

ACKNOWLEDGEMENT OF DEBT

by

- - -

Identification number - - -

in favour of

Identification number - - -

1. INTERPRETATION & DEFINITIONS

In this Agreement, unless the context otherwise indicates:

- 1.1. the singular shall import and include the plural and vice versa;
- 1.2. words indicating one gender shall import and include other genders;
- 1.3. words indicating natural persons shall import and include artificial persons;
- 1.4. the head notes to this Agreement are used for the sake of convenience only and shall not govern the interpretation of the clause to which they relate;
- 1.5. the following words and expressions shall, in addition to their respective ordinary meanings, bear the following meanings assigned to each of them respectively:
 - 1.5.1. **“Agreement”** means this agreement and all annexures thereto;
 - 1.5.2. **“Creditor”** means xxx, Identification Number - - -;
 - 1.5.3. **“Debtor”** means - - -, Identification Number - - -;
 - 1.5.4. **“Identification Number”** means the identifying number of a Party, being either its registration number in relation to an incorporated entity, or the identity or passport number in relation to a natural person;
 - 1.5.5. **“Party”** means any party to this Agreement; and **“Parties”** means all of the parties to this Agreement;
- 1.6. if any provision in the aforesaid definitions is or contains a substantive provision imposing rights and/or obligations on a Party/ies, effect shall be given to such provision as if it were a substantive provision in the body of this Agreement;
- 1.7. any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 1.8. a reference to Debtor shall include a reference to that Party’s legal representative and "legal representative" shall include a liquidator, judicial manager, trustee, administrator, curator, whether provisional or final.
- 1.9. when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case, the last day shall be the next succeeding day which is not a Saturday, Sunday, or public holiday. The term “business day” shall mean any day other than a Saturday, Sunday or public holiday;
- 1.10. where any term is defined within the context of any particular clause in this Agreement,

the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;

- 1.11. the use of the word "including" followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s;
- 1.12. the rule of interpretation that a contract, or any part of a contract, is to be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply.

2. THE ACKNOWLEDGEMENT OF DEBT

- 2.1. The Debtor hereby irrevocably acknowledges itself to be truly and lawfully indebted unto and in favour of the Creditor in the following amounts:
 - 2.1.1. - - - ("**the Capital Sum**");
 - 2.1.2. interest on the Capital Sum at a rate of - - - per annum, calculated from **08 March 2024** until the date of final payment; and
 - 2.1.3. legal costs on the scale as between attorney and client, including collection commission.

3. REPAYMENT OF THE AMOUNTS DUE BY THE DEBTOR TO THE CREDITOR

- 3.1. The Debtor undertakes to pay to the Creditor, the Capital Sum, interest thereon and legal costs (as provided for in clause 2 above) as follows:
 - 3.1.1. through the payment of an initial installment of - - -, due on **08 March 2024**; and
 - 3.1.2. thereafter, through - - - installments of - - - per installment, with each installment being due on - - -.
- 3.2. All payments due by the Debtor to the Creditor hereunder will be made free of exchange or other deductions.
- 3.3. The Debtor shall be at liberty to pay any portion of the Capital Sum, including interest, before the due date thereof.

4. BREACH

- 4.1. In the event of any one of the following occurring:

- 4.1.1. the Debtor fails to any make payment that is due to the Creditor timeously;
- 4.1.2. the Debtor is sequestration or liquidated, as the case may be, (provisionally or finally);
- 4.1.3. the Debtor makes, or attempts to make a compromise with any of its creditors;
- 4.1.4. any of the Debtor's property is attached in execution of a court judgment,

then the full outstanding Capital Sum, together with interest and legal fees on the attorney and client scale, in terms of this Agreement, will immediately become due and payable, without demand, and the Creditor will be entitled, without prejudice to any other remedies that it may have against the Debtor to proceed immediately, for the recovery of the balance from both the Debtor.

- 4.2. Should it be necessary for legal action to be instituted for the recovery of any monies owing in terms hereof, the Debtor shall be liable for all costs incurred in connection therewith, including attorney and client costs, together with collection commission and interest.
- 4.3. For the purpose of any action against the Debtor a certificate signed by any Director of the Creditor (whose appointment need not be proved) as to the amount owing by the Debtor in respect of capital and/or interest shall be *prima facie* proof of the contents thereof.

5. MISCELLANEOUS MATTERS

5.1. Entire Contract

This Agreement contains all the express provisions agreed on by the Parties relating to the subject matter of the Agreement and the Parties waive the right to rely on any express provisions not contained herein.

5.2. Variation, Cancellation and Suspension

No variation of any of the terms and conditions of this Agreement will be binding on the Parties unless committed to writing and signed by them respectively.

5.3. Waivers

No indulgence which any Party/ies may grant to any other shall prejudice or constitute a waiver of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or might arise in the future.

5.4. Waiver of Benefits

The Debtor renounces the benefits of the legal exceptions, “*excussio*”, “*divisio*”, “*non numeratae pecuniae*”, “*non causa debiti*”, “*errore calculi*”, “revision of account” and “no value received”, the full force, meaning and effect whereof the Debtor declares itself to be fully acquainted.

5.5. Invalidity or Illegality

Should any provision of this Agreement for any reason be declared invalid or unenforceable, the remaining provisions shall not be invalidated but shall continue to be and remain of full force and effect.

5.6. Negotiated Terms

The Parties agree that the terms and conditions of this Agreement are the result of negotiations between them and that this Agreement shall not be construed in favour of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement.

5.7. Domicilium citandi et executandi

The Debtor chooses *domicilium citandi et executandi* (being its address for the purposes of serving all legal documents), for all purposes at the following address: - - -

In relation to all documents that can lawfully be delivered by email, the Debtor selects the following email address for all such purposes: - - -

5.8. Application of payments

All payments made by the Debtor shall be made free of deduction or set off and shall be allocated firstly towards the reduction of costs then interest, and finally, towards the reduction of so much of the Capital Amount that remains outstanding.

5.9. National Credit Act, 2005

The Debtor hereby authorises the Creditor to undertake credit bureau searches in relation to the Debtor.

5.10. Business Rescue

In the event that the Debtor is placed under business rescue in terms of Chapter 6 of the Companies Act 2008, the conclusion of any compromise of the debt under such approved business rescue plan will not reduce the liability of any person that is bound as a surety for the obligations owed by the Debtor to the Creditor. Any such surety shall remain liable for the full amount of the debt that was due before such compromise.

Signed at _____ on _____ 20__

Signed for the Debtor: _____

Witness Full Name: _____

Witness Signature: _____

Signed at _____ on _____ 20__

xxx

Signed for the Creditor: _____

Witness Full Name: _____

Witness Signature: _____