

Customer: _____

Private and Confidential

APPLICATION FOR CREDIT FACILITY

with

ILIAD AFRICA TRADING (PTY) LTD

1997/010059/07

**Including its associated and subsidiary companies,
trading divisions, successors-in-title and assigns**

TRADING DIVISION

Commercial Only

I/We (Registered Trading Style)

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The undersigned (“the DEBTOR/S”) do hereby apply to **ILIAD AFRICA TRADING (PTY) LTD. REG 1997/010059/07** including its associated and subsidiary companies, trading divisions, successors-in-title and assigns (hereinafter referred to as “the CREDITOR”) for the opening of an account for the purchase of goods, materials and or services upon the terms and conditions of the CREDITOR as stated hereunder.

My/our full particulars are set out hereunder. I/We acknowledge that the grant or refusal by the CREDITOR of the terms of credit applied for herein shall be dependant upon the accuracy of the information herewith provided by me/us.

1. Trading Name
- Street Address
-
2. Postal Address
3. Tel (.....)..... Fax Number (.....)..... E-mail Address
4. Nature of Business.....
5. State whether limited liability company, close corporation, partnership, sole proprietor other/state
6. Names, residential address, I.D. numbers and telephone numbers of directors, members, partners, sole owner and other
 - a. Full Name..... Cell
 - Residential Address.....
 - I.D. Number ANC COP SINGLE Telephone No. (.....).....
 - b. Full Name..... Cell
 - Residential Address.....
 - I.D. Number ANC COP SINGLE Telephone No. (.....).....
 - c. Full Name..... Cell
 - Residential Address.....
 - I.D. Number ANC COP SINGLE Telephone No. (.....).....
7. Above residences – state whether owned/bonded/rented, please state bond holder/landlord
 - a.
 - b.
 - c.
8. Bankers (Bank, branch, and account number).....
9. Registration Number..... VAT Reg. No.
10. How long has the debtor been trading?
11. Trade References
 - a.
 - b.
 - c.
12. Estimated monthly purchases R.....
13. Accounts Person
14. Terms: Thirty days from date of statement.
15. State whether:

a. Present Total Asset Value	Under One Million	Over One Million
b. Present Annual Turnover	Under One Million	Over One Million

Deed of Suretyship

I/We, the undersigned (Full Names, Surname and I.D. Numbers)

do hereby bind myself/ourselves jointly and severally to and in favour of **ILIAD AFRICA TRADING (PTY) LTD. 1997/010059/07** including its successors-in-title, assigns, associated and subsidiary companies and trading divisions (hereinafter referred to as "the CREDITOR") as surety/ies for and co-principal debtor/s in solidum (for the total sum owed) with

(hereinafter called "the DEBTOR") for all or any amounts which may be due, or may at any time in the future and from time to time become owing by the DEBTOR to the CREDITOR in respect of any cause of indebtedness whatsoever, whether same be in respect of the purchase and/or supply of goods and/or services, or in respect of any cheque, Promissory note or other negotiable instrument, Acknowledge of Debt or other instrument of debt.

I/We hereby expressly renounce the benefit of the following legal exceptions:

- a. Excussion – the right to require the debtor to proceed first against the debtor for payment of any debt owed to the creditor before proceeding against me/us.
- b. Cession of action – the right to require the creditor to give cession of action for payment of debts to me/us before any action against me/us may be taken.
- c. The right to an accounting from the creditor.
- d. The benefit of simultaneous citation and division of debt, the right of a co-surety to be liable only for his/its pro-rata share of the principal debt.
- e. No cause of debt – the defence that there are no grounds for a debt.
- f. Error in calculation – the right to dispute the manner in which the indebtedness has been calculated or that it has been calculated incorrectly.
- g. Division of accounts – the defence that the accounts were not examined by me/us.
- h. No value received – the defence that I/we or the debtor received no benefit with the full meaning and effect of which I/we declare myself/ourselves to be fully acquainted.
- i. Non receipt of goods and/or monies pursuant to our agreement for the payment of money or delivery of goods.

For the purpose of providing any amount due by me/us to the CREDITOR a certificate purporting to be issued by a person who describes himself as a manager/credit manager of the CREDITOR and whose position need not be proved, shall constitute *prima facie* (refutable) evidence of the amount owing by myself/us unto the CREDITOR arising from this Suretyship executed by me/us for purpose of judgement.

I/We hereby agree to action being instituted in the Magistrate Court in respect of any amount whatsoever which may be due and owing by the DEBTOR to the CREDITOR without prejudice to the CREDITOR's right to proceed in any other competent Court having jurisdiction.

I/We hereby nominate the following address as my/our domicilium citandi et executandi (my/our address where I/we will accept service) for all or any purpose arising out of the Deed or including any action which may be instituted by the CREDITOR against me/us.

In the event of any action being instituted against me/us as aforesaid, I/we agree to pay all or any legal costs incurred by the CREDITOR, including all or any ancillary charges or expenses related thereto, including attorney and client costs and collection charges and including travelling costs by air or any other mode of travel, as well as subsistence costs (including any accommodation costs) incurred by any representatives or witnesses of the CREDITOR.

It is agreed and declared that all admissions or acknowledgements of indebtedness by the Principal Debtor/s shall be binding on me/us.

Should the CREDITOR cede its claim/s and/or rights herein against the DEBTOR to any third party, then, this suretyship, shall be deemed to have been given by me/us to such cessionary, who shall be entitled to exercise all rights in terms of this deed of suretyship as if such cessionary the CREDITOR.

I/We agree that all the "Terms & Conditions of Trade" attached hereto and initialled by me/us at the bottom of each page thereof shall, mutandis (similarly with the necessary amendments to be effected), be binding on me/us. Without in any way limiting the generality hereof, any evidence or mode of proof of any matter which would be admissible against the DEBTOR shall be admissible against me/us.

Any extension of time or latitude or indulgence shown to the DEBTOR, shall not be capable of being raised by me/us as a defence to any action by the CREDITOR against me/us and shall not prejudice the CREDITOR's rights against me/us. Any settlement or compromise reached with DEBTOR shall bind me/us as if same were a principal debt for which this deed is signed by me/us. I/We specifically waive the right to plead in any action instituted by the CREDITOR against me/us that in respect of any act or inaction by the CREDITOR VIS-A-VIS (in relation to) THE DEBTOR, the CREDITOR has acted to my/our prejudice.

I/We further waive the right to plead in any action by the CREDITOR against me/us that this deed of suretyship was to be signed by any other person or persons with me/us. Any indication at all that another person was also to bind himself in favour of the CREDITOR as a surety and co-principal debtor for the obligations of the DEBTOR shall be taken as pro non scripto (not having been reduced to writing) should such a person not bind himself as aforesaid.

Dated at on this day of year

AS WITNESS:

SIGNATURE:
PRINT NAME:
SIGNATURE:
PRINT NAME:

AS SURETIES:

1. SIGNATURE:
PRINT NAME:
2. SIGNATURE:
PRINT NAME:
3. SIGNATURE:
PRINT NAME:
4. _____

CONSENT OF SPOUSE IF APPLICABLE

I/We acknowledge and confirm that this suretyship was fully completed at the time of signing it.

TERMS AND CONDITIONS OF TRADE

1. All amounts are payable within 30 (thirty) days (from date of statement of the month) during which goods are purchased or services supplied.
2. The DEBTOR shall be liable to the CREDITOR for interest on overdue accounts at the rate of 2% (two per centum) over and exceeding the prime lending rate charged by Nedbank, a division of Nedcor Bank Limited at any given time on all overdue accounts. An account will be overdue on the expiry of the period mentioned in paragraph 1 above. A certificate issued by a manager whose position need not be provided, by Nedcor Bank Limited indicating the prime lending rate from time to time shall constitute prima facie evidence of such rate.
3. For the purpose of proving any amount alleged to be due by the DEBTOR to the CREDITOR-
 - a. a certificate purporting to be issued by a person who describes himself as the manager (or credit manager) of the CREDITOR and wherein the said person states that as at a given date the DEBTOR is indebted to the CREDITOR in the amount stated in the certificate; or
 - b. any documents bearing a certification thereon which certification purports to be that of a person who describes himself as the manager (or credit manager) of the CREDITOR and wherein such person describes the said document upon which the certification appears as an extract, whether computerised or otherwise, of the DEBTOR's account with the CREDITOR and, if desired, as being a numbered page in a series of like documentsshall upon its mere production in any Court of Law, whether by a witness or by any legal representative representing the CREDITOR in proceeding before that Court, be prima facie (refutable) proof of the whole contents of the said document or certificate, as the case may be, and more particularly and without in any way derogating from the generality of the foregoing-
 - a. any amount reflected in such document and purporting to have been incurred and/or due to owing by the DEBTOR to the CREDITOR at any given time shall be prima facie (refutable) deemed to have been incurred and/or due and owing by the DEBTOR to the CREDITOR at that time; and
 - b. the final amount reflected on such document and purporting to be the amount outstanding on the said account and owing by the DEBTOR to the CREDITOR shall be prima facie (refutable) deemed to the amount thus outstanding and owing and for which amount (besides any other claims that may subsist between the parties) the CREDITOR shall be entitled to judgement against the DEBTOR.
4. The DEBTOR agrees to action being instituted in the Magistrate's Court in respect of any amount whatsoever which may be due and owing by the DEBTOR to the CREDITOR without prejudice to the CREDITOR's right to proceed in any other competent Court having jurisdiction.
5. In the event of any action being instituted against the DEBTOR, the DEBTOR agrees to pay all or any legal costs incurred by the CREDITOR, including all or any ancillary charges or expenses relating thereto, including attorney and client costs, collection charges and including travelling costs by air or any other mode of travel, as well as subsistence costs (including any accommodation costs) incurred by any representative or witnesses of the CREDITOR.
6. The DEBTOR chooses domicilium citandi et executandi (my/our address where I/we will accept service) for all purposes hereunder at
7. Upon delivery of goods ordered by or on behalf of the DEBTOR, the latter shall, by signature of any party (whether or not the latter is an employee of the DEBTOR) having been appended to the delivery documents (invoice or delivery note), be deemed to have received all of the goods reflected therein, in good order and condition and the DEBTOR shall bear the onus of proving the contrary in the event of any subsequent dispute in regard thereto. The aforesaid signature of any party purporting to accept delivery of goods as aforesaid shall be conclusively deemed to be the signature of a duly authorised agent of the DEBTOR. The provisions of this clause shall not be construed as imposed on the CREDITOR any obligation to tender any proof whatsoever in addition to tendering in evidence any certificate or other document referred to in paragraph 3 above.
8. The CREDITOR shall at its sole and absolute discretion award sales adjustments, "cash payments" discounts or any other incentives from time to time, but no such adjustments, discounts or incentives shall be presumed at any stage or by reason of any course of dealings be deemed a term and condition of trade of the CREDITOR and the latter shall not be deemed to be bound thereto. Once any amount becomes overdue, any adjustment or discount granted shall be deemed not to have been granted and the amount on which the adjustment or discount was granted shall be amount due.
9. The extent of the credit extended from time to time by the CREDITOR to the DEBTOR shall be in the sole and absolute discretion of the CREDITOR and may at any time without the DEBTOR's agreement and/or consent, be varied, suspended, withdrawn or recalled.
10. Any relaxation or indulgence which may be granted at any stage by the CREDITOR to the DEBTOR shall not be deemed to be a novation of those terms and conditions or a waiver of any of the CREDITOR's rights.
11. Ownership of any goods sold by the CREDITOR to the DEBTOR, despite delivery thereof to the DEBTOR, shall continue to vest in the CREDITOR and shall pass to the DEBTOR only upon payment in full by the DEBTOR.
12. In the event of default of payment by the DEBTOR, the CREDITOR shall have the right, without prejudice to any other or alternate rights which may it have in law, to cancel the sale in respect of which the DEBTOR has defaulted, and to forthwith recover possession of such goods, without prejudice to any other rights which the CREDITOR may have in law.
13. In the event of the DEBTOR being limited liability company, the signatory/ies to this document (other than any person signing on behalf of the CREDITOR) warrant that such company has been duly incorporated and that its full and correct name appears on page 2 & 3.
14. In the event of there being any change in the membership, directors, trustees, associates or partners of the DEBTOR, then and in the event the DEBTOR and/or signatories to this agreement shall immediately inform the CREDITOR of such changes.
15. The DEBTOR acknowledges that there been no warranties or representations made by the CREDITOR other than these which may be reflected herein.
16. No oral deviations and no alterations or additions to this agreement may be affected unless agreed to by all parties, reduced to writing and signed for by the DEBTOR and a duly authorised representative of the CREDITOR.
17. 17.1 Should the DEBTOR:
 - 17.a.1 Default in punctual payment of any amount due in terms hereof; or
 - 17.a.2 Fail to observe and/or perform any other of the "Terms & Conditions of Trade" and/or obligations of this agreement (all of which are deemed to be material); or
 - 17.a.3 Commit any act of insolvency; or allow any situation to arise which is referred to in Section 345 of Act 61 of 1973; or Section 69 of the Close Corporation Act 69 of 1984, as amended; or

- 17.a.4 Assign, surrender or attempt to assign or surrender his/its estate, or suffer any default judgement against him/it which remains unsatisfied for more than fourteen (14) days or to be sequestrated, place under judicial management, liquidation or otherwise wound-up, whether provisionally or finally, or compromise with any of his/its creditors or endeavour or attempt to do so; or
 - 17.a.5 Have made any materially incorrect or untrue statements or representations in or relating to the information contained herein, including but not limited to the DEBTOR's financial affairs or particulars relevant thereto, or do or force to be done anything which might prejudice the CREDITOR's rights hereunder or which may have influenced the CRDEDITOR in granting credit to the DEBTOR.
 - b. then, in any one of the aforesaid events, the CREDITOR shall have the right, without prejudice to any other rights which may thereupon be available to it to claim immediate payment of any and all amounts (together with any interest which may have incurred thereon), which shall immediately become due and payable in terms thereof.
- 18 The CREDITOR shall be entitled to set off against any payment due or arising or which may become due and owing by the CREDITOR to the DEBTOR from whatsoever cause all and any indebtedness from whatsoever cause and howsoever arising which is or may become due or owing by the DEBTOR to the CREDITOR.
- 19 All payments received by the CREDITOR from the DEBTOR shall be appropriated firstly towards costs, interest and thereafter to capital.
- 20 It is agreed that each clause hereof is severable, the one from the other, and if any one clause is found to be defective or unenforceable for any reason by any competent Court, then the remaining clauses shall be and shall continue to be full force and effect.
- 21 Should the CREDITOR cede and/or transfer its claim/s and/or of its rights herein against the DEBTOR to any third party (the cessionary) then those claim/s rights shall be deemed to have been given by me/us to such cessionary who shall be entitled to exercise and claim all rights in terms hereof as if such cessionary were the CREDITOR.
- 22 If the DEBTOR requires the CREDITOR or any of its agents to effect deliveries upon any private property; whether of the DEBTOR's or any other property; the DEBTOR shall assume full responsibility and waives any claims for damages and indemnifies the CREDITOR in respect of any claims for any damages in effecting any such deliveries.
- 23 I/We hereby waive the benefit of:
- a. Exclusion – the right to require the debtor to proceed first against the debtor for payment of any debt owed to the creditor before proceeding against me/us.
 - b. Cession of action – the right to require the creditor to give cession of action for payment of debts to me/us before any action against me/us may be taken.
 - c. The right to an accounting from the creditor.
 - d. The benefit of simultaneous citation and division of debt, the right of a co-surety to be liable only for his/its pro-rata share of the principal debt.
 - e. No cause of debt – the defence that there are no grounds for a debt.
 - f. Error in calculation – the right to dispute the manner in which the indebtedness has been calculated or that it has been calculated incorrectly.
 - g. Division of accounts – the defence that the accounts were not examined by me/us.
 - h. No value received – the defence that I/we or the debtor received no benefit with the full meaning and effect of which I/we declare myself/ourselves to be fully acquainted.
 - i. Non receipt of goods and/or monies pursuant to our agreement for the payment of money or delivery of goods.
- 24 All sales are made "voetstoets" without any representation or warranty regarding defect, latent or otherwise. Any guarantee or warranty in respect of goods supplied by the CREDITOR shall be the guarantee or warranty of the manufacturer or supplier or importer of the goods concerned. The CREDITOR cannot be held liable if the goods are supplied are not fit for the purpose for which they have been purchased.
- 25 Disclosure of Information:
- a. I/We hereby consent and authorise the CREDITOR in *rem suam* (in my/our name and stead as agent) at all times to contact and request information from any person/persons, Trade references, Credit Bureaus, Bank accounts, Financial statements, TAX and accounting records to establish my/our credit worthiness.
 - b. If the DEBTOR fails to meet its obligations under these "Terms & Conditions of Trade", it authorises the CREDITOR to record its non-performance with any Credit Bureau, which information will be available to third parties. The DEBTOR further authorises the CREDITOR to perform a credit information search on it at any Credit Bureau, monitor the DEBTOR's payment behaviour by researching its records at a Credit Bureau, use new information and data obtained from the Credit Bureaus in respect of the DEBTOR's future credit review report. The existence of the DEBTOR's account with any Credit Bureau, record and transmit details of how the DEBTOR has performed in terms of these "Terms & Conditions of Trade".
 - c. The DEBTOR's credit worthiness, defaulting payments to the CREDITOR and details of how the DEBTOR has conducted its account with the CREDITOR to any third party.
- 26 This agreement and its interpretation shall be governed and construed in accordance with the laws of the Republic of South Africa.
- 27 Unless otherwise agreed by the CREDITOR beforehand in writing:-
- 27.1 If the CREDITOR has not expressly confirmed a definite price in writing for the execution of any orders; the CREDITOR's price list ruling at the date of the delivery shall apply. Where delivery of an order is made in parts; the list price ruling at the date of each part delivery shall apply to each such part delivery.
- 28 The DEBTOR agrees that in the event of any portion of the invoiced indebtedness being disputed, the DEBTOR will forthwith pay the undisputed portion of such indebtedness according to the agreed "Terms & Conditions of Trade" agreed and confirmed.
- 29 In this agreement unless inconsistent with the context, an expression which denotes any gender includes the other genders, and a natural person includes an artificial person and vice versa (conversely), and the singular includes the plural and vice versa (conversely).
- 30 I/We hereby consent to the CREDITOR insuring my/our indebtedness in terms hereof with any accredited Insurance company of the CREDITOR's choice and to disclose to any such Insurance company all information obtained in the granting of this facility.
- 31 I/We hereby indemnify and hold the CREDITOR harmless in respect of any claim of whatever nature that may be brought against me/us or the creditor as a result of any steps taken by the creditor to enforce its rights hereunder.

Office Use Only

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