Standard Terms and Conditions of Loan Agreement - Schedule A

Opportunity Finance (Pty) Limited
NCR Registration Number: NCRCP1
Company Registration: 2006/008265/07
VAT Number: 4220228656

Any reference in these standard terms and conditions to “this credit agreement” includes any credit agreement to which these standard terms and conditions are annexed, or incorporated by reference. The definitions referred to any document containing such credit agreement apply equally to these standard terms and conditions.

1. Loan
1.1 Subject to the provisions of the National Credit Act 24 of 2005, Opportunity Finance (Pty) Limited agrees to lend and advance you, the consumer, the Loan Amount on the terms and conditions set out in this agreement which consists of the following documents: Form 20 – Pre Agreement Statement and Quotation for Small and Intermediate Credit Agreements; Small and Intermediate Loans Agreement; Standard Terms and Conditions of Loan Agreement – Schedule A; Any other document incorporated by reference in terms of the above documents.

1.2 Opportunity Finance (Pty) Limited will lend you the loan amount on the date of signature of this credit agreement on our behalf, or as soon as possible thereafter.

1.3 The amount lent to you will be paid to you either in Cash, and/or into a bank account(s) nominated by you and you confirm that Opportunity Finance (Pty) Limited may do so.

2. Credit Assessments
2.1 Opportunity Finance (Pty) Limited shall conduct a credit assessment before Opportunity Finance (Pty) Limited lends any amount of money to you and will not lend and advance any amounts to you unless Opportunity Finance (Pty) Limited is satisfied with the result of that credit assessment and that the circumstances which determine your credit risk to us have not changed.

3. Right to Reasons for Credit being Refused
3.1 On my request, Opportunity Finance (Pty) Limited must provide me in writing with the dominant reason for refusing to enter into a credit agreement, offering me a lower credit limit than the one I applied for, refusing a request from me to increase the credit limit under an existing credit facility, or refusing to renew an expiring credit facility.

4. Interest and Fees
4.1 You shall be liable to pay the interest at the rate, and the fees, referred to in Part 1 of this credit agreement. Interest will only be charged on the amounts actually lent and advanced to you. The interest rate will either be a variable or a fixed rate of interest as indicated in Part 1 of this credit agreement.

4.2 Opportunity Finance (Pty) Limited will calculate the interest on the daily outstanding balance after the end of business hours on each and every day, and add this interest to the outstanding balance of the loan once per month. For instalments payable weekly or fortnightly, interest will be capitalised once per month. Where the interest rate is a variable rate then it shall be deemed to be fixed in relation to the reference rate specified in this Agreement. Where the Agreement refers to “Prime Rate”, this means the published prime overdraft lending rate of interest from time to time of ABSA Bank Limited; “Repo Rate” of “Repurchase Rate” means the published repurchase rate of the Reserve Bank of South Africa from time to time. Should you wish to ascertain what the Prime Rate or Repo Rate is at any given time you are entitled to request the rate by contacting Opportunity Finance at the above address.

4.3 You are entitled to pay the loan initiation fee up front and if not it will be levied on the date of approval of the loan to you. The monthly service fee will be levied on the same date as instalments described in Part 1 of this credit agreement. If the monthly service fee is not paid on the due date it will be added to the principal debt and will bear interest as set out in 4.1 and 4.2 above.

5. Penalty Interest in Arrear Amount
5.1 Subject to section 103(1) of the National Credit Act 34 of 2005, the interest rate applicable to an amount in default or an overdue payment under this agreement shall be equal to the highest interest rate applicable to any part of the principal debt under this agreement, or, if there is only a single rate applicable to the principal debt, then equal to such interest rate.

6. Default Administration Charge
6.1 If I default on my obligations under this agreement Opportunity Finance (Pty) Limited will be entitled to levy default administration charges that may be prescribed from time to time.

7. Collection Costs
7.1 Should Opportunity Finance (Pty) Limited institute proceedings against me for recovery of the amounts owing by me, Opportunity Finance (Pty) Limited shall be entitled to collection costs, on an attorney-and-client scale, to the extent permitted by Part C of the National Credit Act 34 of 2005 and in terms of the applicable tariff prescribed by the rules made under the Magistrates’ Court Act, 1944. I further agree that I will be liable to pay interest at the contractual rate on the said disbursements and charges that the Opportunity Finance (Pty) Limited may levy in the process of collecting the debt from me.

8. Repayment
8.1 All amounts that you owe Opportunity Finance (Pty) Limited in terms of this agreement including the Loan Amount, interest, fees and any VAT, must be repaid by no later than the repayment date without deduction or set off and without Opportunity Finance (Pty) Limited having to demand payment.

8.2 If you have more than one loan with Opportunity Finance (Pty) Limited, you agree that Opportunity Finance (Pty) Limited may use any credit balance due to you to pay off any amount you owe on another loan.

8.3 Any payment that you make will be used to firstly settle interest, secondly to satisfy fees, costs or charges, and thirdly to reduce the amount of the principal debt (i.e. the maximum total amount owing or such lesser amount as may have been actually lent and advanced to you).

8.4 Should payment of any amount owing to Opportunity Finance (Pty) Limited in terms of this agreement be made by electronic funds transfer Opportunity Finance (Pty) Limited shall only be obliged to accept such payment if it bears the settlement detail shown on your statement or settlement quote, otherwise Opportunity Finance (Pty) Limited shall have the right to return the payment.

8.5 No payment by cheque of any amount owing in terms of this agreement will be accepted unless the cheque is a bank guaranteed cheque and if it is in the exact amount owing to Opportunity Finance (Pty) Limited.

9. Early Settlement and Right to Terminate Loan
9.1 You may settle this agreement at any time with or without notice by paying the settlement amount to Opportunity Finance (Pty) Limited i.e. by paying the unpaid balance of the principal debt together with the unpaid interest charges and all the other fees and charges payable by you to Opportunity Finance up to the settlement date.

10. Reduction of Credit Limit under Credit Facilities
10.1 You may, at any time by written notice, require Opportunity Finance (Pty) Limited to reduce the credit limit (if any) or stipulate a maximum limit (if any) that you are prepared to accept. Opportunity Finance (Pty) Limited will give written confirmation of the new credit limit and the date it takes effect, which will not be more than 30 business days after the date of the notice received by you.

11. Security (where applicable)
11.1 As security for the loan and your obligation to Opportunity Finance, you must provide Opportunity Finance (Pty) Limited, with the securities specified in Schedule B of this Agreement. Opportunity Finance (Pty) Limited is not obliged to advance any part of the Loan Amount to you unless and until all the securities have been provided by you as required by Opportunity Finance (Pty) Limited.

11.2 Where you are required to provide a suretyship or guarantee of a third party, then such third party must sign Opportunity Finance (Pty) Limited's standard suretyship or guarantee.

11.3 Where the security includes a pledge or a cession of your right, title and interest in or to any goods or other things of value ("the goods") then: the goods must be ordinarily be kept at the address specified in Schedule B and you must notify Opportunity Finance (Pty) Limited of any change in such address; the goods must not be taken out of South Africa; you must at all times keep and maintain the goods in good order and condition and, where applicable, in good working order; you must keep the goods insured against all insurable risks with a reputable insurer for an amount of no less that the outstanding balance due by you to Opportunity Finance (Pty) Limited from time to time, including interest, fees and charges and unless such cover has been arranged by Opportunity Finance (Pty) Limited, proof of such cover and payment of premiums is to be furnished to Opportunity Finance (Pty) Limited; and you must surrender the goods to Opportunity Finance (Pty) Limited whenever you are liable to do so in terms of the security agreement (where applicable), this Agreement, or the National Credit Act 34 of 2005.

12. Obligation to Disclose Address and Location of Goods
12.1 Within 10 business days you must inform Opportunity Finance (Pty) Limited of any change concerning your residential or business address; the address of the premises in which any goods provided as security are ordinarily kept; and the name and address of any other person to whom the possession of the goods has been transferred.

12.2 On request you must inform Opportunity Finance (Pty) Limited, a deputy sheriff or messenger of the court of: The address of the premises in which any goods provided as security are ordinarily kept; The name and address of the landlord, if any, or the premises; and The name and address of any other person to whom possession of the goods has been transferred.

12.3 You commit an offence and are liable on conviction to a penalty if you knowingly provide false or misleading information or act contrary to this section with intent to frustrate or impede the enforcement of this agreement.

13. Surrender of Goods
13.1 You are entitled at any time to surrender the goods in the case of a secured loan. In this event the you must:

13.1.1 Give written notice ("the termination notice") to Opportunity Finance (Pty) Limited to terminate this agreement; and

13.1.2 Require Opportunity Finance (Pty) Limited to sell the goods (if in Opportunity Finance (Pty) Limited's possession) or return the goods to Opportunity Finance (Pty) Limited during ordinary business hours within 5 business days of the termination notice or other period, time or place agreed with Opportunity Finance (Pty) Limited.

13.2 Within 10 business days after the later of receiving the termination notice or receiving the goods, Opportunity Finance (Pty) Limited will give you notice ("the valuation notice") of the estimated value of the goods and any other prescribed information. Within 10 business days of receiving the valuation notice, you may unconditionally withdraw the termination notice and resume possession of the goods unless you are in default, otherwise Opportunity Finance (Pty) Limited will as soon as practicable, sell goods for the best price reasonably obtainable.

13.3 The proceeds of the sale of the goods will be credited to your loan account with Opportunity Finance (Pty) Limited and otherwise dealt with in accordance with sections 127(5) – 127(6) of the National Credit Act 34 of 2005.

14.1 If you have given us permission to include you in customer lists that Opportunity Finance (Pty) Limited may market or sell, you confirm that you direct and instruct us to furnish any information provided by you to us to any person to whom Opportunity Finance (Pty) Limited may sell, market or distribute customer lists.

14.2 We may transmit to the following credit bureaux information about the application, opening and termination of your account and transfer information about your non-compliance with the terms and conditions of this agreement:

14.2.1 Transunion: Wanderers Office Park, 52 Corlette drive, Illovo, 2196

14.2.2 Experian: Experian House, The Ambridge, Vrede Avenue, Douglasdale, 2021

14.2.3 Compuscan: 3 Neutron Avenue, Techno Park, Stellenbosch, 7600

14.2.4 XDS: 11 – 13 St. Andrews Street, Oakhurst Building, Parktown, Johannesburg

14.3 The National Credit Regulator may be contacted at telephone 0860 627 627, email address: info@ncr.org.za or website: www.ncr.org.za. You have the right to resolve a complaint by way of alternative dispute resolution, file a complaint with the National Credit Regulator or to make an application to the National Credit Tribunal.

14.4 The Credit Ombuds can be contacted on 0861 662 837, email: ombud@creditombud.co.za or website: www.creditombud.org.za

14.5 If you consider that you are over indebted, you may apply to a debt counsellor to be declared over-indebted in terms of section 86 of the National Credit Act 34 of 2005, by making an application in the prescribed manner and form and upon payment of the prescribed fee. The debt counsellor may reject the application (in which event you may with leave of the Magistrate’s Court apply to be declared over-indebted), recommend that you and your credit providers voluntarily consider and agree on a plan of debt reduction and/or sell information from your employer, your bank, any credit bureau or any other person for the purposes of assessing your application for credit, reviewing your performance under this agreement or for developing and/or marketing future offerings to you;

14.5.2 Monitor your payment behaviour by researching your record and any registered credit bureau;

14.5.3 Use new information and data obtained from any registered credit bureau in respect of your application for credit;

14.5.4 Record and transmit details (including personal information) in respect of your conduct of your account and your obligations in terms of this agreement;

14.5.5 Obtain and disclose any of your information if Opportunity Finance (Pty) Limited think it necessary or may be of benefit to you, or where Opportunity Finance (Pty) Limited are legally compelled to do so, or where it is in the public interest to disclose such information, or where our interests require the obtaining and/or disclosure of such information.

14.5.6 Disclose report or release any information that Opportunity Finance (Pty) Ltd suspects may be fraudulent, or information relating to any unlawful activity relating to you to the South African Fraud Prevention Services (SAFPS).
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15.2 You hereby consent and agree that the information Opportunity Finance (Pty) Limited provide to any registered credit bureau may be used by such bureau in the normal course of its business and accessed by other credit providers and registered credit bureau.

15.3 You instruct and authorise:

15.3.1 Your employer to give Opportunity Finance (Pty) Limited details of your employment, such as confirmation and status of your employment, that amount you are paid, the date on which you are paid and the account into which your salary is deposited;

15.3.2 Your bank to give Opportunity Finance (Pty) Limited any financial information relating to your bank account, such as information of the account number and that you are the accountholder, your bank branch and type of account that you hold and any account transactional information Opportunity Finance (Pty) Limited may require;

15.3.3 Any credit bureau or other similar organisation that has information pertaining to your credit worthiness to give such information to Opportunity Finance (Pty) Limited.

15.3.4 You hereby waive any claim against us in respect of any disclosure and you indemnify us against any loss or liability as a result of us acting in terms of any authorisation granted to us in terms hereof.

16. Breach and/or Acceleration

16.1 Should you fail to make any payments under this agreement or any other credit agreement you have concluded with Opportunity Finance (Pty) Limited when due, or any debit order or other payment instruction be unpaid, or you fail to comply with any or obligations under this agreement or any agreement you have concluded with Opportunity Finance, or if you assign your estate in favour of your creditors, compromise with them, or be sequestrated, be placed under administration, apply to a debt counsellor for debt review or allege in any court proceedings that you are over-indebted, or that this agreement was recklessly concluded, or any default judgement is granted against you, or your make or have made any incorrect statement in connection with this agreement, or failed to fully and truthfully answer any requests for information from us in order for us to assess and approve the loan granted to you in terms of this agreement, or commit any act which may be detrimental to our rights in terms of this agreement, or should in our opinion any circumstances arise which affects your ability to meet your obligations to Opportunity Finance (Pty) Limited in terms of this agreement then:

16.1.1 All amounts owing to us in terms of this agreement will immediately be due and payable; and/or

16.1.1.1 Without detracting from any other rights and remedies Opportunity Finance (Pty) Limited has under this agreement or by law, Opportunity Finance (Pty) Limited shall be entitled to take any steps prescribed in the National Credit Act 34 of 2005 to enforce this agreement and payment by you of all amounts owing to Opportunity Finance (Pty) Limited, that is Opportunity Finance (Pty) Limited will draw the default to your notice in writing and propose that you refer the agreement to a debt counsellor, alternative dispute resolution agent, consumer court, or ombud with jurisdiction, with the intent that the parties resolve any dispute under the agreement or develop and agree on a plan to bring the payments under the agreement up to date;

16.1.1.2 Opportunity Finance (Pty) Limited will approach the court for an order enforcing the credit agreement only if you have been in default for at least 20 business days and at least 10 business have elapsed since the notice referred to above.

17. Address for Receiving Documents

17.1 You choose your address on the front page of this agreement as the address at which all court process, notices, or other documents or communications of whatever nature in terms of or arising from this agreement may be sent to you. You may change this address by giving Opportunity Finance (Pty) Limited seven business days' advance notice in writing provided that this must be a street address in the Republic of South Africa. Any notice, document or communication sent to you at such address shall be deemed to have been received:

17.1.1 If delivered by hand, on the date of delivery, or;

17.1.2 If sent by post, on the 5th (fifth) business day after posting.

17.1.3 If transmitted by telefax to the chosen telefax number set out in this agreement or sent by electronic mail to the chosen email address, it will be considered as received on the date of transmission (unless the contrary is proved).

17.2 Opportunity Finance (Pty) Limited chooses the address at the top of this credit agreement as the address to which any notices may be sent to you by Opportunity Finance (Pty) Limited. Any documents actually received by a party will be a written adequate notice or communication to that party, even though it was not sent to or delivered at the chosen address.

18. Right to Receive Documents in Official Language

18.1 You are entitled to request delivery of any particular document in the manner selected by you in an official language that you read and understand, to the extent permitted by section 63 of the National Credit Act 34 of 2005. Where I elect to receive a document in person at a location other than the business premises of Opportunity Finance (Pty) Limited, Opportunity Finance (Pty) Limited shall be entitled to recover the delivery costs from me.

19. Confidentiality

19.1 Unless Opportunity Finance (Pty) Ltd is obliged to do so by law, it will not disclose any of my confidential information without my express consent or instruction. I consent to Opportunity Finance (Pty) Ltd disclosing, reporting or releasing any information that Opportunity Finance (Pty) Ltd suspects may be fraudulent, or information relating to any unlawful activity relating to me to the South African Fraud Prevention Services (SAFPS) and/or any similar organisation or bureau, as well as reporting or releasing any credit information relating to me to any credit bureau.

20. Certificate

20.1 A certificate, signed by a manger employed by Opportunity Finance (Pty) Ltd (whose appointment need not be proved), reflecting the outstanding amount that is due owing and payable by me to Opportunity Finance (Pty) Ltd will be sufficient proof of my indebtedness to Opportunity Finance (Pty) Ltd for the purposes of provisional sentence, summary judgment or any other proceedings, unless I am able to prove otherwise.

21. Assignment

21.1 Opportunity Finance (Pty) Limited will be entitled to cede, sell, assign or transfer all or any of its rights under this agreement without your consent or prior notice to you. You may not cede, delegate, sell, assign or transfer any of your rights or obligations in terms of this Agreement.

22. Jurisdiction

22.1 You consent to the jurisdiction of the Magistrates’ Court in respect of all actions or proceedings arising from this agreement, notwithstanding that the amount claimed may exceed the jurisdiction of such courts. Notwithstanding such consent, Opportunity Finance(Pty) Limited will be entitled to proceed in any court to enforce any of its rights in terms of this agreement at its election.

23. Administration/Sequestration/ Debt Review

Initials:

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23. I declare that my estate is not subject to debt review and is not under administration, nor am I an un-rehabilitated solvent. I further confirm that I am not aware and nor do I contemplate any application to place my estate under debt review or administration during the repayment of this agreement.

24. Right to Rescind the Agreement

24.1 The provisions of Section 121 of the National Credit Act 34 of 2005 do not apply to this agreement and, accordingly you do not have the right of rescission.

25. Payment to Merchants

25.1 Opportunity Finance (Pty) Limited have the right to pay the person or entity from whom goods were purchased or services obtained the amount appearing on the voucher concerned, when the voucher is presented to us for payment.

26. Disputes with Merchants or Suppliers

26.1 Opportunity Finance (Pty) Limited will not be liable to you:

26.1.1 If any merchant or supplier refuses to allow the purchase of goods or services required prior to your loan application with us being approved;

26.1.2 For any goods purchased or services obtained by you after the loan proceeds have been paid to the merchant or supplier; and

26.1.3 You will not have the right to claim anything from us or institute any counterclaim against us or to apply set-off against us on the basis.

26.1.4 No dispute between you and a merchant or supplier will give you the right to:

26.1.5 Be exempted from your obligation to us for any payment made by us to the merchant or supplier and you cannot refuse to pay us; or

26.1.6 Instruct us to refuse to pay to merchant or supplier; and

26.1.7 Instruct us to do a charge-back of payment already made to the merchant or supplier, for goods purchased or services rendered by the merchant or supplier to you.

26.1.8 Any refund made by the merchant to you must be paid to us so that Opportunity Finance (Pty) Limited can credit your account with us.

26.1.9 When Opportunity Finance (Pty) Limited receive a credit voucher issued by a merchant or supplier for goods purchased or services obtained by you, Opportunity Finance (Pty) Limited will credit your account with the amount of the credit voucher.

27. Special Conditions

27.1.1 If you are a company, close corporation or other juristic person the following must be submitted before any portion of the Loan Amount may be advanced to you:

1) A certified copy of your Certificate of Incorporation or CK1/CK2 or other founding document(s), as applicable; 2) A certified copy of the minutes of the meeting of your directors or other governing body, approving the transaction; 3) Proof of registration with the South Africa Revenue Service as a tax payer and VAT Vendor (where applicable);

27.1.2 If you are an individual or partnership then the following must be submitted before any portion of the Loan Amount may be advanced to you (if in partnership, the following must be submitted in respect of each partner): 1) Proof of registration as a tax payer and provisional tax payer; 2) A certified copy of a South African identity document or passport (if a foreign national).

28. General

28.1 I understand that in order for Opportunity Finance (Pty) Ltd to maintain and improve the quality of the services it provides to its customers any telephone calls that are made by or to its customers are recorded. I give my consent to Opportunity Finance (Pty) Ltd to record any telephone call between us. I agree that I will promptly notify Opportunity Finance (Pty) Ltd, in writing, of any change in my address, telephone number, employment or banking details. I also agree that I will immediately notify Opportunity Finance (Pty) Ltd if I should become insolvent, be placed under administration or have any other form of legal disability.

28.2 If for any reason or purpose Opportunity Finance (Pty) Limited do not immediately enforce or implement any of our rights in terms of this agreement, it does not mean that Opportunity Finance (Pty) Limited have abandoned, given up or waived any of those rights.

28.3 The terms and conditions of this agreement constitute the entire agreement between Opportunity Finance and you on the subject matter hereof.

28.4 No variation, alteration, novation or addition to this agreement, and no waiver by your or by Opportunity Finance of any of their respective rights set out in this agreement is of any force or effect unless in writing and signed by Opportunity Finance and by you, in compliance with section 116 of the Act.

28.5 You confirm that the terms and conditions, the meaning and consequences of this agreement have been presented and explained to you in a language you understand. The risks relating to the agreement, as well as your rights and obligations have also been explained to you.

28.6 In order to be valid and binding, and unless such an amendment is effected in accordance with the Act, any changes or amendments to this agreement must be made by us in writing and signed by us.

28.7 Opportunity Finance (Pty) Limited may however at any time replace or amend these terms and conditions and if Opportunity Finance (Pty) Limited do so, it does not mean a novation of this agreement or any transaction or indebtedness, which means that a new agreement does not automatically come in place.

28.8 Each and every undertaking and clause as contained herein shall be capable of independent enforcement, thus enabling any court or other competent tribunal to enforce the remainder of this agreement should it adjudge any particular undertaking or clause thereof to be invalid.

28.9 Opportunity Finance (Pty) Limited will not be liable for anything outside of our reasonable control (for example, a failure of computer systems, or power failures, or power failures which happen for reasons outside our reasonable control) or any industrial action, or political unrest, war, if this prevents us from providing our usual service.

28.10 Opportunity Finance (Pty) Limited will not be held liable for any loss or damage sustained by you or a third party regarding either the application for credit or regarding this agreement.

28.11 Should you wish to receive copies of documents relating to your loan account, you must advise us of the manner in which you want these to be delivered to you, (provided Opportunity Finance (Pty) Limited have the ability to effect the delivery method you choose). In certain instances, Opportunity Finance (Pty) Limited are entitled to charge a fee for such copies.

Signed by Client:.......................................................... at.........................................................Date:................................(DD/MM/YYYY)

Signature of Spouse:.......................................................... at.........................................................Date:................................(DD/MM/YYYY)

Signature of Authorised Opportunity Representative:.......................................................... at.........................................................Date:................................(DD/MM/YYYY)