



OFFICIAL NEW TYRE DISTRIBUTORS FOR:



APPLICATION FOR CREDIT

A) DETAILS OF THE APPLICANT FOR INCIDENTAL CREDIT (hereinafter referred to as "the Applicant")

1. Name of the Applicant (Legal / Registered Name): _____
- 1.1 Trading Name _____
2. Business Address _____

3. Postal Address _____

4. The Applicant is a - Company Close Corporation Partnership Trust (if Trust indicate number of trustees)
(Certified Copy of Registration Certificate or Trust Deed to accompany this application)

Registration number _____

B) DETAILS OF ALL DIRECTORS / MEMBERS / PARTNERS / TRUSTEES OR SOLE PROPRIETOR ARE REQUIRED
First Directors / Members / Partners / Trustees or Sole Proprietor

1. Name _____
2. Identity Number _____
3. Home Address _____

4. Cellphone nr _____
5. If married, is the marriage in Community of Property?- Yes No

Second Directors / Members / Partners / Trustees or Sole Proprietor

1. Name _____
2. Identity Number _____
3. Home Address _____

4. Cellphone nr _____
5. If married, is the marriage in Community of Property?- Yes No

Third Directors / Members / Partners / Trustees or Sole Proprietor

1. Name _____
2. Identity Number _____
3. Home Address _____

4. Cellphone nr _____
5. If married, is the marriage in Community of Property?- Yes No

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5. VAT Registration number _____
(If registered for VAT, copy of the VAT Registration certificate must accompany this application)

6. **CONTACT DETAILS – Accounts Department**

E-Mail Address (Orders) _____

E-Mail Address (Accounts) _____

Telephone Number – Orders _____ Fax Number _____

Telephone Number – Accounts _____ Fax Number _____

Accounts Contact Person _____

7. **NAMES AND CAPACITY OF PERSONS AUTHORISED TO ORDER ON BEHALF OF APPLICANT:**

8. **THE APPLICANT'S AUDITORS / ACCOUNTING OFFICER**

Who are the Applicant's Auditors?

9. **BANKING DETAILS (Copy of cancelled Cheque)**

Account Name _____ Account No. _____

Bank _____ Branch _____ Branch no. _____

10. **TRADE REFERENCES**

_____ TEL NO. _____

_____ TEL NO. _____

_____ TEL NO. _____

11. **CREDIT LIMIT**

What is the credit limit applied for? R _____

b. **CONSENTS IN TERMS OF NATIONAL CREDIT ACT OF 34 OF KMMI**

Does the Applicant consent to the following:

- The Company shall be entitled to make such enquiries as may be necessary to ascertain the credit worthiness of the Applicant? Yes No

- In the event that credit is granted, that the Company may advise third parties of the manner in which the Applicant conducts its account? Yes No

- In the event the Applicant declines to supply any one (or both) of the consents referred to above, full reasons for such refusal are requested –

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C. CREDIT INSURANCE

The applicant is aware that it is a business practice of the Company to insure its debtor's book. The Applicant accordingly agrees that in the event the Company is unable to obtain such cover in respect of the Application, such failure shall constitute sufficient grounds for the Company to refuse this application for incidental credit.

D. TURNOVER REPRESENTATION

What is the Applicants annual turnover? _____

Is the Applicant's turnover in excess of R1 million per year? Yes No

Is the Applicant's turnover in excess of R2 million per year? Yes No

E. REPRESENTATION AS TO THE APPLICANT'S ASSETS

Does the combined asset value of all assets owned by the Applicant exceed R1 million? Yes No

Does the combined asset value of all assets owned by the Applicant exceed R2 million? Yes No

F. SUSPENSION / SETTING ASIDE OF THE GRANT OF INCIDENTAL CREDIT

The Applicant unequivocally agrees that in the event that the grant of incidental credit is suspended or set-aside for any reason whatsoever, the Applicant:

- (in the event that the goods, or a portion thereof can be recovered), shall immediately notify the Company of the whereabouts of the goods for which payment has not been made, and unequivocally accede to the Company's right of ownership over such goods;
- (In the event that the goods cannot be recovered) unequivocally agrees that it has been unjustly enriched in the sum of all amount then outstanding to the Company, and shall furthermore make immediate payment of all such amounts to the Company on the basis of such unjustified enrichment.

G. CREDIT LIMIT APPLICABLE

It is hereby agreed that in the event of the Company granting incidental credit as requested, the Applicant shall:

- At all times, conduct itself strictly within the terms applicable to such grant of incidental credit;
- In the event that the agreed credit limit is exceeded, Applicant agrees that:
 - (i) The amount of such excess was requested by the Applicant
 - (ii) This excess does not constitute a breach by the Company of its obligations to the Applicant;
 - (iii) The Company may increase the credit-limit applicable at its discretion (with the verbal and /or written consent of the applicant;
 - (iv) The terms and conditions of sale to which this application is attached shall be applicable to all transactions concluded with the Company.

H. CONSUMER PROTECTION ACT 68/2008 ("CPA")

Insofar as the Consumer Protection Act may be applicable the Applicant shall be entitled to all fundamental consumer rights as afforded by the CPA including the right to equality, confidentiality, disclosure, information and fair and honest dealing, and the Applicant's attention is drawn to these provisions.

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WARRANTIES BY PERSON WHO SIGN THIS APPLICATION FOR INCIDENTAL CREDIT

1. The Applicant's representative hereby warrants that such representative is authorized to bind the Applicant to the Company upon the Company's Standard Terms and Conditions of Trade which are annexed hereto.
2. The applicant and its representative agree that all terms and conditions set out in this Application for Incidental Credit are material to both this application as well as any commercial relationship that may arise here from.
3. In the event that the Company grants credit as sought by the Applicant, the Applicant and its representative who signs this document, warrants that the Applicant is possessed of sufficient means to timeously perform all of its obligations to the Company;
4. The Applicant further undertakes, which undertaking is agreed to be material, that it shall advise the Company of material changes in one or all of the following:
 - The Applicant's financial standing;
 - Any change in directorship / membership / trustees / partners;
 - Any other change in the affairs of the Applicant, which may be material to this Application and any further commercial relationship that may arise here from.

By my signature hereto, I acknowledge that I have read, understand and confirm the foregoing.

Dated at _____ on this _____ day of _____ 20_____

Signature: For the Applicant who warrants that he is duly authorized

Full Names of Applicant: _____

Identity Number: _____

Capacity: _____

First Witness to sign: _____

Second Witness to sign: _____

Full names: _____

Full names: _____

Identity Number: _____

Identity Number: _____

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**EAST LONDON
BANDAG**



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OFFICIAL NEW TYRE DISTRIBUTORS FOR:



DEED OF SURETY

1. I / We, the undersigned, by my / our signature hereto, bind myself / ourselves in my / our private and individual capacities, as Surety and co-principal debtor/s, jointly and severally, to East London Bandag , for the due and punctual performance by the Customer to East London Bandag of all obligations which may, in any time hereafter, become owing to East London Bandag by the Customer, from the credit application and terms and conditions of sale to which this Surety ship is attached and / or any other cause arising.
2. I am / we are fully acquainted with all the terms and conditions of the credit application and conditions of sale to which this Surety ship is attached.
3. All acknowledgements/admissions of indebtedness by the Customer shall be binding on me/us.
4. The Surety ship is a continuing Surety ship and shall remain of full force and effect notwithstanding any fluctuation in or temporally extinction of, the Customers indebtedness to East London Bandag. The Surety ship may not be withdrawn, revoked or cancelled by me/us without the prior written consent of a Director of East London Bandag. Any consensual cancellation or withdrawal of this Surety ship by me/us and the Creditor shall only be valid and effective if reduced to writing and signed by both parties thereto, which includes a Director of East London Bandag.
5. No extension of time or indulgence for the payment of any amount owing by the Customer and/or Surety to East London Bandag, whether granted before or after the due date for have arrived, in respect of goods or services sold by East London Bandag to the Customer, shall in any manner discharge or release me/us from my liability in terms of the Surety ship.
6. East London Bandag shall be entitled, without prejudice to its rights and without detracting from my/our liability hereunder, to release any securities or other Sureties given to it or to compound with or make any arrangements with the Customer in regard to the fulfilment of any of the Customers obligations as East London Bandag in its absolute discretion deems fit.
7. I/We acknowledge that my/our liability, in terms hereof, shall not be conditional to my/our prior consent being obtained for any purchase made by the Customer from East London Bandag.
8. Insofar as the terms and conditions of the credit application or terms of sale are applicable to me/us, we are bound thereby.

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2.1 SURETY

Signed at _____ on this _____ day of _____ 20____

SURETY who signs as Surety and by his signature confirms that this documents has been read and understood

Full Names of Surety: _____

Identity Number: _____

Telephone number: _____

2.2 SURETY

Signed at _____ on this _____ day of _____ 20____

SURETY who signs as Surety and by his signature confirms that this documents has been read and understood

Full Names of Surety: _____

Identity Number: _____

Telephone number: _____

First Witness to sign: _____

Second Witness to sign: _____

Full names: _____

Full names: _____

Identity Number: _____

Identity Number: _____

Address: _____

Address: _____

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TERMS AND CONDITIONS OF SALE INCORPORATING WARRANTIES

1. These terms shall be applicable to every contract of sale and the delivery of goods by East London Bandag (Pty) Ltd to the Customer, unless the contrary is recorded in writing and signed by a director of East London Bandag.

2. The credit granted by East London Bandag to the Customer, shall be Incidental Credit, as defined by Act 34 of 2005 (as amended)

3. SCOPE

Unless otherwise agreed in writing only these terms and conditions shall apply to any contract for the sale of goods, whether the contract arises out of:

3.1 An offer made by East London Bandag and accepted by the Customer; or

3.2 An offer made by the Customer and accepted by East London Bandag, including any such offer made by the Customer in response to a quotation by East London Bandag

3.3 No alteration or variation of these terms and conditions shall apply unless the alteration or variation in question is expressly agreed to in writing and signed by an authorized representative of East London Bandag at the time in question.

3.4 If the goods are required by the Customer for purposes of another contract between the Customer and a third party, none of the provisions of that contract shall apply to, or being incorporated in, the contract between East London Bandag and the Customer unless expressly confirmed in writing and signed by a duly authorized representative of East London Bandag at the time in question.

3.5 East London Bandag reserves the right to refuse or reject, in all or in part, any orders placed with it.

4. ORDER

No order shall give rise to any contract unless and until it is accepted by East London Bandag in writing, or by the dispatch by East London Bandag of the goods to which it refers. All orders placed with East London Bandag are open for acceptance and irrevocable, until rejected by East London Bandag.

5. PRICE

The price payable by the Customer for the goods shall be:

5.1 East London Bandag normal and usual price ruling at the time of the acceptance, by East London Bandag, of the customer's order.

5.2 Exclusive of Value Added Tax, or any other taxes or duties including customs or excise duties, landing charges, and Other import charges and the costs of foreign exchange.

5.3 Nett and not subject to any discount unless otherwise agreed to in writing. If any discount is so agreed for payment, then shall be allowed only if payment is received by due date in full settlement of the amount due. In the event that East London Bandag agrees, as part of the credit facility, to grant a discount, such discount shall only apply where full payment is received timeously by East London Bandag and provided in the case of cheques (or other negotiable instruments) these are subsequently cleared, in the normal course and without delay.

6. DELIVERY

Unless otherwise agreed in writing, and signed by a director of East London Bandag:

6.1 Delivery shall be made to the Customer at the address nominated by the Customer for such purpose ('the delivery address').

6.2 East London Bandag shall be responsible for procuring and arranging for the transportation of goods from East London Bandag premises to the delivery address.

6.3 Subject to the foregoing, delivery shall be completed when the goods are off-loaded at the delivery address.

6.4 East London Bandag shall engage a carrier to transport the goods for the Customer on such terms and conditions as East London Bandag deems fit.

6.5 Notwithstanding any provision to the contrary, the obligation to deliver the goods shall in all cases be subject to the following conditions precedent:-

6.5.1 The availability of the goods ordered;

6.5.2 Time shall not be of the essence of the contract, and delivery dates shall be treated as approximate only.

6.5.3 Under no circumstances, shall the Customer be entitled to withdraw from, or terminate the agreement, on account of any delay in delivery, nor shall it have any claim of any nature against East London Bandag arising from late delivery

6.5.4 If the Customer fails to take delivery of the goods on due date then;

6.5.4.1 The risk shall pass immediately from East London Bandag to the Customer;

6.5.4.2 The Customer shall refund to East London Bandag, on demand, the reasonable costs (including storage and insurance) of keeping the goods during the period of that delivery;

6.5.5 East London Bandag shall be entitled to deliver in instalments, in which case the provisions of this agreement shall apply to each instalment;

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- 6.5.6 The Customer agrees that a signature on East London Bandag official delivery note/invoice shall constitute prima facie proof of delivery of goods purchased, unless the contrary is proved by the Customer;
- 6.6 Defective delivery
- 6.6.1 Defective delivery means discrepancies in quantity delivered, non-delivery and shortages;
- 6.6.2 The Customer shall inspect the goods immediately upon delivery thereof, and shall thereafter, within 3(THREE) working days from the date when the Customer received the goods, notify East London Bandag of all damage, defects and/or short- supply. Such notification shall be in writing, and shall be received by East London Bandag within 7(SEVEN) working days from the date of delivery. It is agreed that this clause is inserted for the benefit of the Customer. In the event that the Customer fails to timeously give written notice of such defective delivery, the customer shall waive all the rights and benefits of this clause.
- 6.6.3 Such written notice referred to in 6.7.2 shall contain specific reference to the relevant invoice, packing slip and batch numbers;
- 6.6.4 In the event that 6.7.2 is of application, than East London Bandag will, at its sole discretion:
- 6.6.4.1 Re-supply the Customer with such goods within 30(THIRTY) working days from the date of receipt of the written notice referred to above; or
- 6.6.4.2 Credit the customer with the value of the defective delivery.
- 6.6.5 East London Bandag liability for:
- 6.6.5.1 Defective delivery: is limited to remedying the defect where it is possible to do so and only after East London Bandag at its sole discretion, agrees that the delivery is Defective:
- 6.6.5.2 Defective goods: the re-supply the Customer with such goods within 30 (THIRTY) working days from the date of receipt of the written notice referred to above, or to credit the Customer with the value of the defective goods.
- 6.6.6 Defective delivery of any instalment does not entitle the Customer to cancel the order or the agreement.
- 6.7 Delay in delivery
- 6.7.1 Time is not of the essence in respect of the performance by East London Bandag of its obligations arising from the Agreement.
- 6.7.2 In the event that delivery is delayed, and such delay is caused, directly or indirectly, by:
- 6.7.2.1 Reasons beyond East London Bandag control (including a Vis Major) or the Customers conduct (including failure to take delivery of the goods ordered) such shall not render East London Bandag liable for any damages whatsoever which may result from the delay; and the Customer shall not be entitled to cancel any order, or the agreement, by reason of the foregoing.
- 6.7.3 In the event that delivery is delayed, for any reason whatsoever, including the Customer's failure to take delivery of the goods ordered –
- 6.7.3.1 The risk in the goods shall immediately pass to the Customer and East London Bandag shall not accept any liability for damage caused to the goods as a result of the Customer's failure to take delivery thereof; and the customer shall pay reasonable costs of storing, insuring and handling the goods, until delivery.
- 6.7.4 Delay in delivery of any instalment does not entitle the Customer to cancel the order or the agreement.
- 6.8 Returned Goods
- 6.8.1 Delivered goods may only be returned with the written approval of a director of East London Bandag;
- 6.8.2 If East London Bandag approves the return of goods already delivered, the following conditions shall apply:
- 6.8.2.1 The goods must be complete, clean, saleable, undamaged and in their original packaging; and
- 6.8.2.2 The value of credit for the goods returned will be calculated at the invoice value when the goods were purchased, less a handling charge of 10% (excluding Value Added Tax thereon);
- 6.8.2.3 All goods shall be returned at the Customer's expense and all the risk to and in the goods remains with the Customer until such goods are returned to East London Bandag stores.
7. **COLLECTION**
- Unless otherwise agreed in writing, and signed by a director of East London Bandag:
- 7.1 Delivery shall be made to the Customer at East London Bandag premises;
- 7.2 The Customer shall be responsible for procuring and arranging for the transportation of goods for East London Bandag premises to any destination required by Customer;
- 7.3 Subject to the afore going, delivery shall be completed when the goods are handed to the Customer or its agent at East London Bandag premises, and before loading commences;
- 7.4 Subject to the afar going, after completion of delivery, East London Bandag shall not be responsible for the arrival of the goods at the destination, or for any loss or damages to the goods from any cause whatsoever, while in transit.
- 7.5 Should East London Bandag, at the Customers request, agreed engage a carrier to transport the goods for the Customers then:-
- 7.5.1 East London Bandag is authorized to engage a carrier on such terms and conditions as it deems fit;
- 7.5.2 The customer shall indemnify East London Bandag against all demands and claims which may be made against it by the carrier so engaged, and all liability which East London Bandag may incur to the carrier arising out of the transportation of the goods.
- 7.6 Notwithstanding any provision to the contrary, the obligation to deliver the goods shall in all cases be subject to the following conditions precedent:-
- 7.6.1 The availability of goods ordered;
- 7.6.2 Time shall not be of the essence of the contract, and delivery dates shall be treated as approximate only. Under no circumstances, shall the Customer be entitled to withdraw from, terminate the agreement, on account of any delay in delivery or have any claim by any nature against East London Bandag arising from late delivery.
- 7.6.3 If the customer failed to take delivery of the goods on due date then:-
- 7.7 The risk shall pass immediately from East London Bandag to the Customer and East London Bandag shall not accept any liability for damage caused to the goods as a result of the Customer's failure to take delivery thereof;-
- 7.8 The customer shall refund to East London Bandag, on demand, the reasonable costs (including storage and insurance) of keeping the goods during the period of that delivery;
- 7.9 If delivery is made in instalments, then the provisions of this agreement shall apply to instalment
- 7.9.1 Should the Customer be debited by East London Bandag goods, and should the Customer not have received delivery of these goods then it shall notify East London Bandag in writing within 14 (FOURTEEN) days of receipt by it of any invoices or statement of account from East London Bandag in respect of the goods, that such goods have not been delivered, failing which the Customer shall be deemed to have received the goods in question, and be liable to East London Bandag, for the amount claimed by East London Bandag in respect of such goods.
- 7.9.2 The Customer agrees that a signature on East London Bandag official delivery note / invoice shall constitute *prima facie* proof of delivery of goods purchased, unless the contrary is proved by the Customer.
8. **OWNERSHIP**
- Notwithstanding that the risk therein has passed to the customer, ownership of goods shall not pass to the customer until the full purchase price shall have been paid.
9. **PAYMENT TERMS**
- All payments shall be made to East London Bandag:-
- 9.1 In South Africa currency, free of bank and other charges, at such address in the Republic as East London Bandag may require from time to time;
- 9.2 Without deduction, set-off or demand

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- 9.2.1 The balance owing, as shown on each and every statement rendered by East London Bandag to the Customer, shall be payable within 30 (thirty) days from the date of such statement, or the last working day of the month, or within such other time—period as may have been granted (in writing and signed by a Director of East London Bandag), from time to time.
- 9.2.2 Should any payment not be received on or before the due date for payment, in terms of the credit facilities granted, East London Bandag shall have the option, without prejudice to any of its other rights, to cancel or to suspend further supplies of goods or, by giving written notice thereof to the Customer, to require immediate payment of all amounts owing by the Customer to East London Bandag, whether or not these amounts are actually due and payable, or to take any other action it may deem necessary, in accordance with the provisions of these terms and conditions, until payment is received, or the breach in question is remedied.
- 9.3 Any amount not paid by the Customer on due date shall bear interest at 2% (two percent) per month from the date on which it falls due until the date when payment is received. The interest rate applicable is governed by the terms of Act 34 of 2005, and any variation thereof, shall be in accordance with such legislation.
- 9.4 All payments received by East London Bandag shall be appropriated firstly towards interest and thereafter to capital.
- 9.5 Where one or more post-dated cheques are tendered, and accepted by East London Bandag, such acceptance shall be without to the rights of East London Bandag. In the event that any one cheque is not met on due date, all amounts owing by the Customer to East London Bandag shall become immediately due and payable. The Customer shall not be entitled to withhold payment to East London Bandag for any reason whatsoever.
10. All goods shall be kept by the customer at the customer's business premises.
11. The customer shall not remove any unsold goods from such premises without obtaining the prior written consent of East London Bandag, which consent shall not be unreasonably withheld. Furthermore, the customer shall give 60 (sixty) days written notification to East London Bandag of any relocation of its business premises. All goods not yet paid for by the Customer shall at all times be kept available for inspection by any duly authorized representative of East London Bandag. East London Bandag shall at all reasonable times and particularly during normal business hours, be entitled to access to the Customers business premises for the purposes of inspection as aforementioned. At all times the goods shall be kept separate from any other stock and shall be kept in separate identifiable positions within the customer's business premises. The customer hereby undertakes to inform East London Bandag of the name and address of the customer's landlord from time, and the customer hereby irrevocably and in *rem suam* authorizes and empowers East London Bandag to advise the customer's landlord from time to time that all goods remain East London Bandag property until paid in full.
- 12. DISCLOSURE**
- East London Bandag shall be entitled to inspect the customer's books of account, contracts and other records in so far as the relate to any goods purchased from East London Bandag and East London Bandag is hereby irrevocably and in *rem suam* authorized and empowered through any duly authorized representative to make copies of or extracts from any such books of account, sales contracts and other records.
13. The customer shall furthermore be obliged on request by East London Bandag to furnish East London Bandag with its audited balance sheets, profit and loss accounts and trading accounts promptly once same are prepared, and to furnish East London Bandag with any interim general ledger, trial balance and management accounts.
14. In addition to the afore going the Customer also consents to furnishing East London Bandag with the relevant excerpts of its VAT Control Account, and all documentation supporting the entries in such Control Account, together with its VAT returns, for such period, to the South African Revenue Services. East London Bandag shall be obliged to tender the fair and reasonable cost incurred in duplicating such documentation.
15. The customer shall not at any time allow any lien, pledge, mortgage, hypothec or encumbrance to a rise in respect of any goods not yet paid for.
- 16. NON-PERFORMANCE**
- 16.1 The Customer shall have no claims of any nature against East London Bandag for any failure by East London Bandag to carry out any of its obligations under this agreement, as a result of vis major, strike or lockout, shortage of labour or materials, breakdown of Machinery, delays in transport, accidents of any kind and defaults or delay by any subcontractor or supplier of East London Bandag, ride, political or civil disturbances, the elements and act of any state or government or any authority, or any other cause of whatsoever beyond East London Bandag control.
- 16.2 If for any cause referred to herein, East London Bandag available supplies of goods become or, in its opinion, will become unable to meet the requirements of all Customers at any time, then, East London Bandag shall be entitled to allocate these supplies, amongst its Customers (including the Customer and the Customers associated or affiliated Companies) in such manner as East London Bandag deems fair and equitable, and to vary its obligations to the Customer accordingly.
- 17. EXCLUSIONS**
- 17.1 All specifications, illustrations, drawings, diagrams, price-list, dimensions, performance – figures and other technical data furnished by East London Bandag in respect of the goods, and whether in writing or not, are furnished only on the basis that they will not form part of the contract, or be relied upon by the Customer for any purpose, unless and to the extent that they are expressly warranted or guaranteed in writing by East London Bandag and are, as such, expressly stated by East London Bandag to form part of the agreement.
- 17.2 If goods or any part of them are to be supplied in accordance with ant specifications, measurements, weights or any other Instructions furnished by the Customer, the latter shall not have any claim of any nature whatever against East London Bandag: For any loss or damages sustained by the Customer as a result of any error, discrepancy or defect in those specifications, measurements or other instructions. If the goods in question are not suitable for the purposes for which they are required, whether those purposes are known to East London Bandag or not.
- 17.3 East London Bandag shall be exempted from, and shall not be liable under any circumstances whatever for: Any indirect or consequential damages of any nature or any loss of profit or special damages of any nature and whether in the contemplation of the parties or not, which the Customer may suffer as a result of any breach by East London Bandag of its obligations under the contract. Any claim for any alleged shortage in delivery or failure of the goods to comply with the contract unless:
- 17.3.1 Written notice of the claim is received by East London Bandag within 14 (FOURTEEN) days after receipt of the goods by the Customer.
- 17.3.2 The shortage is endorsed by the Customer on the delivery or consignment notes relating to the goods in question.
- 17.3.3 Should it be necessary for any material to be replaced, East London Bandag shall only be responsible for a replacement of the specific material and shall under no circumstances be responsible for any costs, expenses or damages howsoever arising.
- 17.4 Subject to any express warranty or guarantee given by East London Bandag in writing (or where East London Bandag is acting as an agent, by East London Bandag principal) and which is intended to form part of the contract, East London Bandag does not:
- 17.4.1 Give any warranty or guarantee or make any representations whatsoever in respect of the goods or any part of them (or any particular purpose whether or not that purpose is known to East London Bandag) or accept any liability for any defect (latent or patent) in the goods that may be given by East London Bandag to the Customer.

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- 17.4.2 Give any warranty that any specifications, weights, dimensions and any technical information relating to goods that may be given by East London Bandag to the Customer, is correct.
- 17.5 All goods, including used or second-hands are sold voetstoots and in their present condition. The Customer acknowledges that it is fully acquainted with the condition of the goods.
- 17.6 Should the Customer have any complaint about any of the goods which are not manufactured or designed by East London Bandag, it shall have no claim in respect of the matter complained of against East London Bandag, and shall indemnify East London Bandag against any losses, damages or claims (including claims instituted by 3rd parties or persons to whom the Customer sells the goods) which may arise due to reasons other than the negligence/fault of East London Bandag.
- 17.7 Any claim by the Customer shall be made by the Customer to East London Bandag within 3(THREE) months of the date of delivery to the Customer or its agent of the goods in question, and the Customer shall during that period return the goods in question at its own costs and expense to such address in the Republic which East London Bandag may notify the Customer in writing, provide that if on an examination of the goods, East London Bandag accepts the Customers claim, then it will refund to the Customer such amount in respect of the costs incurred by the Customer in transporting the goods, as East London Bandag in its sole and absolute discretion considers reasonable.
- 18. CERTIFICATE**
- A certificate under the hand of any Director or Manager of East London Bandag (whose appointment need not be proved) as to the existence and the amount of the Customers indebtedness to East London Bandag at any time, as to the fact that such amount is due and payable, the amount of interest accrued thereon and as to any other fact, matter or thing relating to the Customers indebtedness to East London Bandag, shall be *prima facie* proof of the contents and the correctness thereof for the purpose of provisional sentence, summary judgement or any other proceedings of whatever nature against the Customer in any competent court, and shall be valid as a liquid document for such purposes.
- 19. SUSPENSION OF EAST LONDON BANDAG OBLIGATIONS**
- Any amount owed by the Customer to East London Bandag, from any cause of whatever, whether under the contract or not, and is not paid on due date, then and without prejudice to any rights which East London Bandag may enjoy, East London Bandag shall be entitled to:-
- 19.1 Required all amounts then owed to it by the Customer from any cause whatsoever, and whether under this contract or not, shall immediately become due and payable;
- 19.2 Retain in its possession any goods of the Customer until these amounts have been paid;
- 19.3 Until payment is made, suspend the carrying out of any of its then uncompleted obligations (whether these obligations arose from this contract or not);
- 19.4 Terminate any credit facilities granted to the Customer, whether under this contract or not;
- 19.5 Retain any payment made by the Customer to East London Bandag prior to the due date of the payment in question.
- 20. CANCELLATION**
- East London Bandag may cancel the contract, or any uncomplicated part thereof, if the Customer:-
- 20.1 Commits a breach of any of the terms or conditions of the Contract and fails to remedy such breach within 7 days;
- 20.2 Being an individual, dies or is provisionally or finally sequestrated, or surrenders his estate;
- 20.3 Being a partnership, the partnership is terminated;
- 20.4 Beings a company, is placed under a provisional or final order of liquidation, or judicial management;
- 20.5 Compromises or attempts to compromise generally with the Customer's creditors.
21. East London Bandag rights in terms of this clause shall not be exhaustive and shall be in addition to any of its other rights under the contract or otherwise.
22. Upon termination of the contract, for any reason whatsoever:-
- 22.1 All amounts then owned by the Customer to East London Bandag under the contract shall become immediately due and payable;
- 22.2 East London Bandag may re-take possession of any goods sold to the Customer, where ownership has not passed.
- 23. JURISDICTION**
- East London Bandag shall be entitled to institute any proceedings against the Customer, arising out of the contract, in any Magistrate's Court having jurisdiction over the Customer even if the cause of action in question exceeds the jurisdiction of the Court. This provision shall in no way be construed as limiting East London Bandag entitlement to proceed out of any other competent Court.
- 24. NEGOTIABLE INSTRUMENTS**
- Any promissory note, bill of exchange, or other negotiable instrument received by East London Bandag from the Customer shall not be a novation of the debt for which it is given, and the Customer waives presentment, notice of dishonor and protest where applicable.
- 25. MISCELLANEOUS**
26. Interpretation
- The headings to these terms and conditions are for convenience only, and are not to be taken into account for the purpose of interpreting the contract. A reference to "East London Bandag": shall include its successors-in-title and assigns. The "Customer" means the applicant for credit, and any person, natural juristic, corporate or unincorporated, who purchases goods from, or places orders for goods with, East London Bandag.
- 27. COSTS**
- The Customer agrees that if any claim against the Customer is handover for collection, the Customer will be responsible for all the attorneys costs incurred by East London Bandag, which costs shall include all Counsel's fees as on brief, tracing fees, collection charges, disbursements, and costs on the scale as between attorney and own client. The legal costs of negotiation, preparation, settling and signing and implementation of the contract will be borne by the Customer.
- 28. SEVERABILITY**
- It is agreed that all the clauses and sub-clauses of the contract are severable, one from the other. If any clause, clause or sub-clause is found to be defective or unenforceable for any reason by any competent court, the remaining clauses and sub-clauses shall continue to be of full force and effect.
- 29. ENTIRE AGREEMENT**
- This Agreement constitutes the whole agreement between the Parties and supersedes all prior verbal or written agreement or understandings or representation by or between the parties regarding the subject matter hereof. The Customer shall not be entitled to rely, in any dispute regarding this Agreement, on any terms, conditions or representations not expressly contained in this Agreement. No variation of or addition to this Agreement will be of any force or effect unless reduced to writing and signed by or on behalf of the Parties. In this regard, East London Bandag shall be represented by a Director. Neither party to this Agreement has given any warranty or made any representation to the other party, other than any warranty or representation which may expressly set out in this Agreement. No indulgence, leniency or extension of a right, which East London Bandag may grant the Customer, shall in any way prejudice East London Bandag or preclude East London Bandag from exercising any of the rights that it has derived from this Agreement, or be construed as a waiver by East London Bandag of that right. No Waiver on the part of either party to this Agreement of any rights arising from a breach of any provisions of the Agreement will constitute a waiver of rights in respect of any subsequent breach of the same or any other provision.

Applicant Initial:	
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30. DOMICILIUM CITANDI ET EXECUTANDI

The parties choose, as their *domicilium citandi et executandi*, the addresses as appears on the face of this agreement.

31. GENERAL

East London Bandag reserves the right to vary and / amend the terms and conditions from time to time, and the Customer agrees to abide by such amendments provided that written notice have been given to the Customer. Notwithstanding such variations, the Customer accepts the responsibility to obtain the latest version of the agreement from East London Bandag, either by visiting East London Bandag website or by means of a written request to East London Bandag.

32. FINANCIAL INTELLIGENCE CENTRES ACT 38 OF 2001 ("FICA")

East London Bandag is obliged by law to avoid any involvement with money laundering, and to comply fully with all applicable legislation in respect thereof, including currency reporting, record keeping and other regulatory requirements, and furthermore to take steps to detect, prevent, and report to the appropriate authorities any suspected violation of Act 38 of 2001 (as amended). East London Bandag shall be entitled to request such appropriate information from the Customer as is required by the Act 38 of 2001 (as amended) and / or any other applicable legislation, for the purpose of determining that the Customer is a legitimate, trustworthy and credit worth concern. The customer agrees to co-operate fully with East London Bandag In respect of all such requests, so to allow East London Bandag to comply with its obligations arising from the provisions of Act 38 of 2001 (as amended) and all other applicable legislation.

33. WARRANTIES BY THE PERSON SIGNING THIS AGREEMENT

By his signature hereto, the Customer's representative warrants that:

33.1 All information contained herein is true and correct; and

33.2 Furthermore there is no impediment presently in existence which shall give rise to the inability of the Customer to perform all its obligations arising from the contract; and

33.3 Specifically warrants that in contracting with East London Bandag, the Customer's conduct shall at all times be within the scope of its powers, objects and authorities.

33.4 The conduct of the Customer shall:

33.4.1 At all times, not contravene any provision of the Companies Act 71 of 2008 (and amendments thereto) or the Close Corporations Act of 69 of 1984, as the case may be;

33.4.2 That the necessary steps have been taken by the Customer to give the signatory the power to bind the Customer to East London Bandag upon the terms and conditions set out herein;

33.4.3 In particular but without limitation, the Directors (of Members in the case of a Close Corporation or Trustees in case of a Trust), have approved these specific terms and conditions set out herein.

34. ATHORITIES GRANTED TO EAST LONDON BANDAG

The Customer consents, and irrevocable authorizes East London Bandag as follows:-

34.1 For the purpose of establishing the Customer's credit worthiness, to conduct such necessary inquiries with *inter alia* the various *Credit Bureau*, Banks and trade creditors of the Customer;

34.2 To report to the various *Credit Bureau*, all breaches, defaults, and mal-performance by the customer in the performance of all its obligations arising from the agreement.

Applicant Initial:	
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THE APPLICANT FOR CREDIT

SIGNED at _____ on this _____ day of _____ 20_____

For the Customer – duly authorized and by his signature confirms that this document has been read and understood, and the Customer is bound thereby

Full Names of Signatory _____

Address: _____

Telephone Number: _____

WITNESS

1. Signature: _____ 2. Signature: _____

Full Names of Witness: _____ Full Names of Witness: _____

Address: _____ Address: _____

Telephone Number: _____ Telephone Number: _____

ACCEPTED BY EAST LONDON BANDAG:

SIGNED at _____ on this _____ day of _____ 20_____

For East London Bandag – duly authorized

Full Names of Signatory _____

Address: _____

Telephone Number: _____

WITNESS

1. Signature: _____ 2. Signature: _____

Full Names of Witness: _____ Full Names of Witness: _____

Address: _____ Address: _____

Telephone Number: _____ Telephone Number: _____

Applicant Initial:	
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