

Application for Cash facilities with:



Business Registration No. 2008/07327/23

**APPLICATION FOR CASH FACILITIES**

**“THE CREDITOR”**

**Part A. Confidential Information**

Full Name of the “Applicant” \_\_\_\_\_

Registered Trade name of the “Applicant” \_\_\_\_\_

Registered Address of “Applicant” \_\_\_\_\_

P.O Box \_\_\_\_\_ Town \_\_\_\_\_ Code \_\_\_\_\_

Tel \_\_\_\_\_ Fax \_\_\_\_\_ E-Mail \_\_\_\_\_

Person Responsible for Payments \_\_\_\_\_

Person Responsible for Shipping \_\_\_\_\_

**DIRECTORS DETAILS – (Annexures to this form shall be accepted)**

Directors Name	Phone Number	ID Number	Home Address

Business Registration No \_\_\_\_\_ Tax No.: \_\_\_\_\_

Customs Code \_\_\_\_\_ Vat Registration No.: \_\_\_\_\_

Sole Proprietor	Partnership	Company	Close Corporation	Other
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Year of Commencement of Business \_\_\_\_\_

Name and Address of Auditors \_\_\_\_\_

Bankers \_\_\_\_\_ Branch \_\_\_\_\_

Account No. \_\_\_\_\_ Date Opened \_\_\_\_\_

**TRADE REFERENCES**

<b>Supplier Name</b>	<b>Phone Number</b>	<b>Period of Account</b>	<b>Credit Facility</b>

**ESTIMATED MONTHLY PURCHASES FROM SRA SHIPPING**

**R** \_\_\_\_\_

**LIMIT REQUESTED: R** \_\_\_\_\_ **(FOR ASSESSMENT PURPOSES ONLY AND DOES NOT FORM PART OF THIS CONTRACT)**

**N.B. PLEASE NOTE SRA SHIPPING DOES NOT OFFER CREDIT TERMS, ALL PAYMENT ARE STRICTLY PAID UPON PRESENTATION OF INVOICE**

**B.** THE APPLICANT or its duly authorized agent does hereby apply for credit facilities with THE CREDITOR and in consideration thereof THE APPLICANT (as well as any surety of THE APPLICANT – whose signature appears on the attached surety ship document) does hereby irrevocably accept the following terms and conditions.

1. A certificate signed by the secretary/manager or any member / 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 to the effects therein stated for the purposes 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 claim 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.
- 3.1 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 1994 as amended), to 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 an 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 commission will be paid by THE APPLICANT.
- 3.2 Notwithstanding the terms of clause 3.1 above, THE CREDITOR will be entitled, but not obliged, whether legal action has commenced or not, to submit any dispute between the parties to arbitration. The arbitration shall be held in the town/city of principal business of THE CREDITOR within 60 (sixty) days after it has been demanded before a mutually agreed person. The arbitration shall be held in a summary manner and the strict rules of evidence shall not apply. The arbitrator shall decide on the issues of pleadings and discovery but shall do so on the basis that the matter is to be expedited and brought to arbitration within the 60 (sixty) day period and in an informal manner. The arbitrator shall decide the matter submitted to him according to what he considers just and equitable in the circumstances and therefore the strict rules of law need to be observed or taken into account by him in arriving at his decision. The parties hereto agree that the decision of the arbitrator shall be binding on

each of them, and shall be made an Order of any Court of competent jurisdiction should it be necessary to execute under the arbitrator's order.

- 3.3 The arbitrator's decision shall further be final and binding upon the parties and the arbitrator shall be entitled to make an order for cost in regard to the arbitration.
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 any further notice to THE APPLICANT.

### TERMS AND CONDITIONS OF CREDIT

1. THE APPLICANT and I (the surety) hereby choose *Domicilium Citandi et Executandi* for all purposes arising out of this application and Deed of Suretyship at the address stipulated at "paragraph A".
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 seven days 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 transaction whereby the majority shareholders 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 Account in full of any facility extended, 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,
7. THE APPLICANT hereby acknowledges and waives any right it may have for a spoliation order against THE CREDITOR in the event that THE CREDITOR takes possession of any goods.
- 8.1 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 rights, 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.
- 8.2 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 reversionary 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.
- 8.3 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.

- 8.4 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.
- 8.5 The goods shall be regarded as having been sold "voetstoots" without warranty against latent and patent defect herein. No liability whatsoever shall arise furthermore on the part of THE CREDITOR for any representation or warrant 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 been given or signed by a person not authorized by THE APPLICANT and such order will be deemed to constitute valid delivery.
10. It is agreed that any 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. Upon the operation of any automatic set-off aforementioned, the debts shall be mutually extinguished to the extent of the lesser debt.
11. Signature by THE APPLICANT or by any representative of THE APPLICANT of THE CREDITOR'S Invoice shall be regarded as acceptance by THE APPLICANT that the services and charges reflected in such invoice have been properly and completely delivered.
12. THE APPLICANT acknowledges that THE CREDITOR is not always the transporter 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 damage whatsoever, whether through accident or negligence, gross negligence or any other cause.
13. The risk in and to the goods and services shall pass from THE CREDITOR to THE APPLICANT on the date of delivery notwithstanding that ownership will not pass to THE APPLICANT until 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 of the goods are railed or transported by THE CREDITOR. The Post Office/South African Transport Service 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 credit extension 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 of effect unless reduced to writing and signed by both parties and their duly authorized signatories.
18. Should THE APPLICANT at any time be wound up, whether provisionally or finally, (which liquidation or sequestration shall be deemed to be a material breach by THE APPLICANT) or in the event of THE APPLICANT being an individual or partnership and having his/its estate sequestered, whether provisionally or finally, any facility extended by THE CREDITOR to THE APPLICANT and in respect of which payment has not been made at the date of the winding up or sequestration (whether payment in respect thereof by due or not) shall immediately be returned to and recoverable by THE CREDITOR and the agreement pursuant to which such facilities extended and services provided shall be deemed to have been cancelled.

19. 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 bound as a surety.
20. 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 or 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.
22. THE CREDITOR does not appoint the Post Office as it's 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 with interest charges.
23. The credit terms granted are, unless amended in writing by a director/manager of THE CREDITOR, payment terms are strictly **Payable on presentation of Invoice**
24. THE APPLICANT and I warrant that the information submitted above is true and correct in all respects and that the further terms and conditions of sale with THE CREDITOR are those reflected above, 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.

**CONSENT CLAUSE**

**C. DISCLOSURE OF PERSONAL INFORMATION**

- 1. THE APPLICANT undertakes that the personal information given herein is to be used by THE CREDITOR for the purposes of assessing his credit worthiness. THE APPLICANT confirms that the information given by him is accurate and complete. THE APPLICANT further agrees to update the information supplied, as and when necessary, in order to ensure the accuracy of the above information, failing which THE CREDITOR will not be liable for any inaccuracies.
- 2. THE CREDITOR has THE APPLICANT'S consent at all time to contact and request from any persons, credit bureaus or businesses, including those mentioned in this Credit Application form and to obtain any information relevant to THE APPLICANT'S credit assessment including, but not limited to, information regarding the amounts purchased from supplier's per month, length of time APPLICANT has dealt with such supplier, type of goods or service purchased and manner and time of payment.
- 3. THE APPLICANT agrees that information given in confidence to THE CREDITOR by a third party on THE APPLICANT will not be disclosed to THE APPLICANT.
- 4. THE APPLICANT hereby consents to and authorizes THE CREDITOR at all times to furnish personal and credit information concerning THE APPLICANT'S dealings with a THE CREDITOR to a credit bureau and to any third party seeking a trade reference regarding THE APPLICANT in his dealings with THE CREDITOR.

Signed by THE APPLICANT or it's duly authorize agent/signatory (and by myself in my personal capacity as surety) who hereby warrants that he is authorized to sign on behalf of THE APPLICANT.

Signed at ..... this ..... day of ..... 201....

Before the undersigned witness.

**Applicants Signature** ..... Full Name .....

Witness ..... Full Name .....