expenses will become immediately payable upon the presentation of an account or invoice for such costs and expenses hereby indemnifies and holds the Trading Agent harmless for all such sums.

**17 Confidentiality**

- 17.1 Each Party must treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement, including without limitation any information which relates to:
- (a) the terms of this Agreement.
  - (b) the negotiations relating to this Agreement.
  - (c) the subject matter of this Agreement; and/or
  - (d) the other Parties.
- 17.2 A Party may disclose information which would otherwise be confidential if and to the extent:
- (a) agreed between the Parties in writing.
  - (b) required by law.
  - (c) required by any securities exchange or regulatory or governmental body to which that Party is subject, wherever situated, whether or not the requirement for information has the force of law.
  - (d) required to vest the full benefit of this Agreement in that Party; or
  - (e) the information has come into the public domain through no fault of that Party.

**18 Arbitration**

- 18.1 Any dispute arising from or in connection with this Agreement will be finally resolved by arbitration.
- 18.2 The arbitrator will be such person as may be agreed upon between the Parties, or failing agreement such person as may be appointed at the request of a Party by the Arbitration Foundation of Southern Africa.
- 18.3 The arbitration will be conducted in accordance with the Rules of the Arbitration Foundation of Southern Africa for Commercial Arbitrations.
- 18.4 The place of the arbitration will be Durban.
- 18.5 The language to be used in the arbitration proceedings will be English.
- 18.6 Nothing in this clause shall prevent a Party from obtaining urgent relief in any court of competent jurisdiction and to this end the Parties submit themselves to the jurisdiction of the courts of the Republic of South Africa.

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## 19 **Breach**

- 19.1 Should a Party ("**Defaulting Party**") breach any of the provisions of this Agreement, then the other Party/Parties to whom the obligations in respect of the breach are owed ("**Aggrieved Party**") may give the Defaulting Party ten (10) Business Days' written notice or such longer period of time as the Aggrieved Party may specify in the notice, to remedy the breach.
- 19.2 If the Defaulting Party fails to remedy the breach and comply with the notice, the Aggrieved Party may:
- a) claim immediate payment and/or performance by the Defaulting Party of all of the Defaulting Party's obligations that are due for performance; or
  - b) cancel this Agreement upon written notice to the Defaulting Party, provided that the Purchaser may not cancel the Agreement unless the breach constitutes a material breach, in either event without prejudice to the Aggrieved Party's right to claim damages or to exercise any other rights that the Aggrieved Party may have under this Agreement or in law.
- 19.3 A "**material breach**" for the purposes of clause 19.2(b) is one which goes to the root of the contract, and which is one which cannot be remedied by a payment in money.
- 19.4 Any cancellation is without prejudice to any claim that either Party may have in respect of any breach of the terms and conditions of this Agreement by the other Party arising prior to the date of cancellation.

## 20 **Force Majeure**

- 20.1 A Party shall not be liable for a failure to perform any of its obligations hereunder due to a Force Majeure event (which includes but is not limited to war, civil war, civil violence, riots, revolutions, acts of piracy, acts of sabotage, terrorism, sabotage, natural disasters, destruction by lightning, explosions, fires, destruction of installations, industrial action or strike, changes of law, acts of Authority, whether lawful or unlawful) that is beyond its control and that it could not reasonably be expected to have taken into account at the time of the conclusion of these STC or any agreement between the Parties, provided that the Party subject to the force majeure event shall give prompt notice to the other Party of its nature and estimated duration.
- 20.2 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date upon which the Party seeking relief gives notice of the force majeure event relied upon and shall terminate upon the date which such event ceases to exist.
- 20.3 The Parties hereto shall co-operate and collaborate together and use all reasonable efforts to overcome the force majeure event concerned and/or nullify its effect.
- 20.4 If the force majeure event substantially or permanently prevents the continued performance by either Party of its obligations in terms of these Conditions or any agreement between them for a period exceeding thirty (30) consecutive days, then either Party shall be entitled, by giving notice in writing, to terminate the said agreement with effect from seven (7) days after giving of such notice.

## 21. **General**

- 21.1 In addition thereto, in complying with the Law, the Trading Agent shall not be deemed to have assumed any onus, obligation, responsibility or liability of the Supplier.

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- 21.2 The Purchaser, as well as their agents, servants, subcontractors and intermediaries, hereby warrant that they have not and will not engage in any anti-competitive behaviour in relation to these STC or any contract between the Parties.
- 21.3 The relationship between the Parties does not constitute a contract of employment or partnership.
- 21.4 If any provision of these STC is unenforceable, then the Trading Agent shall be entitled to elect (which election may be made at any time) that such provision shall be severed from the remaining provisions of these STC which shall not be affected and shall remain of full force and effect.
- 21.5 All notices in terms of these STC shall be given in writing and delivered by hand or sent by e- mail. The Purchaser appoints as his/her/its domicilium citandi et executandi for all purposes under these STC its physical address and e-mail address provided by the Purchaser to the Trading Agent on any letterhead, order or other document generated or completed by the Purchaser.  
The Trading Agent chooses as its domicilium citandi et executandi 130 Adelaide Tambo Drive, Durban North, 4051.
- 21.6 No waiver of any of these STC shall be binding unless expressly recorded in writing and signed by a director of the Trading Agent. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will constitute or be deemed to be a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 21.7 These STC and all agreements entered into between the Trading Agent and the Purchaser pursuant thereto and on the terms thereof shall be governed in all respects by and shall be interpreted in accordance with the substantive laws of the Republic of South Africa.

**22. Payments Into an Incorrect Bank Account**

The Purchaser acknowledges and agrees that should it make payment of any amounts due to the Trading Agent into an incorrect bank account, it shall not discharge the Purchaser from its obligations to pay any amounts due to the Trading Agent for Products and Services and disbursements incurred for and on its behalf by the Trading Agent.

**23. Protection of Personal Information Act 4 of 2013**

The Parties agree that they may obtain personal information during the duration of these transactions for the fulfilment of the rights and obligations contained herein and may further only process such information for the specific purposes of complying with their obligations in terms of this agreement. The Parties agree that if personal information will be processed for additional purposes beyond the original purpose for which it was obtained explicit written consent must be obtained beforehand from the other Party.

**24. Implementation and Good Faith**

- 24.1 The Parties to these STC undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give or conducive to giving effect to the terms, conditions and import of these STC.

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24.2 The Parties shall at all times during the continuance of these STC observe the principles of good faith towards one another in the performance of their obligations in terms of these STC. This implies, without limiting the generality of the foregoing, that they will at all times during the term of these STC.

24.2.1 at all times during the term of these STC act reasonably, honestly and in good faith;

24.2.2 perform their obligations arising from this contract diligently and with due skill and reasonable care; and

24.2.3 shall endeavour to amicably resolve any disputes or misaligned matters as soon as possible.

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## DEED OF CESSION CESSION OF DEBTORS

1. We, the undersigned,

..... (Name of Company)

**Registration Number:** .....

**Herein represented by**.....**in his capacity as director duly authorized hereto**  
**("the Cedent")**

hereby irrevocably and unconditionally cede, with effect from and including the Signature Date, to

**INTERNATIONAL TRADING AGENCY (Proprietary) Limited** (Registration No.2018/040842/07) together with its successors in title, assigns and nominees (being hereinafter referred to as "**the CREDITOR**"),

all of the Ceded Rights, such that the Creditor will become owner of the Ceded Rights, as continuing covering security for the due and proper payment and the due and proper performance of the Secured Indebtedness, upon and subject to all of the terms and conditions contained in this cession and the Creditor hereby accepts the cession provided for as recorded in this cession with effect from the Signature Date.

2. In this cession, including clause 1, words importing any one gender include the other two genders, words in the singular include the plural and *vice versa*, and words importing natural persons include trusts, created entities and bodies of persons (including partnerships) whether corporate or not, and *vice versa*, and unless a contrary intention clearly appears, any reference to:
- 2.1 "Agreement" means this cession of Debtors and all annexures and schedules thereto (if any);
- 2.2 "Bank Accounts" means any and all Bank Accounts held in the name of the Cedent from time to time;
- 2.3 "Ceded Rights" means all of the Cedent's right, title and interest (both present and future) in and to:
- 2.3.1 the Bank Accounts, including all Credit Balances; and
- 2.3.2 the Debtors' Book, without restriction or exception (whether as to the identity of the Debtors, the cause of the debt, the nature of the claim or anything else whatsoever and whether actual, prospective or contingent, direct or indirect, common law or statutory, whether a claim to payment of money or to performance of any other obligation, and whether or not the said rights, title and interests thereto were within the contemplation of the Parties as at the Signature Date);
- 2.3.3 the Claims.
- 2.4 "Claims" means any and all claims, rights of action and receivables which the Cedent may, jointly and / or severally from time to time, have against any other party, whether present or future, resulting from any cause whatsoever and howsoever arising, including but not limited to any claims or receivables and proceeds as a result of any contract, delict, claims against insolvent estates, the sale of any movable assets, equipment, stock and harvests (current or future) or from the sale of any immovable property or the proceeds from the sale of immovable property after bondholders have been settled;
- 2.5 "Credit Balances" means any balances standing to the credit of the Bank Accounts from time to time;
- 2.6 "Creditor" includes, unless otherwise indicated, a reference to each of its successors-in-title, assigns and representatives;
- 2.7 "Debtors' Book" means any and all of the Cedent's claims against the Debtors, from time to time;
- 2.8 "Debtors" means any and all third parties who are indebted to the Cedent as at the Signature Date, or who become indebted to the Cedent at any time thereafter from whatsoever cause and howsoever arising;
- 2.9 "I", "me", "our", "we", "us" and "debtor/s" includes, as the case may be, that person's liquidator, judicial manager, trustee, executor, administrator and curator (in each case whether provisional or final), business rescue practitioner, successor-in-title and assigns and any representatives of that Person;
- 2.10 "Obligations" includes, without in any way limiting or affecting the generality thereof, every obligation, indebtedness and cause of indebtedness referred to in or contemplated by clause 2.14;
- 2.11 "Parties" means the Cedent and the Creditor and "Party" means either one of them as the context may require;
- 2.12 "Person" includes, without in any way limiting or affecting the generality thereof, a natural Person, a company, a trust, a created entity and body of persons (including a partnership) whether corporate or not;
- 2.13 "Related rights" means, in relation to the Ceded Rights:
- 2.13.1 any monies and proceeds (including the proceeds of a disposal or other realisation) accrued or receivable in respect of all or part thereof;
- 2.13.2 all rights and benefits in respect of any agreement for the disposal thereof;
- 2.13.3 all contracts, cessions, warranties, remedies, Securities, indemnities and other undertakings in respect thereof;
- 2.14 "Secured Indebtedness" or "Secured Obligations" includes, without in any way limiting or affecting the generality thereof, all sums of money and all Obligations which we may at present or in future owe or incur to the Creditor from whatsoever cause and howsoever and whensoever arising, whether arising out of contract, delict, unjust enrichment, statutory enactment, sale and purchase orders, credit granted, financial facilities, services or the operation of the common law and, without in any way limiting or affecting the generality of the foregoing, whether such indebtedness be incurred or owed by me/us on my/our own or jointly or in partnership with any other person/s or jointly and severally or as guarantor/s for/with/to any other person/s and whether the Creditor has acquired, whether before or after my/our legal disability, by

- cession, transfer, assignment, statutory enactment, other extrinsic cause or in any other manner, the rights which any person/s may have against me/us for the due and proper payment on demand or otherwise of all sums of money and the due and proper performance of all my/our Obligations to such person/s;
- 2.15 "Securities" includes, without in any way limiting or affecting the generality thereof, mortgage and notarial bonds, cessions of rights including without limitation, claims, rights of action, receivables and insurance policies together with pledges, liens, suretyships, guarantees, indemnities, deposits and generally all forms of intercession;
- 2.16 "Signature Date" means the date on which this Agreement is signed by the last Party signing it; and
3. We acknowledge that all of my/our Obligations secured by this cession are obligations of a commercial nature and that the security afforded by this cession is fair, reasonable and necessary to ensure that the Creditor does not suffer unfair commercial prejudice.
4. For the avoidance of doubt, to the extent that any of the Ceded Rights do not exist as at the Signature Date and therefore constitute future rights, the Cedent hereby cedes in security such Ceded Rights in anticipando without the need for the Parties to take any further steps to give effect to this Agreement.
5. As owner of the Ceded Rights, the Creditor shall be entitled to receive any payments made by any Debtor in respect of the Ceded Rights and shall apply the net proceeds, after deducting therefrom all costs, charges and expenses incurred by the Creditor and for which I/we am/are liable in terms of clause 15, in reduction or discharge, as the case may be, of my/our Obligations to the Creditor in relation to the Secured Indebtedness without prejudice to the creditor's rights to recover from me/us any balance which may remain owing to the Creditor after the exercise of such rights. All of the foregoing is without prejudice to all other rights and remedies which the creditor may have at law and all other Securities which may be held by the Creditor provided however that, should the total amount collected/recovered by the Creditor, after deducting therefrom all costs, charges and expenses incurred by the creditor and for which I/we am/are liable in terms of clause 14, exceed the full amount of my/our Obligations to the creditor for the time being, the Creditor shall be obliged to refund such excess to me/us.
6. As owner of the Ceded Rights, the Creditor shall be vested with all rights of ownership and may do with the Ceded Rights as the Creditor deems fit, subject only to the provisions of this cession.
7. The Creditor shall, irrespective of whether or not I/we have defaulted in and/or breached any of my/our Obligations to the Creditor, be entitled, through the duly authorised representative/s of the Creditor, to inspect all or any of my/our records relating to any of the Ceded Rights and to take such extracts as the Creditor may deem fit from such records. Insofar as the Creditor may require any evidence or assistance from me/us or from any of my/our directors, members, servants or agents for the purposes of collecting any of the Ceded Rights or in order to obtain any judgment or order against any debtor/s, I/we hereby undertake that such evidence and assistance will be duly furnished and provided by me/us at the request of the Creditor. Without in any way limiting or affecting the generality of the foregoing, I/we undertake to make available to the creditor's aforementioned representative/s upon request, all of my/our records for the purpose of any legal proceedings instituted by or at the instance of the Creditor against any debtor/s.
8. No negligent acts or omissions by or on behalf of the Creditor in implementing its rights under this cession will be found to be a cause of action against the Creditor or a defence to any of the rights we have granted the Creditor in this cession.
9. I/We acknowledge and agree that neither the Creditor nor any of its officers, trustees, agents, beneficiaries, employees and advisors shall be liable for any loss or damage, whether direct, indirect, consequential or otherwise, suffered by the Cedent howsoever arising in connection with this cession.
10. No:
- 10.1 variation or amendment of, addition to, deletion from or consensual cancellation of this cession or any of its terms and/or conditions; and/or
- 10.2 waiver of any of the terms and/or conditions of this cession and/or any of the creditor's rights hereunder; and/or
- 10.3 latitude and/or indulgence allowed or granted to me/us,
- shall be of any force or effect unless reduced to writing, signed by me/us and confirmed by the creditor in writing.
11. This cession constitutes the whole agreement between the Creditor and me/us in regard to the cession by me/us to the Creditor of the Ceded Rights.
12. This cession shall be a continuing covering security and cession and shall remain of full force and effect subject to the provisions of clause 14, at all times notwithstanding:
- 12.1 any intermediate discharge or settlement of or fluctuation in the Secured Indebtedness to the Creditor; and/or
- 12.2 my/our legal disability; and/or
- 12.3 any variation, suspension or amendment of addition to or deletion from or cancellation or determination of any agreement (or any part thereof) between the Creditor and me/us or any other Person; and/or
- 12.4 any waiver by the Creditor of some but not all of its rights against me/us or any other Person; and/or
- 12.5 any latitude, indulgence or extension of time which may be allowed or shown by the Creditor to me/us or any other person; and/or
- 12.6 the receipt by the Creditor of any dividend or benefit in any liquidation or judicial management or business rescue proceedings, or any compromise whether in terms of any statutory enactment or the common law.
13. In addition, I/we hereby bind myself/ourselves in favour of the Creditor as surety for and co-principal debtor with each of the Debtors in respect of the Ceded Rights ceded to the Creditor in terms hereof.
14. This cession may only be terminated and the creditor's obligation to re-cede the remaining Ceded Rights to me/us only becomes enforceable when all my/our Obligations in respect of the Secured Indebtedness to the Creditor have been fully and finally discharged to the sole satisfaction of the Creditor and there is no reasonable prospect that further Secured Obligations will or may arise;
15. I/We shall be responsible for all costs, charges and expenses of whatsoever nature incurred by the Creditor on an attorney

and own client scale in or about or in connection with the recovery and/or attempted recovery and/or realisation and/or attempted realisation of the Ceded Rights and/or the exercise by the Creditor of any of its rights in terms of this cession and/or in securing the implementation of any of my/our Obligations to the Creditor hereunder or any negotiations and or amendments to this cession or the Secured Obligations.

16. This cession shall be governed by and be interpreted in accordance with the laws of the Republic of South Africa and be subject to the jurisdiction of South African Courts.
17. Without in any way limiting or affecting the creditor's rights in terms hereof, and in addition thereto, the Creditor shall be entitled, in its sole discretion, to apply any money received by it from the Ceded Rights to any Obligations which I/we may at that time owe to the Creditor whether then due for payment or not.
18. I/We hereby irrevocably and *in rem suam* authorise and appoint any of the directors of the Creditor from time to time, whose appointment it shall not be necessary to prove, with full power, including the power of substitution, as my/our agent, in my/our name, place and stead to:
  - 18.1 sign and execute any document in my/our name; and
  - 18.2 do all such things which in the creditor's sole discretion may be necessary or desirable in order to give proper effect to the terms hereof; and
  - 18.3 enforce the rights granted to the Creditor herein; and
  - 18.4 endorse all negotiable instruments and other documents of whatsoever nature so as to constitute the Creditor the holder thereof and/or to enable the Creditor to obtain payment thereunder or in connection therewith.
19. I/We hereby warrant and/or undertake to the Creditor that:
  - 19.1 I/we will provide to the Creditor any information that the Creditor may request in respect of the Debtors and/or the Ceded Rights within 5 (five) business days of being requested to do so;
  - 19.2 until such time as all or any of my/our debtor/s will have been notified of this cession, all sums of money which I/we will collect in respect of the Ceded Rights shall be collected and received by me/us as agent on the creditor's behalf, provided that the Creditor shall be entitled, if I/we have defaulted in and/or breached any or my/our Obligations to the Creditor by written notice to me/us at my/our *domicilium/a citandi et executandi* set out in clause 15, to:
    - 19.2.1 terminate my/our mandate to collect all or any such sums of money and that with effect from the termination of such mandate, I/we will cease to collect or accept any payments on account from the Debtors in respect of which my/our mandate will have been terminated; and/or
    - 19.2.2 require me/us to account to the Creditor, upon demand, for all monies collected by me/us on its behalf and debate such account with me/us;
  - 19.3 upon entering into a suspensive sale agreement or credit agreement with any of my/our Debtor/s, or upon receiving any negotiable instrument in respect of any ceded claim or other document evidencing and or recording any Ceded Rights, I/we will forthwith deliver such agreement, negotiable instrument or document, as the case may be, to the Creditor; provided that any failure or omission on my/our part to comply with any of the provisions of this clause and/or any failure or omission on the part of the Creditor to enforce compliance therewith, shall not affect the creditor's rights under this cession;
  - 19.4 I/we are and will remain the sole beneficial owner of all the Ceded Rights to the exclusion of all others;
  - 19.5 no part of the Ceded Rights has been pledged, ceded (either outright or as security), discounted, factored, mortgaged under notarial bond or otherwise, or otherwise disposed of or hypothecated, nor am I / are we subject to any other right or claim in favour of any Person (including any rights of pre-emption) which would apply on enforcement by the Creditor of my/our rights under this cession;
  - 19.6 if I/we have at any time prior to the signature of this cession ceded, pledged or otherwise hypothecated or encumbered all or any of the Ceded Rights to any Person whomsoever, then, without prejudice to any other rights that the Creditor may have, this cession shall be an out-and-out cession of, and I/we do hereby cede on an out-and-out basis to the Creditor, with immediate effect, (i) all claims and rights of action of whatsoever nature which I/we now have and may at any time hereafter during the currency of this cession have against any such prior cessionary, pledgee or holder of any hypothecation and/or encumbrance; (ii) all my/our remaining title to and retained interest in the Ceded Rights and all my/our reversionary rights to the Ceded Rights; and (iii) my/our rights to obtain recession to me/us of the Ceded Rights from any such prior cessionary, pledgee or holder after payment of all amounts secured by the prior cession/s and/or pledge/s and/or other hypothecation and/or encumbrance (collectively the "reversionary and residual rights");
  - 19.7 for so long as any cession, pledge or other hypothecation and/or encumbrance in favour of any prior cessionary, pledgee or holder, remains in force:
    - 19.7.1 I/we undertake to procure that any such prior cessionary, pledgee and holder shall hold all and any documents and Securities relating to any amounts owed to me/us by my/our debtor/s on its own behalf and on behalf of the Creditor for the respective rights and interests therein of any such prior cessionary, pledgee and holder and the Creditor in terms hereof and the delivery of any such documents and Securities to any such prior cessionary, pledgee or holder shall be deemed also to constitute delivery thereof to and possession thereof by the Creditor;
    - 19.7.2 the Creditor shall be entitled to receive payments directly from any such prior cessionary, pledgee or holder of so much as such prior cessionary, pledgee or holder shall receive in excess of the amount due to it by me/us and which is paid to any such prior cessionary, pledgee or holder;
    - 19.7.3 if and when the cession, pledge, hypothecation and/or encumbrance in favour of any prior cessionary, pledgee and holder ceases to be of any force for any reason whatsoever then this cession shall thereupon,

subject to the proviso hereto, operate as a first cession by me/us to the Creditor of all the Ceded Rights and not only as a cession of the reversionary and residual rights; provided that if there is more than one prior cession, pledge, hypothecation or encumbrance, then this cession shall rank next in order of preference, *mutatis mutandis*, and so on until no prior cession, pledge, hypothecation or encumbrance exists.

- 20. The Creditor shall have the right to cede, assign, transfer or otherwise dispose of any or all of its rights and Obligations hereunder to such Person or Person (whether jointly or severally) and on such terms and conditions as the Creditor may deem fit and without having to obtain my/our consent thereto. To the extent that any such cession, assignment, transfer or disposal results in a "splitting of rights or claims", I/we irrevocably and unconditionally consent thereto. I/we irrevocably and unconditionally agree after receipt of written notice of such cession, I/we shall make any payment in terms of this cession directly to the cessionary(ies) in question.
- 21. The Cedent shall not be entitled to cede any of its rights or delegate any of its Obligations under and/or arising from this cession without the prior written consent of the Creditor.
- 22. Each term of this cession, whether forming an entire clause or only part of a clause, is divisible and severable from all the other terms (regardless of the manner in which they may be linked together or grouped grammatically). If a term or provision of this cession is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that will not affect:
  - 22.1 the legality, validity or enforceability in that jurisdiction of any other term or provision of this cession which shall remain in full force and effect, and such illegal, invalid or unenforceable term or provision shall be severed from this cession; or
  - 22.2 the legality, validity or enforceability in other jurisdictions of that or any other term of this cession, and in particular, the Creditor shall be entitled to deal with its rights in respect of the Ceded Rights in such manner as is sanctioned or approved in terms of a court order or as is otherwise legally permissible.

Signed by the Cedent at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
**Name and Surname:**

Duly authorised and warranting such authority.

Signed by the Creditor at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
**Wessel Johannes Jacobs**

Duly authorised and warranting such authority.

**DEED OF SURETYSHIP**

1. We the undersigned,  
.....(Identity number .....)  
.....(Identity number .....)

hereby jointly and severally bind ourselves to:

**INTERNATIONAL TRADING AGENCY (Proprietary) Limited** (Registration No. 2018/040842/07) its successors-in-title, orders or assigns (being hereinafter referred to as "**the CREDITOR**"),

as surety for and co-principal debtor in solidum with:

..... (**Name of Company**)  
**Registration Number** .....

(being hereinafter referred to as "**the PRINCIPAL DEBTOR**"),

for the payment on demand of any sum of money which now is or may hereafter be owing by the **PRINCIPAL DEBTOR** to the **CREDITOR** arising from any agreement, sale and purchase orders for goods or services, delict, credit granted or any financial facilities granted by the **CREDITOR** to the **PRINCIPAL DEBTOR** and for the due and faithful performance by the **PRINCIPAL DEBTOR** of any other obligations howsoever arising which the **PRINCIPAL DEBTOR** may now or in the future owe or be obliged to perform to the **CREDITOR**.

2. The obligations undertaken in terms of this suretyship include all costs (invoiced to the Creditor) which may be incurred by the **CREDITOR** in securing the performance by the **PRINCIPAL DEBTOR** including, but without limiting the generality of the foregoing, any disbursements, discounts, commissions, legal costs (including costs on attorney and own client scale) and collection commission, negotiations and drafting of settlement agreements, stamps and all other necessary or usual charges and expenses, all costs of and incidental to the proof of any claim against any insolvent estate or company under liquidation or judicial management or supervision in terms of business rescue proceedings, or in any assignment, compromise, composition or scheme of arrangement, and all costs and expenses of maintaining, conserving and/or realising any security, and the whole of our indebtedness in terms hereof shall from the date upon which demand is made upon us to date of payment bear interest at the same rate as the rate at which the principal debt bears interest or the rate prescribed by statute for an interest bearing debt, whichever is the higher.
3. This suretyship shall not be affected or diminished in any manner if the **CREDITOR** shall, at any time, obtain any additional or other suretyships, guarantees, securities or indemnities, whether real or personal, in respect of the debts and/or obligations of the **PRINCIPAL DEBTOR** to the **CREDITOR**.
4. This suretyship shall be a continuing covering suretyship for any present or future indebtedness of the **PRINCIPAL DEBTOR** to the **CREDITOR** and shall remain in full force and effect, notwithstanding any fluctuation in or even the extinction (for any period) of such indebtedness, and notwithstanding the death or any other legal disability whatsoever of any one or more of us.
5. Notwithstanding that this suretyship may, for any reason whatsoever, not be signed by any one or more of the parties who appear at the head hereof as sureties or be held or become not binding in whole or in part upon, or not enforceable against any one or more of us, it shall remain of full force and effect and in all respects binding upon and enforceable against the other of us without reduction of any liability whatsoever.
6. This suretyship shall be fully and immediately enforceable despite the fact that we or the **CREDITOR** or the **PRINCIPAL DEBTOR** may be placed in liquidation, business rescue, sequestration or curatorship or may otherwise become subject to any other legal disability or to any law for the benefit or assistance of debtors and/or creditors, or may enter into or become subject to any scheme of arrangement or compromise, or the **CREDITOR** may prove a claim in any

business rescue, liquidation, sequestration, curatorship, deceased estate, scheme of arrangement, compromise or otherwise.

7. Without derogating from any of the provisions of this suretyship, in the event that the **PRINCIPAL DEBTOR** takes any steps including convening a meeting to consider placing itself under business rescue or resolves to be placed under business rescue supervision or application is made to place the **PRINCIPAL DEBTOR** under business rescue supervision, we will immediately be liable to the **CREDITOR** for the full amount of the indebtedness owing by the **PRINCIPAL DEBTOR** to the **CREDITOR** at that time, together with any accrued unpaid interest thereon.
8. We hereby undertake not to apply to court for an order placing the **PRINCIPAL DEBTOR** (or any of them) under supervision and commencing business rescue proceedings whilst any amount is owing to the **CREDITOR** by the **PRINCIPAL DEBTOR**, unless the **CREDITOR** has specifically approved in writing thereto, and any conditions to which such approval is subject have been fulfilled to the **CREDITOR'S** satisfaction.
9. In the event that the **PRINCIPAL DEBTOR** is placed under judicial management or supervision in terms of business rescue proceedings, our obligation under this suretyship shall also cover all debts incurred by the **PRINCIPAL DEBTOR** to the **CREDITOR** whilst under judicial management or supervision in terms of business rescue proceedings.
10. The **CREDITOR** shall be entitled, at its sole and absolute discretion, to determine the extent, nature, duration and terms of any facilities which it will allow to the **PRINCIPAL DEBTOR**, from time to time, and to apply all payments made by the **PRINCIPAL DEBTOR** or by any surety against such item or portion of the **PRINCIPAL DEBTOR'S** indebtedness in terms hereof, as the **CREDITOR** shall determine.
11. We shall be and remain bound by all admissions or acknowledgements of indebtedness made or given by the **PRINCIPAL DEBTOR** to the **CREDITOR**.
12. The amount of the indebtedness of the **PRINCIPAL DEBTOR** (and of each of us hereunder) to the **CREDITOR** at any time (including interest and the rate of interest) shall be determined by a certificate under the signature of any director or the auditor of the **CREDITOR**. Such certificate shall be presumed correct until the contrary is proved.
13. Each of us hereby warrants to the **CREDITOR** that each of us has a material interest in binding ourselves in terms of this deed, and if any of us is a company or other legal entity, all of the signatories on behalf of such company or legal entity do hereby warrant jointly and severally to the **CREDITOR** that such legal entity is empowered to execute this deed, and the person(s) executing this deed on behalf of such legal entity is duly authorised thereto. In the event of any breach of this warranty, the signatory shall personally be liable and bound hereto as if such signatory executed this deed of suretyship on his own behalf.
14. We jointly and severally warrant that each and every contract entered into by the **PRINCIPAL DEBTOR** with the **CREDITOR** was, or will be, at the time of execution, within the scope, authority and powers and objects of the **PRINCIPAL DEBTOR** and that all resolutions of and signatures by the directors of the **PRINCIPAL DEBTOR** were, or in the case of future contracts, will be properly and with due authority passed and/or executed and/or made. If there shall, in respect of any such contract, be any breach of the terms of this warranty then we hereby jointly and severally assume the liability to the **CREDITOR** which any such contract purported to impose upon the **PRINCIPAL DEBTOR**.
15. As collateral security for the discharge of the obligations by us in terms hereof, each of us hereby cedes, assigns, transfers and makes over unto and in favour of the **CREDITOR** all of our rights, title and interest ("ceded claims") in and to any amounts which are (and any amounts which may hereafter) become owing to any of us by the **PRINCIPAL DEBTOR** from any cause of indebtedness whatsoever, including any reversionary right or interest which any of us may acquire after termination of any prior cession, assignment or transfer, and including any balance of the said amounts which may remain after the discharge by satisfaction or otherwise of any such prior cession, assignment or transfer, and including any rights of action of such balance against any cessionary, assignee or transferee). No express or tacit consent or waiver by the **CREDITOR** permitting payment by the **PRINCIPAL DEBTOR** to any one of us of any amount or claim referred to herein shall prejudice or diminish the rights of the **CREDITOR** in terms hereof in respect of the remainder of all amounts and claims herein referred to. If any of us holds or acquires any negotiable instrument or any document as security for or evidence of any claim herein referred to, he shall forthwith, on demand, make over all his rights therein and deliver the same to the **CREDITOR**.

16. We acknowledge that our obligations secured by the cession in clause 15 are obligations of a commercial nature and that the security afforded by this cession is fair, reasonable and necessary to ensure that the **CREDITOR** does not suffer unfair commercial prejudice. Accordingly, we hereby irrevocably appoint the **CREDITOR** in rem suam as our attorney and agent, with power of substitution, to realise, sell (by public auction or private treaty), take over at fair value (agreed between us and the **CREDITOR** or, failing such agreement within 5 business days of the **CREDITOR** calling for such agreement, as determined by the **CREDITOR'S** auditors acting as experts, whose determination of such fair value shall be final and binding) or otherwise deal with the ceded claims as the **CREDITOR** in its sole and absolute discretion deems fit, and without first having to obtain a court order to this effect, in the event of our default in the due and proper fulfilment of any of our obligations in terms of this suretyship. The **CREDITOR** shall have the right to apply the proceeds of such realisation of the ceded claim to any amounts due by us, including all costs incurred by the sale, realisation, taking over, dealing with or otherwise of the ceded claim, provided that the **CREDITOR** will account and pay to us the balance, if any, of such proceeds. For effecting the aforesaid purposes, we hereby authorise the **CREDITOR** to sign any documents on our behalf and to do whatsoever shall be required in all respects so effectively and completely as we could do if personally present and acting, and we hereby ratify, allow and confirm, and promise and agree to ratify, allow and confirm all and whatsoever the **CREDITOR** shall lawfully do or cause to be done by virtue hereof.
17. No cancellation or variation of this suretyship or any of the terms hereof shall be of any force or effect unless reduced to writing and signed by us and by the **CREDITOR** on the same document. There are no conditions precedent suspending the operation of this suretyship and no warranties, promises, representations or inducements of whatsoever nature have been made or given by the **CREDITOR** or any other person to us to sign this suretyship and bind ourselves to the terms hereof.
18. We hereby renounce the benefits of the legal defences, money that has been paid over, no cause of debt, and of order, excussion, division, and cession of action and the benefit of being sued together, with the full force, meaning and effect of all of which we declare ourselves fully acquainted.
19. If any payment, which has the effect of reducing or discharging our liabilities hereunder, should be set aside under the Insolvency Act, 24 of 1936 for any reason whatsoever by order of Court, or be cancelled or suspended entirely, partially or conditionally during business rescue proceedings, or if any such payment which is liable to be set aside is refunded to the **PRINCIPAL DEBTOR**, or such **Debtor's** Trustee or Liquidator or Business Rescue Practitioner by agreement or otherwise, we shall be liable to the **CREDITOR** as surety for and co-principal debtor of the **PRINCIPAL DEBTOR** in respect of the amount of the **PRINCIPAL DEBTOR'S** indebtedness to the **CREDITOR** arising from or revived by the setting aside and/or refund of such payment, notwithstanding that the same may take place after the termination of our liability hereunder in other respects, and all references herein to the indebtedness or debts of the **PRINCIPAL DEBTOR** shall accordingly be deemed to include any indebtedness arising from or revived by the setting aside and/or refund of such payment. The **CREDITOR** shall, accordingly, be entitled to retain this suretyship notwithstanding any termination of our liability hereunder in other respects, and it is agreed that this suretyship is and shall at all times remain the **CREDITOR'S** property.
20. The **CREDITOR** shall be entitled at any time to cede or make over to any person, firm or company which acquires the **CREDITOR'S** claim against the **PRINCIPAL DEBTOR**, or any part thereof, all or any of the **CREDITOR'S** rights in terms of this suretyship, without reference to us, and we acknowledge that we shall likewise be liable to the cessionary as sureties for and co-principal debtors with the **PRINCIPAL DEBTOR** in accordance with the terms of this suretyship.
21. If there are two or more sureties, the **CREDITOR** shall be entitled to sue any one or more of such sureties and no other co-surety may join in such action without the **CREDITOR'S** consent in writing.
22. All personal pronouns herein relating to natural persons shall be deemed, in the case of companies, to be substituted by pronouns relating to companies, and all pronouns relating to natural persons shall be deemed, in the case of females, to be substituted by female pronouns and all pronouns in the plural shall be deemed to be substituted by pronouns in the singular where applicable.
23. We undertake not to raise any defence to any action or proceedings by the **CREDITOR** against us which shall be founded upon prescription, and we irrevocably waive any rights we may have to raise such defence now or in the future.

24. The provisions of this deed of suretyship are severable. If any provision in this deed of suretyship is found to be void or unenforceable for any reason, then such provision shall be severed from this deed of suretyship and the remaining provisions of this deed of suretyship shall remain valid and of full force and effect.
25. This deed of suretyship shall be governed by and be interpreted in accordance with the laws of the Republic of South Africa and be subject to the jurisdiction of South African Courts.

THUS done and signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2023 in the presence of the undersigned witnesses.

**AS WITNESSES:**

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

\_\_\_\_\_  
**Name and Surname:**  
who warrants his/her authority to do so

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

**AS WITNESSES:**

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

\_\_\_\_\_  
**Name and Surname:**  
who warrants his/her authority to do so

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