KUNGWINI MICA

2006/020757/07
45 Lanham Street, Bronkhorstspruit, 1020.
PO Box 141 Bronkhorstspruit, 1020
Tel: 013 932 3129, Fax: 013 935 1103

APPLICATION TO OPEN AN ACCOUNT

COMPANY, TRUST, CLOSE CORPORATION, PARTNERSHIP, SOLE PROPRIETOR								
Registered name of the applicant								
Trading name								
Type of business	Ltd	(Pty) Ltd	Trust	CC	Partnership	Sole Proprietor	Other	
Registration Nr.				Date of incorporation				
Main business								
Registered office								
Accountant				Tel. No.				
Main business address								
Property owned or rented		Name of landlord or bond holder						
Postal address								
Tel. No.				Fax. No.				
Name of person representing the applicant								
Designation of person representing the applicant				Is person representing the applicant duly authorised to do so?				
E-mail								
Bank				Branch				
Account No.								
Previous Bank, if current bank account is less than 12 months old								
Branch				Account No.				
Credit Limit Required								
Customer VAT Number								

Initials: ____________________

TRADE REFERENCES			
NAME	CONTACT NAME	Tel. No.	CREDIT LIMIT
1.			
2.			
3.			

PARTICULARS OF EACH DIRECTOR, TRUSTEE, MEMBER, PARTNER, PROPRIETOR			
Full name:			
ID No.		Cel. No.	
Residential address			
Full name:			
ID No.		Cel. No.	
Residential address			
Full name:			
ID No.		Cel. No.	
Residential address			
Full name:			
ID No.		Cel. No.	
Residential address			

SURETYSHIP AND INDEMNITY

1. I / We, the undersigned

A. ____ (Full name)

____ (ID Nr.)

____ (Residential address)

B. ____ (Full name)

____ (ID Nr.)

____ (Residential address)

bind myself / ourselves to and in favour of KUNGWINI MICA Registration Number 2006/020757/07 **or its successors in title or assigns (hereinafter referred to as the "Creditor") as surety/sureties and co-principal debtor/s in solidum with :-**

____

(Name of company, trust, close corporation, partnership, sole proprietor)

1.(hereinafter referred to as "the Principal Debtor/s", and all such other persons who may be or become indebted or owe obligations to the Creditor as a result of claims of whatever nature acquired from the Principal Debtor/s (such other persons hereinafter referred to as "the Debtor/s") and in respect of which the Principal Debtor/s remain/s liable in any way, or the due and punctual payment of all amounts of whatever nature and/or performance of any obligation, all of which may now or in future become owing by the Principal Debtor/s and/or the Debtors for any reason whatsoever. As part of my/our liability in terms hereof, I/we bind myself/ourselves as aforesaid to pay the amount of any costs, charges and expenses of whatever nature including, but without derogating from the generality of the aforegoing, legal costs and collection commission as between attorney and client incurred by the Creditor in securing or endeavouring to secure fulfilment of my/our obligations to the Creditor, whether or not in terms hereof.
2. The Creditor shall be at liberty, at its sole and absolute discretion, without my/our prior knowledge or consent, and without releasing me/us from my/our liability hereunder:
2.1 to institute such proceedings or take such steps as it may deem fit against the Principal Debtor/s and/or the Debtors including the right to re-possess any goods sold to the Debtors and to deal therewith or sell same in such manner, at such price and on such terms as the Creditor in its sole discretion may decide, in which event the selling price shall be deemed to be the true market value of the goods sold;
2.2 to compromise with or make other arrangements with the Principal Debtor/s and/or the Debtors and/or with any other sureties;
2.3 to grant any leniency, indulgence or extension of time to the Principal Debtors and/or Debtors or vary any agreement, undertaking and/or arrangement with the Principal Debtor/s and/or Debtors in any other manner whatsoever;
2.4 to enter into agreements of cancellation with the Principal Debtor/s and/or Debtors in respect of any existing or future arrangement and/or to enter into new arrangements and/or to substitute new purchasers for the Principal Debtor/s and/or any of the Debtors;
2.5 to cede, assign and transfer any of its rights, title and interest in and to any or all of its claims against the Principal Debtor/s and/or Debtors which are now in existence or may come into existence in its own discretion and on such cession my/our liability shall continue in favour of the cessionary for both the existing liability at the date of the cession and also in respect of any future liability incurred by the Principal Debtor/s and/or Debtors with the Cessionary arising from any cause whatsoever.
3. In any or all of the events described above, my/our liability shall be co-extensive with that of the Principal Debtor/s and/or Debtor/s.
4. I/We hereby indemnify and hold the Creditor harmless against any loss or damage which it may sustain for any reason whatsoever, irrespective of the validity and/or enforceability Of the cause/s of its claim/s against the Principal Debtor/s and/or Debtor/s, and without limiting the generality of the aforegoing, against loss or damage sustained by the Creditor arising out of this deed of suretyship or delivery of any goods by the Creditor to the Principal Debtor/s
5. In giving this Suretyship, I/we do hereby voluntarily waive, renounce and abandon the benefits of excussion, division, cession of action, errore calculi, non numeratae pecuniae, revision of accounts, de duobus vel pluribus reis debendi. I/we furthermore agree that the provisions of the waivers, renunciations and abandonments contained herein, the full meaning, force and effect whereof I/we understand, shall also be binding upon my/our successors in title of assigns.
6. It is agreed and declared that all admissions or acknowledgements of indebtedness by the Principal Debtor/s and/or Debtors shall be binding on me/us.
7. This Deed of Suretyship and Indemnity shall not be cancelled save with the written consent of the Creditor.
8. In the event of the insolvency, provisional or final liquidation, assignment or compromise by the Principal Debtor/s and/or Debtor/s, the Creditor shall be entitled to prove a claim against the Estate of the Principal Debtor/s and/or Debtors for the full amount of the indebtedness and/or to accept any offer or compromise, whether at common law or in terms of any statutory provision, without prejudice to its rights to recover from me/us to the full extent hereof any sum which may be owing by the Principal Debtor/s and/or

Initials: ____________________

Debtor/s.

9. We do hereby furthermore cede, assign and make over unto and in favour of the Creditor, as its sole and absolute property, any claim, of whatever nature, based hereon or flowing or arising herefrom, which I/we may have or acquire against any of the persons covered hereby, for the benefit of any indebtedness which I/we may have hereunder. I/we furthermore undertake and bind myself/ourselves to take whatever action necessary to enforce settlement of any such claim, upon the Creditor's request and in terms of its directions. Nonetheless the Creditor shall be and remain entitled to use its own or my/our name and to take such action as it may elect for purposes thereof. The other provisions of this document shall also mutatis mutandis apply to this clause.

10. I/We hereby agree and consent that the Creditor shall be entitled, at its option, to institute any legal proceedings which may arise out of or in connection herewith in any Magistrates' Court having jurisdiction in respect of my/our person not- withstanding that the claim or the value of the matter in dispute might exceed the jurisdiction of the Magistrates' Court.

11. A certificate under the hand of any director or manager of the Creditor as to the existence and amount of the indebtedness of the Principal Debtor/s and/or Debtors and of myself/ourselves to the Creditor at any time as to the fact that such amount is due and payable, the amount of interest accrued thereon and the rate of interest applicable thereto and as to any other fact, matter or thing relating to the indebtedness of the Principal Debtor/s and/or Debtors and of myself/ourselves to the Creditor shall be conclusive proof of the contents and correctness thereof, and the amount of my/our indebtedness hereunder for the purpose of provisional sentence or summary judgement or any other proceedings against me/us in any competent court and shall be valid as a liquid document for those purposes. It shall not be necessary to prove the appointment of the person signing any such certificate and such certificate shall be binding upon me/us and shall be deemed to be of sufficient' particularity for the purposes of pleading or trial in any action or other proceedings instituted by the creditor against me/us.

DATED at ______________________________ **on** ______________________________

As sureties: **A.** ______________________________ **As witnesses:** **1.**______________________________

B. ______________________________ **2.** ______________________________

N.B. Sureties must attach certified copies of:
(i) A resolution of the Board of Directors/Trustees/Members/Partners authorising the Suretyship and appointing the Signatory/ies on the Company's/ Trust's/ Close Corporation / Partnership's behalf;

I, the undersigned

(Full name A)
____

And

(Full name B)
____

do hereby warrant that the aforegoing particulars constitute the basis of the Application and that the particulars are true and correct in every respect. I accept personal liability for any outstanding amount that may be due from time to time to the creditor by the principal debtor and/or debtor, as if I have entered into the debt relationship in my personal capacity.

SIGNED AT ______________________________ ON ______________________________

A. ______________________________ **As witness**______________________________

B. ______________________________ **As witness** ______________________________

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STANDARD CONDITIONS OF SALE

1. Any price lists exhibited, circularised, or issued by the Seller are for information only and are subject to change or variation without notice and do not constitute offers of sale at the prices listed.
2. Delivery dates are approximate, and whilst the Seller will make every effort to adhere to the date/s (if any), stated in the quote or invoice, to ensure that the goods are delivered timeously, in no case shall time be of the essence to the contract unless specifically agreed to by the Seller in writing, and the Purchaser shall have no claim of whatsoever nature arising out of any delay in delivery.
3. The Seller does not hold itself liable for any delays caused by breakdown of machinery, strikes, civil commotion, labour disputes, political riot, accidents, orders or regulations by any government or other authority, acts of God. causis fortuitis or any other cause whatever beyond its control.
4. In the event that the Purchaser fails to make payment of any amount due, on due date, then and in such event the Purchaser acknowledges that the Seller shall be entitled to charge interest on all overdue amounts at a rate of 2% per month, compounded, provided that the Seller shall be entitled, in its sole and absolute discretion, to vary such rate of interest without notice to the Purchaser. Payment may not be withheld by the Purchaser pending settlement of any claims or disputes under these conditions of sale.
5. The Purchaser shall be obliged to accept delivery of the goods when delivery is made by the Seller to the Purchaser at the address given on the face hereof. Should the Purchaser fail to take delivery or should the Purchaser purport to withdraw his offer to purchase, then the Seller shall be entitled at its option:- 5.1 to demand the return of the goods and retain any monies paid by the Seller as rouwkoop or claim damages, alternatively; 5,2 to claim immediate payment of the full purchase price, or the balance thereof, as the case may be, against tender of the goods.
6. No claim for shortages, breakages or defects will be considered by the Seller unless, on receipt of the goods, the delivery note is endorsed by the Purchaser recording the Purchaser's complaint together with details thereof, and such delivery note is then and there handed by the Purchaser to the Seller's agent.
7. The Seller undertakes to make every effort to ensure that the goods supplied will conform to specifications and/or to any requirements specifically accepted by it in writing in regard to any particular order, but gives no warranty express or implied in regard to material, workmanship or fitness of goods for any particular purpose.
8. In the event of the goods not proving to be in accordance with the specifications or requirements referred to above, the Seller shall not be responsible for any damages whatsoever whether direct or consequential, and its liability shall be limited solely to the replacement of the goods in question.
9. All sales and prices quoted are "ex factory" and whilst the Seller may in its discretion on behalf of the Purchaser and at the Purchaser's sole expense, arrange for the transportation of the goods to the Purchaser, the Purchaser acknowledges that it shall have no claim of whatsoever nature, whether direct or consequential, against the Seller as a result of any damage caused to the goods or delay in delivery of the goods arising out of the transportation thereof.
10. The Seller, in its sole discretion, shall be entitled to alter the time period within which payment of the goods is to be made, in which event such amended time period shall be binding on the Purchaser,
11. The Seller shall be entitled to terminate these conditions of sale for provision of open account facilities at any time without prior notice to the Purchaser in which event all further purchases by the Purchaser shall be for cash or as otherwise arranged at the time of purchase.
12. The Seller shall, in its sole discretion, at any time without prior notice to the Purchaser, be entitled to reduce the credit limit initially imposed on the facilities extended to the Purchaser.
13. The Purchaser hereby agrees that a certificate under the hand of a director purporting to reflect the balance then owing on the said account, shall be conclusive evidence of the correctness of the facts alleged therein for purposes of any action by the seller for payment of such balance and shall constitute an acknowledgement of debt by the Purchaser in favour of the Seller in the sum reflected in such certificate, entitling the Seller to claim provisional sentence or to obtain summary judgment against the Purchaser, as if the document were a liquid document signed by the Purchaser.
14. Should any payment due by the Purchaser to the Seller in terms of these conditions or otherwise not be made on due date or should the Purchaser commit any breach of these conditions or be placed in compulsory or voluntary liquidation, compulsory or voluntary judicial management, or attempt or effect a compromise with its creditors or one or more of them or commit any act of insolvency, the full balance owing to the Seller by the Purchaser as at the date thereof from whatsoever cause arising shall immediately become due and payable without notice by the Seller. The Seller in its sole discretion, shall furthermore have the right to cancel these conditions of sale or any other contract between the Seller and the Purchaser and shall furthermore have the right to refuse to deliver any goods to the Purchaser, in which event the Purchaser shall have no claim against the Seller arising out of such cancellation or the refusal of the Seller to deliver any further goods to the Purchaser.
15. Any promissory note and/or negotiable instruments and/or any other bill of exchange shall be deemed to have been accepted by the Seller without prejudice to the Seller's claims or rights against the Purchaser in respect of the original cause of debt and the Purchaser hereby waives presentment, notice of dishonour and protest in respect of any promissory note, negotiable instruments or other bills of exchange of which it is endorser, surety, co-principal debtor, and of which the Seller shall become the holder.
16. The Seller shall not be obliged to accept any goods returned by the Purchaser for credit unless the Purchaser has complied with the provisions of clauses 5 and 6. Notwithstanding the aforegoing, the Seller may in its sole discretion accept goods returned by the Purchaser for credit provided that in the event that the Seller in its discretion agrees to pass credit to the Purchaser, in respect of goods returned by the Purchaser, then and in such event the Purchaser agrees that the Seller shall be en- titled to a handling charge in an amount equivalent to 10% of the selling price of the goods returned.
17. The Purchaser hereby agrees and consents that the Seller shall be entitled at its option to institute any legal proceedings which may arise out of or in connection with these conditions of sale in any Magistrates' Court having jurisdiction in terms of Section 28 of the Magistrates' Court Act, 1944 (Act No. 32 of 1944), as amended, notwithstanding that the claim or value of the matter in dispute might exceed the jurisdiction of such Magistrates' Court in respect of the causes of action. It is agreed however that the Seller shall have the right, at its discretion, to institute any legal proceedings against the Purchaser in the Supreme Court of the Republic of South Africa.

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18. In the event that the Seller is obliged to institute action against the Purchaser for payment of any amounts due arising out of these conditions of sale, the Purchaser acknowledges that it shall be obliged to pay all costs arising out of the institution of action, including costs of the Seller as on the scale as between attorney and client, and including collection commission.
19. The Purchaser selects as its domicilium citandi et executandi, the address reflected on the application to open an account completed by the Purchaser, or in the event that no application to open an account has been completed, the address for delivery reflected on the invoice addressed by the Seller to the Purchaser, where all notices processes and documents in connection with or arising out of these conditions of sale may validly be served.
20. Ownership of the goods shall remain the sole and absolute property of the Seller until such time as the goods have been paid for in full. Until the goods have been paid for in full the Seller shall be entitled, at any time and without prior notice to the Purchaser, to repossess the goods from the Purchaser. Notwithstanding the aforegoing, the risk in the goods shall pass to the Purchaser on delivery of the goods to the Purchaser or its duly authorised agent.
21. In the event that any written order for goods is placed by any party acting in a representative capacity then such party hereby warrants that he is duly authorised to place and/or sign such order and in the event that such party is not so authorised, such party hereby expressly acknowledges that he/shy shall be personally liable to the Seller in respect of all and any amounts that may become due and payable to the Seller arising out of these conditions of sale.
22. The Purchaser acknowledges and agrees that any representations, statements or warranties made by the Seller or any persons acting or purporting to act on its behalf and not specifically included herein, are of no force and effect.
23. No relaxation or indulgence which the Seller may have granted to the Purchaser shall in any way prejudice the Seller's rights and shall not preclude the Seller from exercising all or any of its rights hereunder.
24. These conditions of sale, as read with any credit application which may have been completed by the Purchaser, represent the entire agreement between the parties, and no alteration or variation hereof shall be of any force or effect unless reduced to writing and signed by the parties, save in such circumstances where it is expressly stated herein that the Seller shall be entitled without notice to the Purchaser to vary any of the provisions of these conditions of sale.
25. The parties record that this agreement constitutes an incidental credit agreement, as defined by the National Credit Act, Act no 34 of 2005, and that the act has limited application to this agreement. For the purposes of the Act, the following is recorded:

   25.1. The purchaser is made aware of his rights in terms of chapters 4 and 7 of the Act;

   25.2. The seller is entitled to an interest charged in the event of the purchaser failing to pay any rendered account within its due date, as provided for in clause 4.

Initials: ____________________