

In consideration of any indebtedness incurred or to be incurred by:

.....  
(full name of principal debtor)

(collectively and individually referred to as 'the principal debtor') to Nedbank Limited, Reg No 1951/000009/06, it is hereby agreed as follows:

1 I the undersigned:

.....  
(full name and ID number of surety / Company name and registration number of company of surety)

of:

.....  
(physical address of surety)

bind myself, jointly and severally, as surety and co-principal debtor *in solidum* (which means, where there are several sureties, each is liable in full) for the repayment on demand of all amounts which the principal debtor may now or at any time hereafter owe Nedbank Limited, Reg No 1951/000009/06, its successors in title or assigns (hereafter referred to as 'Nedbank'), provided that the total amount to be recovered from me hereunder shall not exceed in aggregate, the due and payable amount owing by the principal debtor in respect of the Contract for Difference (CFD) Agreement ("the CFD Agreement"), entered into between Nedbank and the principal debtor, signed on or about:

.....  
(date)

("my obligation")

plus interest, discount commission, commission, legal costs on the attorney and client scale, and all other necessary and usual charges and expenses.

- 2 My obligation may arise from a direct or indirect liability incurred by the principal debtor in terms of the CFD Agreement.
- 3 It shall always be in Nedbank's discretion to determine the extent, nature and duration of any facilities, including banking facilities, to be allowed the principal debtor and all admissions or acknowledgements of indebtedness by the principal debtor shall bind me.
- 4 This suretyship is unconditional and there are no conditions precedent suspending its operation.
- 5 Nedbank shall be entitled without prejudice to its rights hereunder to give time to, compound with, release from liability or make any other arrangements with the principal debtor or any person who is a surety for and/or co-principal debtor with the principal debtor ('Co-surety'), and to release in whole or in part any security given to Nedbank by any Co-surety or other person in respect of the principal debtor's indebtedness and/or my obligation and/or the indebtedness of any Co-surety hereunder. Such action shall not exonerate me from my obligation.
- 6 The nature and amount of my obligation, as well as the interest rate payable in respect thereof, shall be determined and proved by a certificate purporting to have been signed by a manager or accountant for the time being of any branch or the head office of Nedbank, whose capacity or authority it will not be necessary to prove (or any other form of evidence contemplated in section 169(3) of the National Credit Act, 2005, if applicable). This certificate or other form of evidence, as the case may be, will upon the mere production thereof be binding on me and be proof of the contents of such certificate on the face of it and of the fact that such amount is due and payable in any legal proceedings against me, and will be valid as a liquid document against me in any competent court.
- 7 In the event of my or the principal debtor's insolvency/liquidation, I shall be liable to Nedbank, if Nedbank proves a claim in my or the principal debtor's insolvent estate/liquidation, for all costs and expenses of maintaining, conserving and/or realising any security which Nedbank may hold for such claim, and all amounts which may become payable by Nedbank to the trustee/liquidator in consequence of its proving such claim.
- 8 In the event of the principal debtor's insolvency/liquidation or the assignment of the principal debtor's estate or a compromise with the principal debtor or the calling up of the principal debtor's banking facilities:
  - 8.1 any dividends or other payments received by Nedbank shall not go in discharge of the principal debtor's liability to Nedbank; and
  - 8.2 Nedbank shall, notwithstanding such dividends or other payments, be entitled to recover from me under this suretyship to the full amount as stated above any interest and costs or so much thereof as shall together with such dividends or other payments amount to 100 cents in the rand on the debt due by the principal debtor to Nedbank; and
  - 8.3 my obligation shall carry interest, at the rate of interest charged by Nedbank to the principal debtor immediately prior to the date of such call-up, insolvency/liquidation, assignment or compromise, until the date of payment by me, Nedbank being hereby authorised irrevocably to apply any monies received by it from me to such debt or debts of the principal debtor as and when Nedbank in its discretion may think fit.
- 9 As collateral security for the discharge of my obligation, I hereby cede, assign and make over to Nedbank all my right, title and interest in and to each and every sum or sums of money now owing or hereafter to become owing by the principal debtor to me in respect of moneys lent and advanced to the principal debtor ('claims'), which I hereby irrevocably undertake not to withdraw from the principal debtor without the prior written consent of Nedbank. I further agree that, if prior to signing this suretyship I ceded my right, title and interest in and to the claims to any other natural or juristic person, this cession shall be a cession of all my reversionary rights in and to the claims after payment of all amounts secured by the prior cession/s or after the prior cessionary/ies, for any reason or in any manner, has/have lost, abandoned or relinquished any rights thereunder.
- 10 Any money paid by me to Nedbank under this suretyship may, in Nedbank's discretion, be treated as cash security held by Nedbank until Nedbank recovers the principal debtor's indebtedness in full.
- 11 I renounce the benefit of excussion (*beneficium ordinis seu excussionis*), which means that I am no longer entitled to claim that Nedbank first exhausts its remedies against the principal debtor before proceeding against me in terms of this suretyship. I also renounce the benefit of division (*beneficium divisionis*), which means that I am no longer entitled to claim that my obligation be divided proportionately between me, any Co-sureties and the principal debtor.

Initial: \_\_\_\_\_

- 12 I also renounce, to the extent not prohibited by the National Credit Act, 2005, the legal exception of *non numeratae pecuniae*, which means that I am no longer entitled to claim that no moneys were in fact paid over to the principal debtor, the legal exception of *non cause debiti*, which means that I am no longer entitled to claim that the principal debt for which I undertook liability does not exist, the legal exception of *errore calculi*, which means that I am no longer entitled to claim that the amount claimed has been incorrectly calculated and the legal exception of revision of accounts, which means that I am no longer entitled to claim that Nedbank revises its accounts in respect of my or the principal debtor's indebtedness. I also renounce all other exceptions which might or could be pleaded in defence to the payment of my obligation or any part thereof, with the force and effect of which exceptions I declare myself to be fully acquainted.
- 13 This suretyship constitutes the whole of the agreement between me and Nedbank relating to the subject matter thereof, and no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect unless reduced to writing and signed by both me and Nedbank.
- 14 No waiver of any of the terms and conditions of this suretyship shall be binding for any purpose unless expressed in writing and signed by the party giving the same, and any such waiver shall be effective only in the specific instance and for the purpose given.
- 15 Neither Nedbank nor any other person has made or given any warranties, promises or representations whatsoever to me to sign this suretyship and to bind myself to the terms hereof.
- 16 I agree that this suretyship is in addition and without prejudice to any other securities, including other suretyships, now or in the future held from or on behalf of the principal debtor and that it shall remain in force as a continuing covering security for all and any sum or sums of money which may now or in the future be owing to or claimable by Nedbank from any cause aforementioned and any other cause of whatever nature, notwithstanding any fluctuation in, or temporary extinction of, the principal debtor's indebtedness to Nedbank from time to time, and notwithstanding my death or legal disability.
- 17 I acknowledge that I may only be released from my obligations hereunder upon written notice from me to Nedbank or from my executors, trustees or other legal representatives, as the case may be, requesting Nedbank to release me from this suretyship, provided that such termination shall only come into effect upon receipt by me of written notice from Nedbank acknowledging that this suretyship has been terminated, and when that part of my obligation already due or accruing at the date of receipt of such notice, together with interest and costs thereon, has been paid.
- 18 Nedbank has the right at any time and from time to time, without my or the principal debtor's consent, to cede, assign and transfer all or any of its rights, title and interest in and to this suretyship, to and in favour of third parties. The aforesaid right includes the right to delegate any obligation of this suretyship with the necessary changes. To the extent that any cession, assignment, transfer or delegation aforementioned constitutes or results in a splitting of claims that requires my consent, I hereby consent thereto.
- 19 In terms of section 45 of the Magistrates' Courts Act, 1944 and at the option of Nedbank, any claim arising hereunder may be recovered in any magistrate's court having jurisdiction, and I hereby consent to the jurisdiction of the magistrate's court.
- 20 Nedbank must give legal notice to me at the address set out in clause 1 above or at the address most recently provided by me to Nedbank in writing, provided that I deliver to Nedbank a written notice of the new address by hand or by registered mail. Unless otherwise provided by legislation, a notice, order or other document that must be served on me will have been properly served when it has been either delivered to me or sent by registered mail to my last-known address.
- 21 Each paragraph and clause in this suretyship is separate and severable, the one from the other, notwithstanding the manner in which they may be linked together or grouped grammatically, and if any paragraph or clause is to be found defective or unenforceable for any reason, the remaining paragraphs or clauses, as the case may be, will nevertheless be and continue to be of full force and effect.
- 22 This suretyship document is and shall at all times, subject to clause 18, remain the property of Nedbank.
- 23 Nedbank has the right at any given time and from time to time, without my consent, to cede, assign and transfer all or any of its rights, title and interest in and to this suretyship, as well as any other security of whatsoever nature held by Nedbank in respect of the indebtedness of the debtor to and in favour of any third party or parties, whether natural, juristic or of any other kind or nature. The aforesaid right includes the right to delegate any obligation in terms of this suretyship or other security, with the necessary changes. To the extent that any cession, assignment, transfer or delegation aforementioned constitutes or results in a splitting of claims that requires my consent, I consent thereto.
- 24 All payments in terms of this suretyship will be made in South African currency, without set off or deduction of any free of exchange, bank costs and other charges wherever Nedbank may at any time in writing direct.
- 25 THIS SURETYSHIP WAS COMPLETE IN ALL RESPECTS WHEN I SIGNED IT.

Signed at ..... on .....  
(place) (day) (month) (year)

**WITNESS TO SURETY'S SIGNATURE**

**SURETY**

i	ii	
.....	.....	.....
(signature)	(signature)	(signature)
.....	.....	.....
(Name)	(Name)	(Name)
.....	.....	.....
(Address)	(Address)	

Initial: \_\_\_\_\_