

**TERMS AND CONDITIONS OF THE ACKERMANS, AYANA, PEP, TEKKIE TOWN, LEGIT, DUNNS  
AND REFINERY CARD ACCOUNT AND CREDIT FACILITY**

**WITH**

**PEPKOR TRADING (PTY) LTD**

**Please carefully read these terms and conditions and pay special attention to all the terms printed in bold**

**1 CREDIT FACILITY**

1.1 Subject to the terms and conditions of this Agreement, We confirm that We will grant You a credit facility in the amount set out in the Pre-Agreement Statement and Quotation as provided to You which forms part of this Agreement.

**2 DEFINITIONS AND INTERPRETATIONS**

2.1 In this Agreement, the following words and phrases will, unless the contrary intention appears, have the following meanings:

2.1.1 "**Account Holder**" means the person who has applied for and has been granted a credit facility by Us as identified in the Pre-Agreement Statement and Quotation;

2.1.2 "**Agreement**" means this agreement, incorporating the Pre-Agreement Statement and Quotation;

2.1.3 "**Business Day**" means any day other than a Saturday, Sunday or official South African public holiday;

2.1.4 "**Card**" means the plastic card issued to You or additional card holders by Us, pursuant to this Agreement, that is linked to Your Card Account;

2.1.5 "**Card Account**" means the account opened in Your name that is associated with the Card;

2.1.6 "**Credit Limit**" means the amount of the credit facility as specified in the Pre-Agreement Statement and Quotation or any increased or decreased amount granted in accordance with the NCA. The Credit Limit is the facility amount reported to the credit bureaus. The full Credit Limit may not be made available to you for immediate use;

2.1.7 "**Current Limit**" means the portion of the Credit Limit made available to you by the Credit Provider on a Card Account to utilise for the purchase of goods and/or services from any Participating Branches by means of the Card. The Current Limit is as specified in the Pre-Agreement Statement and Quotation or as amended by the Credit Provider from time to time;

2.1.8 "**NCA**" means the National Credit Act, 2005 (Act No. 34 of 2005) and the regulations promulgated thereunder, as amended or repealed from time to time;

2.1.9 "**Participating Branches**" means the branches of Ackermans, Ayana, Pep, Tekkie

Town, Style, Legit, Swagga, Dunns, Refinery and Code stores in the Republic of South Africa, as may be amended or updated from time to time;

- 2.1.10 **"Pre-Agreement Statement and Quotation"** means a pre-agreement statement and quotation as prescribed in the NCA;
  - 2.1.11 **"Principal Debt"** means the deferred amount to which interest, fees and charges are added;
  - 2.1.12 **"Repo Rate"** means the rate at which the South African Reserve Bank lends money to private banks;
  - 2.1.13 **"We", "Us" and "Our"** unless the context indicates otherwise, means Pepkor Trading (Pty) Ltd (being the seller of the goods and/or services) (registration number: 1958/003362/07), a private company duly incorporated in accordance with the laws of the Republic of South Africa with business address at 31 Industrie Street, Industria, Kuils River, Cape Town, a registered credit provider (NCRCP13053) and authorised financial services provider and includes our successors in title; and
  - 2.1.14 **"You" or "Your"** means the Account Holder.
- 2.2 Reference to –
- 2.2.1 one gender includes all the genders;
  - 2.2.2 the singular form of a word includes the plural;
  - 2.2.3 the plural form of a word includes the singular; and
  - 2.2.4 a law or regulation means that law or regulation on the date You accept this Agreement.
- 2.3 If there is a conflict between the terms and conditions of the Pre-Agreement Statement and Quotation and these terms and conditions, the terms and conditions of the Pre-Agreement Statement and Quotation will apply.

### **3 PRINCIPAL DEBT**

- 3.1 Every purchase of goods and/or services obtained with the Card shall form part of the Principal Debt.
- 3.2 All amounts debited to the Card Account in terms of this Agreement together with interest thereon are repayable by You to Us in the manner set out in this Agreement.

### **4 VALIDITY OF THE CARD AND ADDITIONAL CARDHOLDERS**

- 4.1 You may have additional Cards linked to the Card Account if application for these additional Cards has been approved by Us;
- 4.2 You or the additional Card holder must, as soon as You or the additional Card holder receive the Card, sign it with a ballpoint pen in the space provided on the reverse side of the Card.
- 4.3 It is Your duty to ensure that all additional Card holders understand their obligations in terms of this Agreement. **You will be responsible and liable for all transactions made with the additional Cards, the actions of the additional Card holders and for ensuring that any additional Card is used**

**only in accordance with this Agreement.**

- 4.4 The issue of additional Cards will not increase the Credit Limit.
- 4.5 We will charge You a nominal fee for the replacement of the main Card and additional Card. You will not be charged for the first issue of any such Card.

## **5 USING YOUR CARD**

- 5.1 Only You or an additional Card holder may use the Card.
- 5.2 You and an additional Card holder may only use the Card to purchase goods and/or services at Participating Branches, in respect of which the Principal Debt owing by You will in the first instance arise, and You or the additional Card holder may be required to sign a receipt after each such purchase.
- 5.3 **We have the right to debit to the Card Account the amount of the purchase(s) made at a Participating Branch, even if a receipt has not been signed by You or the additional Card holder.**
- 5.4 **We will not be liable to You if any Participating Branch refuses to accept the Card .**
- 5.5 **Subject to the standard policies and terms and conditions of the Participating Branches, no dispute between You or an additional Card holder and the Participating Branch will give You the right to**
  - 5.5.1 **be exempted from Your obligation to Us for any purchase(s) debited to the Card Account;**
  - 5.5.2 **instruct Us to refuse to debit the Card Account with the value of purchases made; and/or**
  - 5.5.3 **instruct Us to do a charge back of any amounts debited to the Card Account for goods and/or services purchased with the Card.**
- 5.6 Should You or an additional Card holder wish to return Your or the additional Card holder's purchase to any Participating Branch; such return(s) will be subject to the Participating Branch's standard returns policy. Your account will be credited with the amount of the purchase returned, provided such return is in accordance with the standard returns policy of and accepted by the Participating Branch.
- 5.7 You acknowledge and agree that Your use of the Card may be suspended and/or terminated at any time for any reason whatsoever and that We shall have no liability of whatsoever nature and howsoever arising in consequence of any such suspension and/or termination.

## **6 SAFE KEEPING AND UNAUTHORISED USE OF YOUR CARD**

- 6.1 You are responsible to look after the Card, to keep it safe as well as the proper use of it.
- 6.2 **You must not allow anyone, except an additional Card holder that may use an additional Card, to use the Card. When You notice that the Card is lost, stolen or has been used by another person, You must report it immediately to Our Service Centre on the number indicated in the table under clause 26.1.2 or to the nearest Participating Branch. We will stop further transactions on the Card after being advised that**

**the Card is lost or stolen.**

**6.3 You will not be liable for use of the Card after You have notified Us and We have stopped future transactions on the Card, unless –**

**6.3.1 Your signature appears on the voucher, sales slip, or similar record evidencing the particular use of the Card; or**

**6.3.2 We have other evidence sufficient to establish that You authorised or were responsible for the use of the Card.**

## **7 MALFUNCTION OF ELECTRONIC FACILITIES**

**We are not responsible for any loss arising from any failure, malfunction or delay in any electronic point of sale device, or Our supporting or shared networks, where applicable, resulting from circumstances beyond Our reasonable control.**

## **8 INTEREST AND OTHER CHARGES**

8.1 The interest rate is a variable interest rate, in fixed relationship to the Repo Rate, which means that the amount of the total interest as well as the amount of the instalments as specified in the Pre-Agreement Statement and Quotation may change if the Repo Rate changes.

8.2 Within 30 (thirty) Business Days from the day that a change in the interest rate takes place We will give You written notice of Your new interest rate.

8.3 Interest will be calculated daily, and We are entitled to add any unpaid interest to the outstanding balance of the Principal Debt which at that stage is still payable in terms of this Agreement.

8.4 If You do not make the required payment by the stipulated due date, Your Card Account will be in arrears, and You will therefore be in default of this Agreement. The interest charged on overdue amounts will be the same as the interest rate specified in 8.1 above.

8.5 We charge You a monthly service fee at the end of each month, which is reflected on the Pre-Agreement Statement and Quotation. We add this fee to Your outstanding balance and show it on Your statement. Should We decide to increase the monthly service fee, We will inform You. The monthly service fee will not be more than the maximum amount allowed by the NCA.

8.6 We may charge an initiation fee as specified in the Pre-Agreement Statement and Quotation.

8.7 We may also change any fees and charges set out in the Pre-Agreement Statement and Quotation. We will give You 5 (five) Business Days' written notice if We do so. The fees and charges may not be greater than the maximum amount allowed under the NCA.

## **9 CANCELLATION OF THE CARD, SUSPENSION AND/OR CANCELLATION OF THE CREDIT FACILITY**

9.1 The Card will always remain Our property and without Us losing any right to any claim which We may have against You, We have the right to –

- 9.1.1 suspend the Card at any time if You are in default of this Agreement; or
- 9.1.2 demand the return of the Card, cancel or repeal the Card in the event that the credit facility is closed.
- 9.2 We may –
  - 9.2.1 suspend the credit facility at any time if You are in default of this Agreement;
  - 9.2.2 close the credit facility by giving You prior written notice of at least 10 Business Days
- 9.3 If the credit facility has been suspended or cancelled or if You die –
  - 9.3.1 the Card may no longer be used for any purchases;
  - 9.3.2 We may notify any Participating Branch or any person We think should know of the suspension or cancellation without incurring any liability.
- 9.4 Notwithstanding the provisions of **clause 9.2**, this Agreement will remain in effect until You have repaid all amounts charged to the Card Account.

## **10 WE ARE ALLOWED TO GIVE INFORMATION TO CREDIT BUREAUS**

- 10.1 You understand that We are allowed to give to one or more credit bureaus (whose contact details can be obtained from our customer service centre by contacting them as detailed in section 26.1.2 below):
  - 10.1.1 information about this Agreement;
  - 10.1.2 information about the application for, opening of and termination of Your Card Account with Us;
  - 10.1.3 details of Your default if You do not adhere to any of the terms of this Agreement.
- 10.2 You understand that the credit bureaus may provide Us with your credit profile and your credit score on credit worthiness.
- 10.3 You have the right to contact the credit bureaus and look at Your record with them.
- 10.4 You can correct any information that is wrong.

## **11 YOUR CREDIT LIMIT AND CURRENT LIMIT**

- 11.1 You will be granted a Credit Limit in accordance with the provisions of the NCA, which will be the credit facility reported to the credit bureaus.
- 11.2 In Our discretion You will be allocated a Current Limit which will be the portion of the Credit Limit made available for You to spend.
- 11.3 Over time Your Current Limit may, in Our sole discretion, be increased or decreased by Us based on your payment behaviour.
- 11.4 The full Credit Limit may therefore not always be available to You for immediate use as only the Current Limit will be available for use which will never exceed the Credit Limit.
- 11.5 We may refuse to authorise purchases through using Your credit facility for any reason whatsoever; including if You have exceeded Your Current Limit.
- 11.6 You may not make any purchases with the Card which will cause the Current Limit to be exceeded.

- 11.7 **If We accept to process a transaction that results in You exceeding the Current Limit and/or Credit Limit, it does not mean that We have increased the Current Limit and/or Credit Limit on a permanent basis, but rather that We have allowed a temporary increase at Your request. You will be liable for payment of the full amount by which the Current Limit and/or Credit Limit is exceeded.**

## **12 REDUCTION OR INCREASE IN THE CREDIT LIMIT**

- 12.1 You may at any time, by prior written notice to Us, request that the Credit Limit be reduced and stipulate a maximum Credit Limit that You are prepared to accept.
- 12.2 We may, by written notice to You, reduce the Current and/or Credit Limit. The reduction of the Current and/or Credit Limit will be effective upon delivery of the written notice.
- 12.3 We may only increase the Credit Limit under this Agreement in accordance with the NCA.
- 12.4 You may by written notice authorise Us to apply automatic annual increases to Your Credit Limit, or withdraw that authorisation. Any increase of Your Credit Limit will be in Our sole discretion and in accordance with the NCA.

## **13 STATEMENTS AND PAYMENT**

- 13.1 Your statement will be provided to You monthly through e-mail or Your mobile device, depending on the option selected by You, unless no amount has been debited or credited to Your account during the statement period. The statement will show all transactions debited to the Card Account up to the date of the statement.
- 13.2 Our Participating Branches may not all be registered as the same VAT vendor even though You are dealing with the same legal entity. In instances where You purchase goods and/or services on the Card from a Participating Branch registered as a VAT vendor, other than Pepkor Trading VAT vendor 4350273274, such Participating Branch will be the VAT vendor that provides credit to You on the purchase of such goods or services on Your Card ("VAT vendor of first instance").
- 13.3 The account receivable owned by such VAT vendor of first instance pertaining to such sale of goods and/or services in terms of clause 13.2 shall at the end of each day be transferred to Pepkor Trading VAT vendor 4350273274 on a non-recourse basis at face value, on the basis that it will step into the shoes of the VAT vendor of first instance and Pepkor Trading VAT vendor 4350273274 shall take cession of the rights under this Agreement, insofar as it relates to the account receivable owned by the VAT vendor of first instance, on a daily basis.
- 13.4 The statement will show both the full and minimum amounts payable to Us, on or before the due date shown on the statement.

- 13.5 **Non-receipt of the statement does not entitle You to refuse or fail to pay any amount that is due to Us.**
- 13.6 **It is Your responsibility to check Your statements. You must let Us know in writing within 30 (thirty) days of the date of the statement if there is something You do not agree with. If You do not let Us know within this time, We are entitled to treat the statement as correct. You will then have to prove that the statement is not correct.**
- 13.7 You may pay at any Participating Branch or via any other payment method that We may communicate to You from time to time.
- 13.8 The method of payment that You choose will be at Your own risk and We will only recognise the payment when We received and process it and once it has been cleared.
- 13.9 If Your details where You receive Your statements change, You must let Us know so that the change can be made. You understand that if You do not do so, Your statements will be returned and We will not send statements until You provide Us with updated details.

#### **14 YOU CAN PAY MORE THAN THE MINIMUM PAYMENT**

- 14.1 You can pay more than the minimum payment shown on Your statement each month. You are required to pay at least the minimum payment due each month.
- 14.2 We will apply the payments as follows:
- 14.2.1 first to pay any interest that is due;
  - 14.2.2 second to pay any fees or charges that are due;
  - 14.2.3 third to reduce the amount of the Principal Debt that You still owe to Us.

#### **15 EARLY SETTLEMENT**

- 15.1 You may end this Agreement early on the conditions set out below. If You end this Agreement early, the date on which this Agreement ends will be called the settlement date.
- 15.2 To end this Agreement early, You should contact Us to find out the amounts You still owe Us. You may ask to end the Agreement immediately or at a future settlement date. We will tell You the total amount You owe on the settlement date, that will include all of the following:
- 15.2.1 the amount of the Principal Debt You owe at the settlement date;
  - 15.2.2 interest You owe on the Principal Debt at the settlement date;
  - 15.2.3 the fees and charges You owe at the settlement date.
- 15.3 You must destroy Your Card (by cutting through the magnetic stripe and account number). A Card that is not destroyed correctly may still be used and should this happen, You will be responsible for the payment of all transactions that may take place.

#### **16 YOU MUST PAY A DEFAULT ADMINISTRATION FEE FOR LETTERS OF DEMAND**

We will charge You a fee each time You miss one or more payments and We have to write a

letter to You to advise You of Your default. This fee is called a default administration fee and will be calculated and charged to not exceed the maximum permissible in terms of the NCA.

## **17 YOU MUST PAY COLLECTION COSTS IF WE ATTEMPT TO RECOVER PAYMENT FROM YOU**

- 17.1 If We attempt to enforce payment of amounts You owe Us through a third party, You will be held liable to pay all collection costs We incur in collecting the payment, which costs will not exceed the maximum specified in the NCA.

## **18 WHEN YOU ARE IN DEFAULT?**

- 18.1 **You are in default of this Agreement if:**
- 18.1.1 **You do not pay any amount You owe Us on the due date;**
  - 18.1.2 **You breach any of the terms and conditions of this Agreement and You do not correct this within 7 (seven) days after We let You know;**
  - 18.1.3 **anything You said, declared or promised is incorrect or false;**
  - 18.1.4 **You voluntarily surrender Your estate or die;**
  - 18.1.5 **You are placed under administration or become insolvent;**
  - 18.1.6 **You cannot pay Your debt;**
  - 18.1.7 **Your assets have been attached or judgment has been given against You;**
  - 18.1.8 **You try to reach an agreement with Your creditors to delay payment of Your debt.**

## **19 WHAT WILL HAPPEN IF YOU ARE IN DEFAULT?**

- 19.1 If You are in default, We may –
- 19.1.1 give You written notice of such default and suggest that You refer this Agreement to a debt counsellor, an alternative dispute resolution agent, a consumer court or an Ombud with jurisdiction, to resolve any dispute or reach an agreement to bring repayments up to date.
  - 19.1.2 take legal steps to enforce this Agreement if –
    - 19.1.2.1 We gave You written notice as above or We gave notice to end any debt review process; and
    - 19.1.2.2 You are in default under this Agreement for at least 20 (twenty) Business Days; and
    - 19.1.2.3 it has been at least 10 (ten) Business Days since We gave You notice as above; and
    - 19.1.2.4 if We gave You notice as above and You did not respond to that notice, or You did not accept Our proposal; and
  - 19.1.3 recover collections costs and default administration charges from You.

## **20 CERTIFICATE OF INDEBTEDNESS**

**A certificate signed by any of Our managers specifying the amount owing by You to Us and further stating that such amount is due, owing and payable by You, shall be sufficient proof of the amount thereof and of the fact that such amount is so due,**

**owing and payable for the purpose of obtaining provisional sentence or other judgment in any competent court. It shall not be necessary to prove the appointment of the person signing any such certificate.**

**21 WE NEVER LOSE OUR RIGHTS**

**We do not lose any of Our rights under this Agreement if We do not immediately and in every instance insist on them. You may not raise it as a defence if We have a right but do not enforce it at the relevant time. For example, if We allow You extra time to pay Your monthly payments in one month, it does not mean We have allowed You extra time the next or any other month.**

**22 GOVERNING LAW**

South African law governs this Agreement, and it must be interpreted by the laws of the Republic of South Africa. This applies even if the parties do not live in the Republic of South Africa.

**23 YOU AGREE THAT WE MAY BRING LEGAL PROCEEDINGS IN THE MAGISTRATE’S COURT**

You agree that We may bring legal proceedings against You for this Agreement in any Magistrate’s Court that has the authority to hear and decide on the case. (This authority is called jurisdiction.) You agree to the jurisdiction of the Magistrate’s Court even if the amount We claim from You is more than the Magistrate’s Court limit. This does not stop Us from bringing legal proceedings in a High Court that has jurisdiction.

**24 TRANSFERRING RIGHTS OR OBLIGATIONS**

- 24.1 You may not transfer any of Your rights or obligations under this Agreement.
- 24.2 You agree that We may transfer some or all Our rights and obligations under this Agreement to any other person. We do not have to inform You or get Your permission to transfer Our rights and obligations. If this clause applies, then the term "We", used in this Agreement, will include the person to whom We have transferred any of Our rights or obligations in terms of this clause.

**25 YOU HAVE THE RIGHT TO APPLY TO A DEBT COUNSELLOR**

You have the right to apply to a debt counsellor who will consider Your application to determine if You are over-indebted (this means that You have more debts than You are able to pay).

**26 PROCESS TO FOLLOW IF YOU HAVE A COMPLAINT**

- 26.1 If You have a complaint or dispute, You can do any one or more of the following:
  - 26.1.1 Visit an Ackermans, Ayana, Pep, Tekkie Town, Legit, Refinery or Dunns store and ask the customer services desk to connect You to the Tenacity Service Centre;
  - 26.1.2 Contact Our Service Centre on the number indicated in the table below –

Ackermans	0860 900 100	customerservice@tenacityinc.co.za
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Pep	0860 900 500	pep@tenacityinc.co.za
Tekkie Town	0860 558 555	customerservice@tenacityinc.co.za
Legit	0860 900 300	customerservice@tenacityinc.co.za
Refinery	0860 900 400	customerservice@tenacityinc.co.za
Dunns	0860 357 951	customerservice@tenacityinc.co.za
Ayana	0860 900 700	customerservice@tenacityinc.co.za

26.1.3 Write a letter of complaint and send it to –  
Tenacity Financial Services, P.O. Box 140, Kuils River, 7579, South Africa

26.1.4 Email us to the email address indicated in the table under clause  
26.1.2

26.2 If We cannot resolve Your complaint, We will let You know. If You are not satisfied with the outcome of Your dispute or complaint, You can refer the complaint or dispute to an alternative dispute resolution agent, make an application to the National Consumer Tribunal (as referred to in the NCA) or contact the applicable regulatory body on the contact details listed below.

26.2.1 National Credit Regulator:

Telephone: (011) 554-2700 or 0860 627 627

Website: [www.ncr.org.za](http://www.ncr.org.za)

E-mail: [complaints@NCR.org.za](mailto:complaints@NCR.org.za)

26.2.2 National Consumer Tribunal

Telephone: 010 590 5200

Website: [www.thenct.org.za](http://www.thenct.org.za)

E-mail: [registry@thenct.org.za](mailto:registry@thenct.org.za)

26.2.3 National Financial Ombud Scheme

Telephone: 0860-800-900

Website: [www.nfosa.co.za](http://www.nfosa.co.za)

E-mail: [info@nfosa.co.za](mailto:info@nfosa.co.za)

## 27 ADDRESSES FOR NOTICES

27.1 The physical address You provide when applying for the credit facility will be regarded as Your chosen address where notices may be given and documents in legal proceedings may be served. You must notify Us in writing immediately if Your chosen address changes. Such notification should be mailed to P O Box 140, Kuils River, 7579 or e-mailed to the email address indicated in the table under clause 26.1.2.

27.2 You should send any legal notice to us at Our chosen address provided above.

## **28 THESE TERMS AND CONDITIONS ARE THE WHOLE AGREEMENT**

- 28.1 The Agreement is the whole agreement between You and Us. Neither party is legally obliged to comply with any express or implied term, condition, undertaking, representation, warranty, or promise not recorded in the Agreement. The Agreement replaces any arrangement or understanding held by the parties before this Agreement was signed.
- 28.2 If You want copies of documents relating to Your account, We will send these to You and We may charge a fee for this.
- 28.3 We monitor and record all Our telephone calls and other interactions with You.

## **29 EACH CLAUSE IS SEPARATE**

- 29.1 The parties acknowledge that each clause of this Agreement is separate. If any clause of this Agreement is or becomes illegal, invalid or unenforceable for any reason or in any jurisdiction, it will be treated as if it had not been written.
- 29.2 This does not:
  - 29.2.1 make the rest of the Agreement illegal, invalid or unenforceable
  - 29.2.2 affect the legality, validity or enforceability of the clause in another jurisdiction.

## **30 WE MAY CHANGE THESE TERMS AND CONDITIONS**

- 30.1 We may change the provisions of the Agreement at any time and most of the time do not need Your permission to do so. We will inform You of any changes and the date the changes apply from by doing one or more of the following:
  - 30.1.1 sending You a notice of the changes We intend to make or have made;
  - 30.1.2 sending You a new set of terms and conditions to replace these terms and conditions; or
  - 30.1.3 setting out the changes on Your monthly statement.