

APPLICATION FOR CREDIT FACILITY & SURETY

Serial Number	001 UM 5-2 SALES 005	Latest Review
Originator	SM	
Date Origin	09/02/2022	22/04/2024
Approved	GM	

Private and confidential

APPLICATION FOR CREDIT FACILITY & SURETY

With

Umzimkhulu Industrial Holdings (Pty) Ltd t/a Rossmin

Reg No: 2006/019502/07

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I/We ("the

QUALITY MANAGEMENT SYSTEM

APPLICATION FOR CREDIT FACILITY & SURETY

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CREDIT APPLICATION FORM

d	o hereby ap	ply to Umzim	khulu Industrial Ho	oldings t	/a Ro	ssmin, Regist	tration Num	nber
2	006/019502	/07 including t	their respective asso	ociated a	nd su	bsidiary compa	anies, tradin	g divisions,
SI	uccessors-ir	n-title and assi	igns (hereinafter ref	erred to a	as "R0	OSSMIN") for t	he opening	of an account
fc	or the purcha	ase of goods,	materials and or ser	vices up	on the	e terms and co	nditions of F	ROSSMIN as
st	tated hereur	nder.						
of	ly/Our full pa f the terms rovided by n	of credit appli	set out hereunder. I/ led for herein is dep	We ackn pendent u	owled upon	dge that the grather accuracy of	ant or refusa of the inforn	al by ROSSMI nation herewit
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R	Registered A	ddress						
						Code		
Р	ostal Addres	ss						
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Т	el					<u>.</u>		
Ε	-Mail Addres	ss (Where inv	oices are to be sent))				
Α	uditors Nam	ne, Address ar	nd Telephone					
В	susiness pre	mises owned/	leased/bonded (plea	ase circle	!)			
В	ondholder/la	andlords full n	ame and contact de	tails				
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MEMBERS / PARTNERS / DIRECTORS / PROPRIETORS DETAILS

a)	Full Name	
	ID Number	
	Residential Address	
		Code
	Contact Numbers	
	Contact Numbers	
b)	Full Name	
	ID Number	
	Residential Address	
	Operator to Nivershows	
	Contact Numbers	
c)	Full Name	
Ο,	ID Number	
	Residential Address	
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۸۱	Full Name	
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	Residential Address	
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a)		TELEPHONE NO.
b)	R	
c)		

NATIONAL CREDIT ACT 34 OF 2005 (NCA)

Pursuant to the provisions of Section 4 of the NCA, the CUSTOMER warrants that its asset value or annual turnover exceeds the threshold value determined by the Minister in terms of Section 4 of the NCA (R1 000 000.00) and that accordingly the NCA does not apply to this Agreement.

CONSUMER PROTECTION ACT 68 OF 2008 (CPA)

Pursuant to the provisions of Section 5(2)(b) of the CPA, the CUSTOMER warrants that its asset value or annual turnover exceeds the threshold value determined by the Minister in terms of Section 6 of the CPA (R2 000 000.00) and that accordingly the CPA does not apply to this Agreement.

PROTECTION OF PERSONAL INFORMATION ACT (2021)

By signing this agreement, the Customer as the authorised representative hereby acknowledge and consent to Rossmin sharing and exchanging all information it may collect, hold, organise, store, use, and administer for the purposes of enforcing the Agreement or purported Agreement, including standard terms and conditions signed by the Customer. Personal Information may be used for the administration and enforcement of the Agreement or purported Agreement and the Customer further accepts that this may involve the Information being sent to a country outside the Republic of South Africa in which Rossmin may or may not provide services.

The purpose of the Information includes but is not limited to verification of the Customers details. The Customer acknowledges that it has the right to request a list of the names and addresses of any potential recipients of the Information and to review and correct the Information. The Customer acknowledges that the collection, processing, and transfer of the Information is important to enforce the contractual relationship with Rossmin.

All Personal Information will be held securely and whenever Rossmin commissions other organisations to provide support services, Rossmin will bind its service providers and shareholders to its privacy policies as far as they may be required to have access to their suppliers' and service providers' personal information and to perform such services.

TERMS AND CONDITIONS OF SALE AND CREDIT

- 1. Application
- a. These terms and conditions shall govern all future transactions as between with Umzimkhulu Industrial Holdings t/a Rossmin, Registration Number 2006/019502/07 including their respective associated and

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subsidiary companies, trading divisions, successors-in-title, and assigns (hereinafter referred to as "ROSSMIN") and the CUSTOMER.

b. The terms and conditions set out hereunder shall bind the parties at all times irrespective of any other purported agreement that may take place between the parties and are to be read together with any authorised quote or specification sheets.

2. Disclosure

The CUSTOMER warrants that the information contained in the Credit Application is true and ROSSMIN may rely on the correctness of such information when assessing the credit facility.

3. Credit Facility

- a. The amount, extent and nature of the credit granted shall be at the discretion of ROSSMIN. If the CUSTOMER exceeds any limits this will not affect ROSSMIN's rights.
- b. ROSSMIN may suspend, alter or withdraw credit facilities at ROSSMIN's discretion. In the event of a default ROSSMIN may, at ROSSMIN's discretion, cancel or suspend the delivery of goods or the performance of services.

4. Credit Information Search

- a. ROSSMIN may perform a credit information search on the CUSTOMER at a credit information bureau of ROSSMIN's choice, monitor the CUSTOMER's payment behaviour and use new information obtained from the credit information bureau in respect of any future credit applications by the CUSTOMER.
- b. The CUSTOMER warrants that any information relating to the CUSTOMER not being credit worthy shall be sufficient grounds to deny or cancel this credit application.
- c. The CUSTOMER further warrants that any information regarding the CUSTOMER's credit worthiness, defaults in payment and details of how the CUSTOMER has conducted the account with ROSSMIN may be disclosed to any other creditor of the CUSTOMER and to any credit information bureau.

5. Application of National Credit Act 34 of 2005 and the Consumer Protection Act 68 of 2008

If any of these credit application terms and conditions is repugnant to or in conflict with the law, then and in such event the conflicting term embodied herein shall be deemed to be amended and/or altered to conform therewith, and such amendment and/or alteration shall not in any way affect the remaining provisions of these terms and conditions.

6. Payment

- a. All payments are strictly 30 days from the date of ROSSMIN's statement.
- b. If any payment is not paid on due date, or if the CUSTOMER is in breach of these conditions, all amounts unpaid shall immediately become due.
- c. The CUSTOMER shall not be entitled to claim set-off or deduction in respect of any payment due by the CUSTOMER to ROSSMIN in respect of goods and/or services supplied.
- d. The prices quoted are based on current costs and should these costs increase, ROSSMIN shall have the right to amend its prices forthwith and the CUSTOMER acknowledges and agrees that the actual price to be paid will be the price as determined by ROSSMIN at the time of delivery. In any dispute the amount of any increase shall be referred to ROSSMIN'S auditors, acting as experts and whose certificate shall be final and binding on both parties.

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7. Interest

If a payment is not made on the due date, the customer will be liable to pay interest on any overdue amount at 2% interest per month compounded.

8. **Delivery**

- a. Unless otherwise agreed, the delivery of goods to the CUSTOMER shall be at the CUSTOMER's premises.
- b. ROSSMIN shall make all reasonable efforts to promptly deliver the goods required, however, ROSSMIN shall not be strictly bound by any dates agreed upon.
- c. If the CUSTOMER fails to take delivery of goods on the due date, then ROSSMIN shall be entitled to reasonable costs, including storage and insurance, for the keep of the goods during the delay.
- d. Any delivery notes signed by the CUSTOMER or any agent or any employee of the CUSTOMER shall be deemed to be accurate and binding on the CUSTOMER and shall constitute prime facie proof of delivery.
- e. The mass of all products will be the weight as recorded on ROSSMIN's measuring system or weighbridge.
- f. Goods damaged during delivery and deemed not to be acceptable at ROSSMIN's sole discretion may be returned immediately on the same vehicle subject to the CUSTOMER endorsing the delivery note to that effect.
- g. Any delay in delivery shall not entitle the CUSTOMER to cancel the order or have any claim against ROSSMIN nor shall ROSSMIN be liable for any damages or losses, direct or consequential, which arise from the delay in delivery.
- h. A separate deposit will be charged by ROSSMIN should delivery take place on pallets or in bulk bags, such deposit will be refunded upon return of the pallets or bulk bags in suitable condition for re-use. The deposit will not be refunded should the pallets or bulk bags not be suitable for re-use upon their return, this determination shall be made at the sole discretion of ROSSMIN.

9. Ownership

- a. Ownership of all goods delivered or supplied by ROSSMIN will remain vested in ROSSMIN until the purchase price has been paid in full.
- b. The risk shall pass to the CUSTOMER when the goods are delivered to the CUSTOMER's premises or the address appointed by the CUSTOMER and ROSSMIN shall not be liable for any damage or loss whatsoever, direct or indirect, consequential or otherwise, arising out of or in connection with the use by the CUSTOMER of the goods.
- c. Should delivery not be possible as a result of any actions or omissions by the CUSTOMER, its employees or representatives, risk shall pass to the CUSTOMER regardless of whether or not ROSSMIN cannot complete delivery to the CUSTOMER.

10. Statement of Accounts

- a. It is recorded that all transactions entered into between the CUSTOMER and ROSSMIN are recorded by ROSSMIN in computerised statements which are sent to the CUSTOMER each month, and which are intended to reflect all transactions entered into between ROSSMIN and the CUSTOMER up to the last day of that month.
- b. Each of the monthly statements shall be deemed to have been received by the CUSTOMER unless the CUSTOMER shall have by not later than the last day of the month following the month to which the statement relates, notified ROSSMIN in writing sent by email that such statement has not been received.
- c. Unless ROSSMIN shall have received notification as envisaged above, that the CUSTOMER has not received a particular monthly statement, the CUSTOMER shall be obliged to notify ROSSMIN in writing sent by registered post within 14 days of the end of the month to which any statement relates, of any items in the

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monthly statement which th/e CUSTOMER disputes, setting out the nature and amount of the item in dispute as well as the grounds upon which the item in question is disputed.

- d. The CUSTOMER shall have deemed to have acknowledged indebtedness to ROSSMIN in respect of each of the items and the amounts relating thereto which are reflected in each monthly statement and which the CUSTOMER has failed to dispute or query in the manner set out above, shall furthermore be deemed to have admitted that the amount relating to each such item is due owing and payable to ROSSMIN.
- e. Nothing in this clause shall prevent ROSSMIN from rectifying any errors in or omissions from previous monthly statements or including any statements or any transactions which may have occurred prior to the month in question, hereby rectifying any previous errors or omissions.

11. Return of Goods

Goods sold by ROSSMIN to the CUSTOMER are not returnable save at the option of ROSSMIN in the event of the goods not conforming to specification. Such returns or claims will be limited to, at ROSSMIN's discretion, replacement, or a reduced price, or a credit passed on future orders.

12. Whole Agreement

This contract is the entire agreement between the parties. No alteration or variation of these terms and conditions shall be of any force or effect unless reduced to writing and signed by a duly authorised representative of ROSSMIN and by the CUSTOMER.

13. Jurisdiction

The CUSTOMER consents in terms of Section 45 of the Magistrate's Court Act 1944, to the jurisdiction of the Magistrate's Court in respect of any proceedings pursuant to this agreement.

14. Domicilium Citandi et Executandi

The CUSTOMER chooses domicilium citandi et executandi (address at which the CUSTOMER chooses to receive all communications and at which legal proceedings are instituted) for all purposes hereunder at:

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Breach

- a. In the event of any breach by the CUSTOMER of any of these terms, ROSSMIN shall be entitled:
 - i. to cancel any contract or any part thereof and to claim return of the goods sold thereunder; or
 - ii. to claim from the CUSTOMER immediate payment of all and any monies due by the CUSTOMER to ROSSMIN notwithstanding any earlier agreement for credit, whether same is due for payment or not if:—
 - 1. the CUSTOMER fails to pay any amount due on due date under any contract; or
 - 2. any cheque, promissory note or other bill of exchange given to ROSSMIN is dishonoured upon presentation for payment; or
 - 3. the estate of the CUSTOMER is provisionally or finally sequestrated or is placed into provisional or final liquidation, or an application is made by any creditor of the CUSTOMER to place the CUSTOMER in Business Rescue, or the Directors/Members of the CUSTOMER pass a resolution to institute Business Rescue proceedings of the CUSTOMER; or
 - 4. the CUSTOMER commits any act of insolvency in terms of Section 8 of the Insolvency Act; or
 - 5. the CUSTOMER enters any compromise agreement with its creditors; or
 - 6. the CUSTOMER fails to satisfy any judgment granted against it within seven (7) days of the date of judgment.
- b. Upon the cancellation of the contract for any reason whatsoever, ROSSMIN may repossess the goods if ownership has not been passed to the CUSTOMER in terms of clause 8.

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15. **Costs**

The CUSTOMER shall be liable to pay all legal costs, including collection commission, counsel fees, tracing costs and any other costs arising from the recovery of any amount owing by the CUSTOMER or any legal proceedings against the CUSTOMER, including costs on an attorney and own client scale.

16. Notification of Change of Address

Should either party to this agreement wish to change their specified *domicilium* address they are required to deliver to the other party written notification of the new address by hand, registered mail, or electronic mail if the other party has provided an e-mail address.

17. Exemptions

ROSSMIN shall not be liable in any way whatsoever for loss of profit damage or harm suffered by the CUSTOMER because of any occurrence/negligence by ROSSMIN. The CUSTOMER indemnifies ROSSMIN against all claims that may be made against ROSSMIN, its Directors, Employees and Agents arising out of the manufacture, sale, supply, and delivery of the goods by ROSSMIN to the CUSTOMER.

18. Non-waiver

No extension of time or waiver or relaxation of any of these terms and conditions shall operate as an estoppel against ROSSMIN in respect of its rights hereunder, nor shall it operate to preclude ROSSMIN thereafter from exercising its rights strictly in accordance with such terms and conditions.

19. Certificate of Indebtedness

A certificate signed by any director or managing member of ROSSMIN indicating the amount due and owed by the CUSTOMER to ROSSMIN at any given time, as well as any other factor of which proof may be required, shall be prima facie (on the face of it) proof of the facts therein stated for the purpose of all legal proceedings against the CUSTOMER.

20. Warranty

All ROSMIN goods and products are in accordance with the specifications as published and contained in the relevant ROSMIN specification sheet. All other warranties, whether express or implied are excluded.

21. Arbitration

- a. The CUSTOMER reserves the right to refer any matter to arbitration should any dispute arise regarding the interpretation of this Agreement or should the CUSTOMER breach any of the terms of this Agreement.
- b. The arbitration will take place at the ROSSMIN head offices under the auspices of Alternative Disputes Resolution Association of South Africa ("ADRASA").
- c. The arbitrator will be agreed upon by the parties, failing which, shall be nominated and appointed by the executive director of ADRASA and the arbitration will take place in terms of the standard ADRASA agreement prevailing at the time.

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DOCUMENTS REQUIRED	YES	NO
Members/Directors/Proprietors ID		
Proof of Vat Registration		
Latest Audited Financial Statements		
Resolution Authorising Signatory to Sign Credit Application		
Proof of Customers Banking Details		
Bank Code (To be provided by your bank)*		

*Please request your bank to provide a bank code. Details to be provided to bank:

Name of company Bank details – Name & Branch Account No Credit applied for Terms – 30 Days

I the undersigned, certify that the above particulars are correct, that I am authorised to sign this application form on behalf of the CUSTOMER, hereby make application for a credit facility with ROSSMIN and agree that the CUSTOMER be bound by all such terms and conditions specified herein.

CUSTOMER NAME:		 			
CUSTOMER'S SIGNA	TURE:		DΔ	TF.	

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SURETYSHIP, CO-PRINCIPAL DEBTORSHIP AND GUARANTEE (IF THE CUSTOMER IS A COMPANY / CLOSE CORPORATION / TRUST)

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ROSSMIN

QUALITY MANAGEMENT SYSTEM

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("the DEBTOR") for the due and punctual payment and performance by the DEBTOR of all debts and obligations of whatsoever nature and howsoever arising which the DEBTOR may now or in the future owe to the CREDITOR – (of which all debts and obligations are hereinafter referred to as "the obligations").

I/We further jointly and severally guarantee the performance by the DEBTOR of all its obligations to the CREDITOR.

- 1. As part of my/our liability in terms hereof I/we bind myself/ourselves as aforesaid to pay the amount of all charges and expenses of whatsoever nature, including, but without derogating from the generality of the foregoing, Attorney and own client cost, collection commission and tracing fees incurred by the CREDITOR in securing or endeavouring to secure fulfilment of the obligations.
- 2. The rights of the CREDITOR under this SURETYSHIP shall not be affected or diminished: if the CREDITOR at any time obtains additional suretyships, guarantees, co-principal debtor-ships securities or indemnities in connection with the obligations, if any of the other persons named herein fail and/or refuse and/or neglect to sign this document. and/or by virtue of the fact that the CREDITOR acquired its claim against the DEBTOR as a consequence of a cession from any of its holding, subsidiary or associated companies. and/or by virtue of the fact that this document is not witnessed.
- 3. This SURETYSHIP shall be a continuing covering suretyship, co-principal debtorship and guarantee, and shall remain in full force and effect notwithstanding and fluctuation in or extinction of any period whatsoever of the obligations.
- 4. I/We shall be bound by all admissions or acknowledgements of indebtedness made or given by the DEBTOR to the CREDITOR from time to time. No alteration or variation of any present or future agreement between the DEBTOR and the CREDITOR shall in any way release me/us from my/our liability hereunder.
- 5. The CREDITOR shall be entitled without reference or notification to me/us without its rights hereunder to release other sureties and securities, co-principal debtors and guarantees and securities, to grant the DEBTOR extensions of time for payment and to compound or make any other arrangements with the DEBTOR for the discharge of the DEBTOR'S indebtedness.
- 6. If the DEBTOR shall be placed in liquidation or provisional liquidation or under judicial management or under sequestration or provisional sequestration, or shall submit an offer of compromise or of composition or scheme of arrangement in terms of any Company or insolvency law, the CREDITOR shall be entitled to accept any dividend on account and in reduction of the DEBTOR'S indebtedness without prejudicing its rights against me/us which rights shall further not be prejudiced by its acceptance of any other securities, guarantee, co-principal debtorships or suretyships arising out of any such event, and I/we further bind myself/ourselves in any such event not to file any claims against the DEBTOR, save with the prior written consent of the CREDITOR.
- 7. For as long as the CREDITOR may think fit, and at the option and in the sole and absolute discretion of the CREDITOR, any monies paid by me/us to the CREDITOR hereunder may be treated as cash security to be held by the CREDITOR in a securities realisation account in the CREDITORS books of account until the obligations shall have been fully discharged, or may be applied to such debt or debts of the DEBTOR as the CREDITOR may think fit.
- 8. Should the DEBTOR fail to discharge any of the obligations on due date, the CREDITOR shall be entitled, notwithstanding any contrary arrangement with the DEBTOR, to demand from me/us immediate performance of all the obligations then owing by the DEBTOR to the CREDITOR, whether the due date for the performance of the obligations shall have arrived or not.

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- 9. In respect of all contracts entered into by the DEBTOR with the CREDITOR, I/we warrant that each such contract was or will be at the time of execution or formation within the scope, authority and powers and objects of the DEBTOR, and that all resolutions of and signatures by director/s or member/s or trustee/s of the DEBTORS were, or in the case of further contracts, will be properly and with due authority passed executed and made. If there shall, in respect of any such contract, be any breach of the terms of this warranty, then I/we hereby assume the liability to the CREDITOR which any such contract purported to impose upon the DEBTOR.
- 10. As collateral security for the discharge of the obligations assumed by me/us in terms hereof I/we hereby cede, assign, transfer and make over unto and in favour of the CREDITOR all my/our rights, titles and interest in and to any amounts which now are or may hereafter become owing to me/us by the DEBTOR from any cause of indebtedness whatsoever, including but without derogating from the generality of the aforegoing, any revisionary right or interest which I/we might acquire after termination of any prior cession, assignment or transfer.
- 11. For the purpose of any action against me/us for provisional sentence, default or summary judgment, a certificate under the signature of any manager of the CREDITOR as to the amount owing by the DEBTOR to the CREDITOR and of the fact that due date of the discharge of the obligations and/or my/our obligations hereunder has arrived shall be prima facie proof of the indebtedness of the DEBTOR to the CREDITOR. The designation and authority of the manager need not be proved by the CREDITOR.
- 12. In terms of Section 45 of the Magistrate's Court Act of 1944 as amended, I/we hereby consent to the jurisdiction of the Magistrate's Court having jurisdiction in terms of Section 28 of the said Act in respect of any action being instituted against me/us by the CREDITOR in terms hereof. It shall nevertheless be entirely within the discretion of the CREDITOR as to whether to proceed against me/us in such Magistrate's Court or any other Court having jurisdiction, and I/we consent to the jurisdiction of the High Court of South Africa, Durban and Coast Local Division for purposes of any application or action arising out of this contract.
- 13. I/we hereby expressly renounce the benefits of the legal exceptions, (save for the exceptions "money not paid over", "wrong calculation" or "no cause of action exists", should this deed of suretyship be subject to the National Credit Act) of "order", "exclusion" "division", "cession of action" and all or any exceptions which could or might be pleaded to any claim by the CREDITOR against me/us with the meaning, force and effect of all of which exceptions I/we declare myself/ourselves to be fully acquainted.
- 14. At the CREDITOR'S sole discretion, it may refer any breach, dispute, impasse or deadlock either to its accountants for determination who shall act as an umpire and whose decision, including who shall pay the costs including their costs, shall be final and binding upon the parties; or, to arbitration.

The Arbitrator shall be a person nominated by the President of the Natal Law Society from time to time and such person will not necessarily be a lawyer.

The determination by the Company's Accountants shall be held at their offices and an arbitration shall be held in Durban unless, agreed to otherwise by the parties in writing.

The arbitration shall be held upon such terms as the Arbitrator may decide, in which event the arbitration shall be held as informally and as expeditiously as possible, unless the Company in its sole discretion elects that the arbitration be determined in accordance with the summary procedure for arbitration as set out in the Rules for the Conduct of Arbitration prepared by the Association of Arbitration.

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APPLICATION FOR CREDIT FACILITY & SURETY

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Approved	GM	

The decision of the Arbitrator, as in the case of the Umpire, shall be final and binding upon the parties and he shall be entitled to stipulate who shall pay the costs, including his costs and disbursements of the arbitration or the determination by the Accountants acting as umpire.

Any party to the determination by the Company's Accountant as Umpire or the arbitration proceedings shall be entitled to have such an award made an order of court.

- 15. For the purpose of this SURETYSHIP and any proceedings which may be instituted by virtue hereof, I/we hereby choose domicilium citandi et executandi at the physical address given on page one of the Application for Credit to which this SURETYSHIP forms part, where all notices and processes may be effectively served and delivered upon me/us.
- 16. I/we hereby confirm and declare that this Deed of Suretyship, Co-principal Debtorship and Guarantee was properly completed at the time of my/our signature hereof. This Deed of Suretyship, Co-principal Debtorship and Guarantee is enforceable by the CREDITOR against the person signing the same whether or not the other party/ies named herein sign the same.
- 17. Any reference in this document, to either the masculine or feminine or neuter gender shall in the appropriate context be deemed to include or mean reference to any of the other genders, and references to either the singular or plural, shall in the appropriate context be deemed to include or refer to other number.

Dated at on	
SURETY, CO-PRINCIPAL DEBTOR AND GUARANTOR	SPOUSE (if applicable)
SURETY, CO-PRINCIPAL DEBTOR AND GUARANTOR	SPOUSE (if applicable)
SURETY, CO-PRINCIPAL DEBTOR AND GUARANTOR	SPOUSE (if applicable)
SURETY, CO-PRINCIPAL DEBTOR AND GUARANTOR	SPOUSE (if applicable)
WITNESS:	
1. Signature:	9:
Name: Name:	

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Date Origin	09/02/2022	22/04/2024
Approved	GM	

FOR OFFICE USE ONLY:

Sales Manager:	Signature:	Date:
Credit Manager:	Signature:	Date:
Managing Director:	Signature:	Date:
Account number allocated:		Date:
Credit limit authorised:		
Terms:		
Special Conditions:		

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