

CONFIDENTIAL

APPLICATION FOR CREDIT FACILITY

CUSTOMER:

DATE :

DIVISION :

Kindly initial each page

SECTION A: TO BE COMPLETED BY CUSTOMER

1. Full registered name of Business and Trade name

2. Registration number and registration date

3. Registered Address

4. Postal Address

5. Delivery address

6. Type of business Sole Proprietor (PTY) Ltd
 Partnership Ltd
 C.C. Specify Other

7. Directors/Members/Partners/Proprietors

NAME & ADDRESS	I.D. NUMBER	% SHAREHOLDING

8. Previous name of Business

9. Nature of Business

10. Name of holding company

11. Name of subsidiaries and associate companies

12. Name of Auditors/ Accounts and contact person

_____ Tel. No _____

13. Contact person (sales)

14. Tel. No. _____ Fax. No. _____

15. Contact person (Accounts)

Tel. No. _____ Fax. No. _____

16. Name of Landlord

17. Landlord postal address

18. Landlord contact number

19. Audited financial statement available YES NO
If "NO" please attach management accounts If "YES" please attach to application
20. VAT No. _____
Please attach copy of vat registration
21. Please list existing sureties, cession of debtors, notarial bonds, judgement, etc. against the business or any of its principals.

22. Have moratoriums or offers of compromise ever been made to your Creditors?

23. Bankers : _____ Branch : _____
Account No.: _____ Date opened : _____
24. Has the Business, Directors, Partners or owners had any previous dealing with any of the divisions of Consupaq?
YES NO
If yes specify _____
25. Name of current supplier of products which Consupaq will supply in future

26. Trade References (Please supply four)

NAME	ADDRESS	TELEPHONE NO.

27. Expected monthly purchase R : _____
Amount of credit required (R) : _____

I hereby declare that the information supplied is correct and true and grant Consupaq (Pty) Limited an irrevocable authority to verify same.

STANDARD TERMS AND CONDITIONS OF CONTRACT
OF CONSUPAQ (PROPRIETARY) LIMITED

1. **APPLICABILITY OF THE STANDARD CONDITIONS**

All and any business undertaken by Consupaq (Proprietary) Limited (“*Consupaq*”), including without limitation the supply of goods, services and advice, is and shall be subject to the terms and conditions hereunder (“*these conditions*”).

2. **DEFINITIONS**

“Customer” shall mean any person or persons at whose request or on whose behalf or in respect of whom *Consupaq* undertakes any business.

3. **ORDER**

3.1 An order placed by the customer shall only be binding on *Consupaq* if it is placed in writing and accepted in writing by an authorised representative of *Consupaq*.

3.2 Whenever it is necessary, for the purpose of these conditions or any other purpose whatever, for instructions to be given to *Consupaq*, such instructions shall be recognised by *Consupaq*, as valid, only if timeously given specially in relation to the matter in question. Standing or general instructions, or instructions given late, even if received by the *Consupaq* without comment, shall not be binding on *Consupaq*.

4. **PRICES**

4.1 Subject to the other provisions of these conditions, the prices for goods to be supplied will be in accordance with the quotation giving rise to the order referred to in clause 3.1.

4.2 Unless otherwise stipulated, all prices are exclusive of VAT.

4.3 If the customer varies its brief or if there are delays or changes which are not as a result of any act or omission of *Consupaq*, *Consupaq* shall be entitled to revise its prices by notice in writing.

5. **VALUE ADDED TAX**

The customer shall be responsible for and undertakes to pay to the company, at the same time as it is obliged to pay any sum in respect of goods supplied or to be supplied and/or services rendered or to be rendered, any tax payable thereon by the company in terms of the Value Add Tax Act № 1991 or any replacement Act.

6. **PAYMENT**

6.1 Unless otherwise agreed in writing, all amounts shall be paid by the customer to *Consupaq* without deduction, demand or set-off within 30 days of the date of *Consupaq*'s statement.

6.2 Any amount not paid on due date shall, at the discretion of *Consupaq*, bear interest from the due date until it is paid, at a rate not exceeding the maximum rate prescribed by law in respect of that amount.

6.3 If any amount owing by the customer to *Consupaq* is not paid on the due date then all amounts owing by the customer to *Consupaq* from any cause whatsoever shall become immediately due and payable.

7. **TIME NOT OF THE ESSENCE**

7.1 The time stated for delivery of the goods is approximate only and shall not be a material term to the contract.

7.2 Subject to 7.1, the company will make reasonable efforts to deliver goods and render services within the time stated and late delivery shall not render the contract invalid nor render *Consupaq* liable for any claim or damages.

8. **DELIVERY AND RISK**

8.1 Unless otherwise agreed in writing, the customer shall take delivery of the goods at *Consupaq*'s premises. If *Consupaq* agrees to deliver the goods anywhere else, then the customer will be liable for all the costs of delivery.

8.2 Risk in and to the goods will pass to the customer when the goods leave the premises of *Consupaq* whether or not *Consupaq* has agreed to deliver elsewhere. Offloading the goods shall be the responsibility of the customer and at the customer's own risk even if *Consupaq*'s employees are requested to effect or assist in offloading the goods.

8.3 Unless a customer reports in writing an incomplete or short delivery to the company within 4 days of the consignment in question having been delivered, the customer shall be precluded from making any claim against *Consupaq* in connection with such short or incomplete delivery.

8.4 Where the customer requests that delivery be suspended or delayed to a date later than that originally requested, *Consupaq* shall be entitled to charge the customer a reasonable fee for the storage of such goods.

8.5 *Consupaq* is entitled to withhold delivery of goods if the customer has not made payment of amounts due in respect of previous orders.

9. **OWNERSHIP**

9.1 Ownership of all goods delivered shall remain in *Consupaq* until *Consupaq* has received payment of the full purchase price notwithstanding that goods may have been purchased for resale.

9.2 The customer acknowledges *Consupaq's* rights to repossess the goods together with any improvements thereto, including but not limited to, any contents or items which the goods may at that time contain.

10. **TOLERANCES**

If manufacturing tolerances, materials or type of finish are not clearly stipulated and defined in any specification or drawings supplied by the customer to *Consupaq*, then *Consupaq* shall be entitled to manufacture to the commercially accepted tolerance or finish and from any commercially accepted material for the product concerned and will accept no liability in this respect.

11. **DRAWINGS, SPECIFICATIONS, ETC. FURNISHED BY OR ON BEHALF OF THE CUSTOMER**

11.1 *Consupaq* shall not be liable to the customer, and accepts no responsibility, for the accuracy of the information, specifications or drawings supplied by the customer or any design reflected therein and the customer indemnifies *Consupaq* and agrees to hold it harmless against all claims arising out of or in connection with any inaccuracy or wrong or defective design in such information, specifications or drawings.

11.2 Unless otherwise agreed in writing, all patterns, drawings, tools, moulds and the like produced by *Consupaq*, and all intellectual property rights therein, shall remain the property of the company. The customer may not reproduce or communicate knowledge of such items to any third party without the express written consent of *Consupaq* and the customer shall return the same to *Consupaq* at any time at the request of *Consupaq*.

11.3 Where drawings and/or specifications are supplied by the customer to *Consupaq* the customer indemnifies *Consupaq* and agrees to hold it harmless against all claims, arising out of or in connection with the manufacture of goods by *Consupaq* to such drawings and/or specifications, based on the allegation that *Consupaq* has infringed or is involved in an infringement, or is about to infringe or be involved in an infringement, of a patent, registered design, trademark, copyright or other exclusive right.

12. **NOTIFICATION OF DEFECTS**

12.1 Within 3 days after receipt of the goods the customer shall be required to advise *Consupaq* of any defects, failing which the goods shall be deemed to be complete in all respects and without defects.

12.2 If *Consupaq* agrees that the goods are defective *Consupaq's* liability shall be limited to replacing such goods as against return to it of the defective goods.

13. **RETURN OF GOODS**

If *Consupaq* agrees to accept the return of any goods for credit, the customer shall be liable to pay *Consupaq* a handling charge of not less than 10% (ten percent) of the invoiced price of the goods returned.

14. **NO WARRANTIES**

Consupaq gives no warranties and makes no representation as to the suitability of the goods for any specific purpose.

15. **LIMITATION OF LIABILITY**

15.1 Neither *Consupaq* nor any of its employees or agents shall be liable for any loss or damage, whether direct, indirect, consequential or otherwise, including any loss of profit, suffered by the customer or the customer's officers, employees or agents (if applicable), arising from any cause in connection with the goods, whether such loss or damage results from any breach of contract, delict, negligence of any degree or any other cause without limitation.

15.2 If a customer sells, leases or disposes of any goods supplied to it by *Consupaq* to a third party or otherwise permits a third party to use such goods, the customer shall include in the customer's agreement with the third party a provision in terms of which *Consupaq* is afforded a similar limitation of liability to that contemplated in 15.1.

15.3 Notwithstanding any other provisions to the contrary, any claim which a customer has against *Consupaq* in connection with or arising out of any business shall lapse and become extinguished unless within:-

15.3.1 90 days of such claim arising, the customer gives written notice thereof to *Consupaq* and at the same time discloses to *Consupaq* in writing the material facts on which the claim is based; and

15.3.2 12 months of such claim arising, the customer institutes legal proceedings against *Consupaq* in respect of the claim by issuing summons out of a court of competent jurisdiction and having such summons served on *Consupaq*.

16. **LANDLORD**

The customer undertakes to immediately notify the Landlord of its/his premises that all goods and stock supplied to it/him by *Consupaq* is subject to a reservation of ownership in favour of *Consupaq* and that until such time as the full purchase price has been paid to *Consupaq*, the goods will not form part of the landlords hypothec. The customer further undertakes to, within 7 days of the signature hereof, provide *Consupaq* with written proof that it has notified Its/his Landlord of the provisions of this clause.

17. **FORCE MAJEURE**

If *Consupaq's* performance in terms of the contract is prevented or delayed due to any reason outside of *Consupaq's* reasonable control, including without limitation, strikes, shortened working hours, shortage of labour or materials, accidents of any kind, any default or delay by any sub-contractor or supplier of *Consupaq*, war, political or civil disturbances, or acts of God, then *Consupaq* shall have the election either to:

17.1 cancel the contract in question; or

17.2 extend the time for performance until the cause preventing or delaying performance ceases to apply.

18. **CANCELLATION**

18.1 In addition and without prejudice to any other rights it may have, *Consupaq* is entitled to cancel any contract for the supply of goods if:

18.1.1 any judgement is granted against the customer;

18.1.2 the customer commits a breach of these conditions or any contract between *Consupaq* and the customer;

18.1.3 the customer, being an individual, dies or is provisionally or finally sequestered or surrenders his estate;

18.1.4 the customer is a partnership and the partnership is terminated;

18.1.5 the customer, being a company or close corporation, is placed under provisional or a final order of liquidation or judicial management; or

18.1.6 the customer compromises or attempts to compromise generally with any of its creditors.

18.2 Upon cancellation of the contract by *Consupaq*, *Consupaq* shall be entitled to recover all goods delivered but not yet paid for and all damages incurred by it arising from or in connection with such cancellation, including but not being limited to all costs, expenses and loss of profit.

18.3 The customer is not entitled to cancel the contract for any reason whatsoever, unless specifically agreed to in writing by a Director of *Consupaq*.

19. **NOTICES AND DOMICILIA**

19.1 All notices to be given in terms of the contract shall be in writing and shall be delivered by hand or sent by prepaid registered post to *Consupaq* at Unit 2, 40-52 Marseilles Crescent, Briardene Industrial Park, Durban and to the customer at any one of the physical business addresses set out in its Credit Application, quotation giving rise to the contract or the invoice in respect of the goods, which physical addresses the parties select as their *domicilium citandi et executandi*.

19.2 Each party shall be entitled at any time to change its *domicilium* to any other physical address within the Republic of South Africa : provided that such change shall take effect only upon delivery or deemed delivery of notice thereof to the other party.

20. **GENERAL**

20.1 No agent or employee of *Consupaq*, other than a Director of *Consupaq*, has *Consupaq's* authority to alter or vary these conditions.

20.2 The customer may not rely on a representation which it claims persuaded it to enter the contract.

20.3 No agreement varying, adding to, deleting from or cancelling any of the conditions, and no waiver of any of the conditions, shall be effective unless reduced to writing and, signed by a Director of *Consupaq*.

20.4 No indulgence granted by *Consupaq* shall constitute a waiver of any of *Consupaq's* rights.

20.5 If *Consupaq* refers any claim or dispute against the customer to its attorneys, and whether or not *Consupaq* institutes or defends any legal or arbitration proceedings to enforce or protect its rights, *Consupaq* shall be entitled to recover from the customer all legal costs (on an attorney and own client basis), tracing charges and collection commission incurred by *Consupaq* in that regard.

20.6 In the event of *Consupaq* deciding to institute legal proceedings for the enforcement of any of its rights against the customer, *Consupaq* shall be entitled to do so in the Magistrate's Court which would, but for the amount involved, have jurisdiction.

- 20.7 A certificate signed by a Director of *Consupaq* reflecting particulars of the amount owing by the customer together with details of all deliveries made to the customer and the invoices pertaining to such deliveries shall be prima facie proof thereof and of the customers indebtedness to *Consupaq*.
- 20.8 The customer may not cede any of its rights or delegate any of its obligations in terms of the contract unless a Director of *Consupaq* gives prior written consent to the customer to do so.
- 20.9 Credit facilities allowed by *Consupaq* are in *Consupaq's* discretion and *Consupaq* is entitled, at any time, without notice to the customer to, vary, curtail or terminate such facilities.
- 20.10 Unless it conflicts with the context of these conditions, words signifying one gender will include the other genders, words signifying the singular will include the plural and *vice versa*, and words signifying natural persons will include artificial persons and *vice versa*.
- 20.11 Headings of clauses are inserted for the purpose of convenience only and shall be ignored in the interpretation of these conditions.
- 20.12 If any part of these conditions is or becomes unenforceable, it will be severable from the rest of these conditions which will continue to be binding.
- 20.13 This agreement shall be interpreted and implemented in accordance with the law of the Republic of South Africa.

This done and signed at _____ this _____ day of _____ 20__ in the presence of the undersigned witnesses:

Agreed and accepted on behalf of: _____

Signature : _____

For and on behalf of the customer, warranting that he/she is duly authorized.

Designation : _____

Date : _____

Witnesses:

1. _____ 2. _____

SECTION B: TO BE SIGNED BY THE DIRECTORS/MEMBERS/PARTNERS/PROPRIETORS

DEED OF SURETYSHIP

To: Consupaq (Pty) Ltd (Registration Number 2003/011668/07 (hereinafter referred to as “the Company”))

1. I/We, the undersigned, ID number do hereby bind myself/ourselves jointly and severally to the Company as surety for and co-principal debtor in solidum with (registration number) (hereinafter referred to as “the Debtor”) on the terms and conditions contained in this deed of suretyship for the payment of every sum of money which the Debtor does now, or will at any future time, owe to the Company from whatsoever cause or causes and howsoever arising.
2. The Company will be at liberty, without affecting it’s rights hereunder, to release other sureties and/or securities and/or to give time to or compound or make other arrangements with any other surety for the Debtor.
3. No variation of any of the terms hereof will be of any force or effect unless reduced to writing and signed by me and confirmed by the Company in writing. This suretyship contains all its terms and conditions and there are no conditions precedent suspending its operation. No warranties, promises, representations or inducements of whatsoever nature have been made or given by the Company or any other person to me/us to sign the suretyship and bind myself/ourselves to the terms hereof.
4. The Company may at any time, without my/our consent, cede, assign or transfer and make over all it’s rights, title and interest in and arising out of this suretyship.
5. This suretyship shall be a continuing covering suretyship.
6. I/we may terminate this suretyship 30 (thirty) days after receipt of written notice given to and accepted by the Company, notwithstanding anything herein or elsewhere contained, on termination of this suretyship I/we shall remain liable as surety and co-principal debtor for all sums of money owed by the Debtor to the Company at the date of termination together with any interest accruing thereon after the date of termination.
7. A certificate of indebtedness signed by any one of the Company’s directors or managers (whose appointment it will not be necessary to prove) shall constitute *prima facie* proof of the amount of my/our indebtedness hereunder-including interest and the rate of interest. Such certificate shall be valid as a liquid document and deemed to contain sufficient particularity for the purpose of pleading or trial in any action instituted by the Company against me/us under this suretyship.
8. The Company’s rights under this suretyship will not be affected or diminished if the Company at any time obtain any additional or other suretyships, guarantees, securities or indemnities from me/us or any other party whatsoever in connection with the obligations of the Debtor and/or me/us.
9. Should the Debtor be placed under judicial management, whether provisionally or finally, then in such event my/our obligations under this suretyship shall cover debts incurred by the Debtor whilst under judicial management, whether provisionally or finally.
10. I/we hereby waive presentment, notice or dishonor and protest of any promissory note, bill of exchange, cheque and other negotiable instrument made, drawn, accepted, endorsed or discounted by the debtor or to be so made, drawn, accepted, endorsed or discounted by me/us, hereby agreeing and admitting that my/our liability hereunder in respect of any such instrument shall not in any way be affected by any failure to present or to give notice of dishonor or protest as aforesaid.
11. I/we renounce any benefits which I/we as surety am/are entitled to in law, including the benefits of “excussion”, “division”, “cession or action”, “revision of accounts”, “no value received”, and “*non causa debiti*”, with the force and effect whereof I/we am/are acquainted.
12. Each paragraph in this suretyship is severable the one from the other and if any paragraph or clause is found to be defective or unenforceable for any reason by any competent court, the remaining clauses will continue to be of full force and effect.
13. In terms of Section 45 of the Magistrate’s Court Act, 1944, I/we hereby consent to the jurisdiction of the Magistrate’s Court having jurisdiction in terms of Section 23 of the said Act in respect of any action to be instituted against me/us by the Company in terms hereof, it will nevertheless be entirely within the Company’s discretion as to whether to proceed against me/us in such Magistrate’s Court or any other court having jurisdiction.

- 14. Each reference to the Company herein includes a reference to the Company's successors in title or its assigns.
- 15. No extension of time or other indulgence granted by the Company to the Debtor in regard to the payment of any sum of money or the performance of any obligation will release me/us from liability under this suretyship.
- 16. For the purpose of this suretyship and any proceedings which may be instituted against me/us, I/we hereby choose *domicilium citandi et executandi* at:

Any change in *domicilium* will be made in writing 14 days prior to it taking effect.

- 17. The total amount recoverable by the Company from me/us under this suretyship shall not exceed the sum of :
 R_____ (_____) (amount in words), plus interest thereon at the rate applicable to the Debtors debt from due date of such debt until paid by me/us, plus all legal costs on an attorney and client scale, collection charges and like sums that may be incurred by the Company in enforcing its rights under this suretyship.

This done and signed at _____ this _____ day of _____ 20__ in the presence of the undersigned witnesses:

Agreed and accepted on behalf of : _____

Signature : _____

Designation : _____

Date : _____

Witnesses:

1. _____ 2. _____

SECTION C: FOR OFFICE USE ONLY

Recommended

Approved

Declined

CREDIT MANAGER

DATE

COMMENTS: _____

Credit Reference Check	Trade References			
Company				
Spoken To				
Years Known				
Ave. Purchases				
Credit Limit				
Terms Given				
Terms Taken				
Comments				