



CREDIT APPLICATION - TERMS AND CONDITIONS

PROTECTION OF PERSONAL INFORMATION ACT (POPIA), ACT 4 OF 2013 – AGREEMENT AND CONSENT DECLARATION:

The Applicant herewith declare and confirm that as the Individual person / Organization / Body / Company/ Close Corporation / Trust or any other entity collectively referred to as the Applicant herewith irrevocably agree and understand that any/all information supplied or given to the Supplier, is done in accordance with the terms and conditions contained in the undermentioned **POPI ACT AGREEMENT AND CONSENT DECLARATION**.

The Applicant herewith confirm that in terms of the **PROTECTION OF PERSONAL INFORMATION ACT (POPIA), ACT 4 OF 2013** the undermentioned information is provided voluntary for the purposes of this credit application and herewith consent to the use of the information for the purposes of assessment in consideration of this application.

The Applicant herewith consent thereto that the Supplier may approach trade references and credit bureaus for the purposes of assessment and in consideration of this application for credit and that **POPI ACT AGREEMENT AND CONSENT DECLARATION** herein under contained was read and understood.

POPI ACT AGREEMENT AND CONSENT DECLARATION

The Applicant herewith declare and confirm that as the individual person and/or on behalf of any /ENTITY/BODY/COMPANY/CLOSE CORPORATION/TRUST who is providing information hereby irrevocably agree and understand that any and all information provided or given to the Supplier is done in accordance with the terms hereunder.

1. INTERPRETATION

1.1 In this Agreement, unless inconsistent with or otherwise indicated by the context –

1.1.1 "This Agreement" means the Agreement contained in this document.

1.1.2 "The Supplier" means and includes its affiliated, holding, and subsidiary companies.

1.1.3 "Confidential information" includes, but is not limited to:

1.1.3.1 any information in respect of know-how, formulae, processes, systems, business methods, marketing methods, promotional plans, financial models, inventions, long-term plans, and any other information of the Applicant in whatever form it may be.

1.1.3.2 all internal control systems of the Applicant.

1.1.3.3 details of the financial structure and any other financial, operational information of the Applicant; and

1.1.3.4 any arrangements between the Applicant and others with whom the Applicant have business arrangements of whatsoever nature, all of which the Applicant regards as secret and confidential.

1.1.4 "personal information" means personal information as defined in the Protection of Personal Information Act adopted by the Republic of South Africa on 26 November 2013 and includes but is not limited to:

1.1.4.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic, or social

origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, and birth of any person.

1.1.4.2 information relating to the education or the medical, financial, criminal or employment history of any person.

1.1.4.3 any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier, or other assignment to any person.

1.1.4.4 the biometric information of any person.

1.1.4.5 the personal opinions, views, or preferences of any person.

1.1.4.6 correspondence sent by any person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence.

1.1.4.7 the views or opinions of another individual about any person; and

1.1.4.8 the name of any person if it appears with other personal information relating to any person or if the disclosure of the name itself would reveal information about any person.

1.1.5 "the effective date" means the date of signature of this Agreement".

1.1.6 "the parties" means the parties as described hereinabove.

1.1.7 "divulge" or "make use of" means to reveal, make known, disclose, divulge, make public, release, publicize, broadcast, communicate or correspond or any such other manners of divulging of any information.

1.1.8 "processing" means any operation or activity or any set of operations, whether or not by automatic means, concerning personal or any information, including but not limited to:

1.1.8.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use.

1.1.8.2 dissemination by means of transmission, distribution or making available in any other form; or

1.1.8.3 merging, linking, as well as restriction, degradation, erasure, or destruction of information.

1.1.9 POPI" or "POPIA" means the Protection of Personal Information Act adopted by the Republic of South Africa on 26 November 2013 and as amended from time to time.

2. AGREEMENT

2.1 The parties agree that they will comply with POPI regulations and process all the information and/or personal data in respect of the services being rendered in accordance with the said regulation and only for the purpose of providing the services set out in the agreement to provide services.

2.2 The Supplier, and any employees of the Supplier, the parties to this agreement and any subsequent party/parties to this agreement acknowledge and confirm that:

1.1.1 one or more of the parties to this agreement, will possess and will continue to possess information that may be classified or may be deemed as private, confidential, or as personal information.

- 1.1.2 such information may be deemed as the private, confidential, or as personal information in so far as it relates to any party to this agreement.
- 1.1.3 such information may also be deemed as or considered as private, confidential, or as personal information of any third person who may be directly or indirectly associated with this agreement.
- 1.2 It is further acknowledged and agreed by all parties to this agreement, that such private, confidential, or as personal information may have value and such information may or may not be in the public domain.
- 1.3 It is agreed that for purposes of rendering services on behalf of the client, the Supplier and any party associated with this agreement and/or any subsequent or prior agreement that may have been/will be entered into, irrevocably agree that "confidential information" shall also include inter alia and shall mean inter alia:
 - 2.4.1 all information of any party which may or may not be marked "confidential," "restricted," "proprietary" or with a similar designation.
 - 2.4.2 where applicable, all data and business information.
 - 2.4.3 where applicable the parties may have access to data and personal and business information regarding clients, employees, third parties and the like including personal information as defined in POPI regulation; and
 - 2.4.4 trade secrets, confidential knowledge, know-how, technical information, data, or other proprietary information relating to the client/service provider, or any third party associated with this agreement and (including, without limitation, all products information, technical knowhow, software programs, computer processing systems and techniques employed or used by either party to this agreement and/or their affiliates.

3. CONFIRMATION AND ACKNOWLEDGEMENT

- 3.1 By the completion of this application by the Applicant and handing thereof to the Supplier the parties,
 - 3.1.1 irrevocably confirm acceptance of the terms and conditions as set out in this agreement.
 - 3.1.2 agree and acknowledge that all information provided, be it personal or otherwise, may be used and processed by the Supplier, which may include the information being placed in the public domain.
 - 3.1.3 acknowledge that they have read and understood all the terms and conditions hereof and are bound by the terms and conditions as set out herein.
 - 3.1.4 confirm that by submitting information to the Supplier, irrespective as to how such information is submitted, the Applicant consents to the collection, collation, processing, and storing of such information and the use and disclosure of such information in accordance with the Applicant's application preceding this agreement and this agreement.
 - 3.1.5 the Supplier further undertake and agrees to use its best endeavours and take all reasonable precautions to ensure that any information provided, is only used for the purposes for which it has been provided.
- 3.2 **it is specially recorded that the Applicant is herewith alluded to the fact that should the Applicant not accept or agree with the terms hereof, that the Applicant must notify the Supplier in writing immediately failing which it will be deemed that the Applicant has accepted and agrees to the terms and conditions set out above.**

FINANCIAL INTELLIGENCE CENTRE ACT (FICA), 2001

PURCHASER PROFILE

FICA REQUIREMENTS: Natural Persons

1. South African identity document / Foreigner passport.
2. Utility bill addressed to your residential address less than 3 months (accounts for mobile phones are not acceptable);
3. South African Income Tax reference number.
4. Confirmation marital status, i.e. ANC or COP
If Married
5. Marriage certificate –
Community of property – Copy of spouses ID.
Ante nuptial Contract – Copy of contract
6. Page 1 (and page 2 if necessary) reflecting the registered number and names of both parties, if your marriage is governed by the Laws of another country/state.
8. Name of the country/state governing your marriage, i.e. the country where the Buyer was living at the time of the marriage with the intention of staying there permanently.

FICA REQUIREMENTS: COMPANYY / CLOSE CORPORATION / TRUST / BODY/ ORGANIZATIONS AND OTHER ENTITIES

- Person acting on behalf of the Entity must comply with paragraphs 1 to 4 above.
 - All directors / members / trustees must also comply with paragraphs 1 to 4 above.
- with the following attached:

Companies:

1. CM1.
2. CM22.
3. Resolution to make application for credit facilities

Close Corporations:

1. CK1.
2. and, if applicable, CK2.
3. Resolution to make application for credit facilities

Trusts:

1. Letters of Authority / Master's Certificate.
2. Trust Deed and all amendments thereto.
3. Resolution to make application for credit facilities, and

**NO APPLICATION WILL BE CONSIDERED WITHOUT
COMPLIANCE OF THE FICA REQUIREMENTS**

RONDEBULT COLLIERY (PTY) LTD

("the Supplier")

STANDARD TERMS AND CONDITIONS

("conditions")

1. All orders accepted by the Supplier shall be subject to the conditions specified herein, unless otherwise agreed to in writing by the Supplier.
2. In these conditions:
 - (a) "CPA" means the Consumer Protection Act 68 of 2008 including, without limitation thereto, all amendments thereto in force from time to time.
 - (b) "customer" means the purchaser of services and/or goods from the Supplier and also means the Applicant.
 - (c) "month" means a named month of the Gregorian Calendar (e.g. April);
 - (d) "special-order goods" means goods that the Supplier expressly or implicitly was required or expected to procure, create, or alter specifically to satisfy the customer's requirements; and
 - (e) "excluded transactions" means any accepted orders to which the CPA does not apply by virtue of section 5 of the CPA, or anything done in terms of section 5 of the CPA.
3. Unless otherwise specifically agreed to by the Supplier in writing, all sums owing to the Supplier in respect of the supply of services and/or goods shall be paid, without deduction, within 30 days from date statement (the 30th day being the "due date").
4. Interest will be payable by the customer at the maximum permissible rate allowed by law on accounts not settled within the agreed terms of credit set out above or otherwise agreed to by the Supplier in writing.
5. No transaction may be cancelled except with the Supplier's written consent. Where the CPA applies:
 - (a) orders for special-order goods that have been accepted by the Supplier may not be cancelled except with the Supplier's written consent; and
 - (b) the cancellation of any other order after it has been accepted by the Supplier must be in writing and will be subject to a cancellation charge calculated by the Supplier and payable on demand.
 - (c) No settlement discount will apply to the cancellation charge.
6. Delivery dates for all transactions are quoted on an ex-works basis and are estimates only.
7. Estimated delivery dates are not binding on the Supplier unless the Supplier expressly agrees in writing that a particular delivery date is, or a series of particular delivery dates are binding upon it in relation to a particular supply or supply transaction or a particular series of supplies or supply transactions. Failure by the Supplier to adhere rigidly to any delivery date estimate does not give rise to any obligations on the part of the Supplier, nor does it entitle the customer to cancel the transaction or to withhold or delay payments becoming due to the Supplier. Should it become apparent that an estimated delivery date cannot be achieved the Supplier will take reasonable steps to inform the customer accordingly as soon as it is practicable to do so in the circumstances and will give the customer sufficient notice of the anticipated delivery date.
8. Although the estimated delivery dates are given in good faith and are not binding, the Supplier will take reasonable precautions to avoid or reduce delays, the Supplier will not be responsible for loss resulting from delays in delivery occasioned by strikes, lockouts, delays of carriers, electrical power outages, or other causes reasonably beyond the Supplier's control, and no order may be cancelled by the customer for such reasons.
9. Goods will be regarded to have been received by the customer or its agent against signature of the Supplier's delivery note, or of the Supplier's freight agent's waybill or the carrier's waybill if the goods are delivered using a freight agent or carrier other than the South African Transport Services, or upon the issue to the Supplier of proof of posting if the goods are posted to the customer, or upon the issue of documentary proof of delivery to the South African Transport Services if the goods are railed to the customer.
10. Ownership in the goods sold remains vested in the Supplier until the purchase price shall have been paid in full except where and to the extent that –
 - (a) for reasons of public health or otherwise, a public regulation prohibits the return of those goods to their supplier once they have been supplied to, or at the direction of, a customer; or
 - (b) after having been supplied to, or at the direction of the customer, the goods have been partially or entirely disassembled, physically altered, permanently installed, affixed, attached, joined, or added to, blended, or combined with, or embedded within, other goods or property; or
 - (c) the goods have been supplied in terms of a transaction that is not an excluded transaction, and those goods are or are deemed to be unsolicited goods and are lawfully retained by the customer.

11. **The Supplier has the right to inform the owner of the premises in which any goods are stored of the Supplier's retention of ownership of goods for which payment has not been made.**
12. Risk in the goods shall pass to the customer when they are received or regarded as having been received by the customer or the customer's agent in terms hereof.
13. Where goods or services are supplied in terms of an excluded transaction:
- (a) no representations or warranties as to quality or freedom from latent defect or fitness for any particular purpose or otherwise shall be binding upon the Supplier unless made by the Supplier in writing.
 - (b) no person other than a Managing Director of the Supplier has any authority to contract on the Supplier's behalf on any terms or conditions other than the conditions contained herein and no terms or conditions contained in any order or other document issued by the customer shall be binding on the Supplier, nor shall any variation of these conditions be binding upon the Supplier unless reduced to writing and signed by the Managing Director.
 - (c) the Supplier shall not be liable, whether in contract, delict or otherwise, in respect of defects in goods delivered or for any injury, damage or loss resulting from such defect or from any work done in connection therewith.
 - (d) in no circumstance shall the Supplier be liable for consequential damages.
 - (e) no relaxation or indulgence which the Supplier may grant to the customer shall constitute a waiver of the Supplier's right to enforce strict compliance with these conditions and other terms, if any, applicable to any transaction between the Supplier and the customer.
 - (f) if any dispute arises between the Supplier and the customer out of these conditions the Supplier shall, at its option, be entitled, but not obliged, to institute proceedings in any Magistrate's Court which otherwise has jurisdiction notwithstanding that the amount in issue may exceed the limits of such jurisdiction and in those circumstances the customer hereby consents to such jurisdiction;
 - (g) claims for damaged or defective goods or services will only be considered if made in writing and sent by prepaid registered post to the Supplier within 5 days after receipt of the goods or services and if such notice is not given timeously the customer will be deemed to have received and accepted the goods and/or services in good order and in full compliance with the order/s placed for them and any variations thereto that have been agreed to in writing by the Supplier;
 - (h) amounts payable to the Supplier may not be set off against or withheld on account of any such claims unless they have been admitted by the Supplier in writing; and
 - (i) the customer shall pay any legal and other costs incurred by the Supplier as a result of any breach by the customer of these conditions or any failure by it to pay any amount on due date on the scale as between attorney and own client, whether or not action is instituted, and such costs shall include any commission which the Supplier is required to pay to its attorneys as a result of any action taken by them.
14. Where goods are supplied in terms of a transaction and the customer does not inspect the goods and accept delivery thereof, the customer will be -
- (a) regarded as having accepted delivery of the goods received by the customer or its agent on the earliest of the following circumstances:
 - (i) when the customer expressly communicates to the Supplier or by implication that the customer has accepted delivery; or
 - (ii) when the goods have been received by the customer and used for the purpose of acquisition thereof or any other purpose; or
 - (iii) the customer does anything in relation to the goods that would be inconsistent with the Supplier's ownership thereof; or
 - (iii) the customer retains the goods without any indication to the Supplier of rejection thereof.
 - (b) afforded a reasonable time of 5 business days after receipt of the goods, or such longer period as may be agreed to in writing by the Supplier, to advise the Supplier in writing that the customer rejects the goods, failing which the customer shall be regarded as having accepted delivery of the goods.
17. The customer shall forthwith notify the Supplier in writing of any changes in the information set out in the customer's application for credit terms or facilities.
18. Credit terms or facilities in relation to each individual transaction for the supply of goods and/or services are granted by the Supplier to the customer in the discretion of the Supplier and accordingly the Supplier is entitled to refuse to accept orders from the customer where the customer places the order on the basis that it wishes to avail itself of the credit terms or facilities which the Supplier is for any reason unwilling to extent to the customer either in respect of the order or generally.

19. Credit terms or facilities are further subject to the following conditions:
- (a) if personal guarantees or other security is to be provided by the directors, shareholders, or partners, as the case may be.
 - (b) should personal guarantees or other security not be provided as required by the Supplier, the credit facility may, at the sole discretion of the Supplier, be withdrawn, or
 - (b) if the customer fails to make any payment due to the Supplier on the due date for payment thereof, the Supplier has the right to withdraw or suspend the grant of credit facilities to the customer and to refuse to re-instate them or to attach further conditions to any reinstatement of them and also has the right to suspend deliveries pending payment and/or to cancel any undelivered portion of any order if acceptable arrangements are not made for payment of amounts owing by the customer.
20. The Supplier shall not be liable for any damage, loss or injury resulting from any misuse of the goods or any use which is not in accordance with the prescribed manner and/or the purpose for which they were designed.
21. If the customer install, packages or causes the goods to be installed or packaged in such a way so as to make the goods defective then the customer shall indemnify the Supplier against all damage and loss caused by reason of the product being defective.
22. **The Supplier has available information and product literature concerning the conditions necessary to ensure that the goods supplied by the Supplier will be safe and without risk to health when properly used. If the customer is not already in possession of such literature or requires any information or advice in connection with the safe use of the goods, the customer should immediately contact the Supplier.**
23. Where a customer wishes to enter into a transaction with the Supplier for the supply of any goods and/or services, and if the customer wishes to rely, in relation to the supply of those goods and/or services, on any representations, conditions or warranties in addition to those applicable in terms of the CPA, then the Supplier will only be bound by them if they are agreed in writing between the Supplier and the customer before or at the time of conclusion of the transaction in relation to such goods and/or services are to be supplied. Any other representation, condition or warranty as to quality or freedom from defect of the goods or services supplied or their fitness for any particular purpose is hereby excluded, but only to the extent that its exclusion is not prohibited by the CPA or any other public regulation.
24. Where the Supplier enters into a transaction for the supply of goods and/or services the Supplier, subject to any contrary provision of the CPA, shall only be liable for consequential losses or damages in relation to the supply of such goods and/or services which arise out of the gross negligence, recklessness or deliberate unlawful conduct of the Supplier or of any person acting for or controlled by the Supplier.
25. No relaxation or indulgence which the Supplier may allow the customer in relation to a specific past incident or specific incidents of non-compliance with or breach by the customer of these terms and conditions and/or those of any transaction to which these conditions apply shall constitute a waiver of the Supplier's right to enforce strict future compliance with all of these terms and conditions and those of any such transaction and any further transaction between the Supplier and the customer.
26. In any dispute between the Supplier and the customer arising out of these conditions with respect to any transaction the Supplier shall, at its option, be entitled, but not obliged, to institute proceedings in any Magistrates Court which otherwise has jurisdiction notwithstanding that the amount in issue may exceed the limits of such jurisdiction. In those circumstances the customer hereby consents to such jurisdiction.
27. A certificate signed by a Managing Director of the Supplier, whose appointment as such shall require no proof, showing the amount due and owing and payable by the Customer to the Supplier at any given time shall be sufficient *prima facie* proof of the facts therein stated for the purposes of all legal proceedings against the Customer for recovery of any amounts outstanding, due, owing and payable.
29. The customer chooses the customer's address stated on the face of this Application for Credit Facilities as the *domicilium citandi et executandi* at which all correspondence, notices and legal process may be sent or delivered to the customer.
30. The Supplier is entitled to make whatever enquiries necessary in assessing the credit application. If credit is approved, the Supplier is further entitled to register details about the conduct of the account at any credit bureau.
31. The customer agrees to indemnify, defend and hold the Supplier harmless from and against any and all liability, claims, costs, expenses (including legal fees), judgments, settlements and/or liability of any kind, including, but not limited to, liability for injury, death or property damage, which arises out of, results from, or is in any way connected with the customer's use and/or operation of the goods and/or services, whether or not the said liability arises as a result of any individual or concurrent acts or omissions of the customer, his/its subcontractors or employees, or any other person, but not as a result of the gross negligence of the Supplier.

32. If any particular provision and/or term of these conditions are found to be defective or unenforceable or is cancelled for any reason (whether by any competent Court or otherwise) then the remaining provisions and/or terms shall continue to be of full force and effect. Each provision and/or term of these conditions shall accordingly be construed as entirely separate and separately enforceable in the widest sense from the other provisions and/or terms hereof.

THE CUSTOMER ACKNOWLEDGES HAVING READ THE CONDITIONS PRIOR TO EXECUTING IT. THE CUSTOMER FURTHER ACKNOWLEDGES HAVING BEEN ADVISED BY THE SUPPLIER TO HAVE THE CUSTOMER'S OWN ATTORNEY AND/OR ACCOUNTANT EXPLAIN THE CONTENTS AND OBLIGATIONS OF THIS CONDITIONS TO THE CUSTOMER AND TO HAVE DONE THIS PRIOR TO EXECUTING THIS AGREEMENT.