

**1 DEFINITIONS**

In this Agreement, unless the context indicates a different intention:

- 1.1 **Act** means the National Credit Act, 34 of 2005;
- 1.2 **Agreement** means this agreement in respect of a credit facility concluded between you and us on your acceptance of the Quotation and once it is received by Nedbank Card in Sandton, the Agreement is governed by these terms and conditions as well as the terms and conditions contained in the Quotation and Application for the Card;
- 1.3 **ATM** means an automated teller machine;
- 1.4 **Business Day** means any day other than a Saturday, Sunday or official public holiday;
- 1.5 **Card** means the specific card issued by us;
- 1.6 **Card Account** means the account opened with us and that is operated by means of the Card;
- 1.7 **Card Facility** means the facility, which we may make available to you, that is operated by means of the Card or the Card number to cover the amounts used by you on your Card Account for purchases or services or withdrawals by you from your Card Account;
- 1.8 **Cardholder** means you, the person who is the holder of the Card Account;
- 1.9 **Card Transaction** means any transaction made with the Card or Card Account using an ATM or other electronic device or by providing the Card number to a merchant;
- 1.10 **Chip** means the integrated circuit that is embedded in a card that is designed to perform processing and/or memory functions;
- 1.11 **Contract Rate** means the maximum interest rate that may be levied on unsecured credit facilities in terms of the Act;
- 1.12 **Conversion Fee** means a fee that is applied to all transactions that occur in a currency other than South African rand;
- 1.13 **Delivery** means that, in terms of any notice required to be provided, such notice may only be given in writing and must be delivered to you and/or us by way of hand delivery or registered post or fax or telegram or email or SMS. If delivered by hand, the notice will be deemed to have been received on the date of delivery, unless the contrary is proved. If delivered by registered post, the notice will be deemed to have been received within 10 (ten) days of posting. If sent by fax or telegram, the notice will be deemed to have been received on the date of confirmation of the successful transmission of the fax or telegram. If forwarded by email, the notice will be deemed to have been received on the day of transmission, unless the contrary is proved. If an SMS (you will receive transactional SMSs for purchases, the amounts of which are determined by us) is sent, the notice will be deemed to have been received on the day of transmission, unless the contrary is proved;
- 1.14 **Effective Interest Rate** means the variable interest rate based on the Contract Rate less any interest, which we may waive our right to, having regard to your personal risk profile that we may change from time to time;
- 1.15 **Nedbank Card** means Nedbank Card Division, a division of Nedbank Limited, Reg No 1951/000009/06, with its principle place of business at 135 Rivonia Road, Sandown, Sandton, 2196;
- 1.16 **PIN** means a personal identification number for use in connection with the Card;
- 1.17 **Primary Card** means the Card issued to the Cardholder;
- 1.18 **Principal Debt** means all amounts owing to us by the Cardholder;
- 1.19 **Repo Rate** means the repurchase rate published by the South African Reserve Bank from time to time;
- 1.20 **Quotation** means the quotation and preagreement statement given in respect of this Agreement; and

- 1.21 **Supplementary Card** means a Card applied for by you and any Supplementary Cardholder that is issued by us for use by the Supplementary Cardholder.

**2 INTERPRETATION**

In this Agreement, unless the context indicates a different intention:

- 2.1 one gender includes the other genders and the singular includes the plural and vice versa;
- 2.2 'we', us and 'our' refer to Nedbank Limited, its successors in title and assigns of 135 Rivonia Road, Sandown, Sandton, NCR Registration Number NCRCP16; and
- 2.3 'you' and 'your' refer to the applicant for the Card Facility and to the holder of the Card Account, and, where appropriate, the applicant and Supplementary Cardholder.

**3 ACCEPTANCE**

- 3.1 If you have chosen Sotho, Xhosa, Zulu, Afrikaans or English as your preferred language for communication or correspondence purposes, you acknowledge that the documentation signed by you that is legally binding is in English. You further acknowledge that the documentation has been explained to you in a language that you understand.
- 3.2 On receipt of the duly signed Quotation by Nedbank Card at Sandton you will enter into the Agreement with us in respect of the Card Facility, we agree to extend the Card Facility to you and you agree to use the Card Facility subject to this Agreement. Your signature on the Quotation or use of the Card constitutes acceptance of this Agreement.
- 3.3 This Agreement constitutes the whole agreement between the parties and, unless expressly provided for in this Agreement, no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect, unless reduced to writing.

**4 CARD FACILITY**

- 4.1 The Card Facility will be provided at our sole discretion.
- 4.2 We reserve the right to move you to a more suitable product if appropriate.
- 4.3 If you have requested in writing the option of having the credit limit automatically increased from time to time, we may do so at our discretion. You may not exceed your credit limit, unless you first obtain our written approval.

- 4.4 If we accept any Card Transaction resulting in the credit limit being exceeded, this will not mean we have increased the credit limit permanently.
- 4.5 On a budget facility the amount of the Card Transaction will be payable over an extended period stipulated by us and must be paid together with other charges in monthly payments, the amount of which will be stipulated by us.
- 4.6 On a budget facility you may make Card Transaction payments over an extended period at any date earlier than the date stipulated and repay more than the amount stipulated by us.

## 5 USE OF THE CARD

- 5.1 When you receive the Card, you must sign it in the space provided.
- 5.2 If you do not want the Card, you must destroy it immediately and notify us in writing.
- 5.3 The Card is valid from the first day of the 'valid from' date on the Card until it expires or until your account is closed. If we allow a Card Transaction after such time, this does not mean that we have extended the validity term of the Card and payment of any amount owing remains your responsibility.
- 5.4 We will encode the Card with a PIN, which will give you the ability to deposit and withdraw cash and make use of services by means of the Card at compatible electronic devices.
- 5.5 It is important that your Card and account are not used fraudulently. You must:
  - 5.5.1 take proper care of the Card and your Card number;
  - 5.5.2 ensure that any record of your PIN is kept in a safe place separate from the Card; and
  - 5.5.3 not allow anybody to have knowledge of your PIN.
- 5.6 If your Card, Card number or PIN is lost, stolen and/or used wrongfully or is used by any person other than you, or you suspect that this has occurred, you must notify us immediately by calling the number provided on your monthly statement. You will be provided with a reference number during your call. You must keep a record of the reference number and must be able to provide it to us when requested to do so. Until you notify us you will be liable for all amounts we pay in such instances.
- 5.7 You may not use the Card for any unlawful transaction.
- 5.8 When you use any electronic device, you do so at your own risk and we are not liable for any loss or theft resulting from its use.
- 5.9 When making withdrawals outside South Africa, the daily withdrawal limit may be different to such limit in South Africa.
- 5.10 You irrevocably authorise us to:
  - 5.10.1 pay for any purchases, services or cash advances in respect of which the Card or the Card number is used and debit the amount to your Card Account; and
  - 5.10.2 make the necessary entries to do the above and to reverse these entries when appropriate.
- 5.11 We will not be liable to you if any merchant does not accept the Card or your Card number or if we refuse to authorise any Card Transaction.
- 5.12 No merchant is our agent. If there is any claim between you and a merchant in respect of the goods or services or in respect of any other matter, our rights to receive payment from you will not be affected nor will it give anyone a right of setoff or counterclaim against us. If you did not receive merchandise or the services you paid for, you must resolve the dispute with the merchant.
- 5.13 You have the right to charge back a transaction. If we are unsuccessful with the chargeback, you will remain liable for the amount owing on your Card Facility. An unsuccessful chargeback does not limit your right to claim directly from the merchant.
- 5.14 If a merchant gives you a refund, it will be credited to your Card Account when we receive a credit voucher.

- 5.15 You will not have the right to stop any payment we are about to make in respect of any Card Transaction nor will you have the right to instruct us to reverse a payment in respect of a Card Transaction that has been made, except as provided for by statute.

## 6 FEES, COSTS, INTEREST AND OTHER CHARGES

- 6.1 We pay interest on the statement date on the average daily credit balance on your account at the rate that we will notify you of in your monthly statement.
- 6.2 You will be liable to pay interest to us in respect of each transaction, calculated monthly on the daily balances as set out in your statement and/or the Quotation, which will not exceed the maximum Contract Rate.
- 6.3 Interest will be levied at the Contract Rate. At our discretion, we may waive our right to a portion of the interest levied having regard to your personal risk profile, which is affected by the way in which you conduct your financial affairs and our assessment of your credit risk. We may change the amount of interest we waive at our sole discretion. The Effective Interest Rate charged will change from time to time as your personal risk profile changes.
- 6.4 If you pay the outstanding balance on your account on or before the due date on the monthly statement, we may decide not to charge interest in respect of Card Transactions (other than cash advances/withdrawals, electronic transfers, foreign exchange or casino chip purchases, or fuel purchases – these transactions will incur interest from day one) that appear for the first time on that statement. This will not mean that we have waived our right to charge interest and we reserve the right to charge interest at any time.
- 6.5 If you fail to pay any amount owing to us on the due date, you will be liable for interest at the Contract Rate on the full amount due, but unpaid, including interest, and this will not prejudice our rights relating to any act of default.

- 6.6 You will be liable for and must pay us the fees, costs and charges (including, if applicable, any collection costs) as part of the cost of credit. We are entitled at any time to change and/or vary any fee, cost or charge. The fees, costs and charges at the time of concluding this Agreement are set out in the Quotation. To the extent that value-added tax is payable in respect of any fee, cost or charge such fee, cost or charge will be inclusive of value-added tax payable by you.
- 6.7 In addition, you must pay any default administration charge imposed by us to cover administration costs incurred as a result of you defaulting on an obligation under this Agreement, and all fees, costs and charges will be calculated and payable in respect thereof.
- 6.8 We have the right to debit your account with our standard service and other fees and charges payable from time to time, which will be reflected on your monthly statement. These include, but are not limited to, a service fee, a Card replacement fee and a returned-payment fee.
- 6.9 Should you have signed a debit order authority, you consent to us:
- 6.9.1 issuing and delivering a series of payment instructions to your bank on or after the due date for payment as reflected on the statement. The payment instructions will be for either the minimum amount set out on the statement or the full amount owing in terms of this Agreement and will include interest, all other charges levied by us and any taxes payable;
- 6.9.2 debiting your account at our discretion on the day your salary is paid into your account, provided that such date is after the due date for payment. If, on subsequent verification, we confirm a different salary date to the date provided by you, we may debit your account on the date obtained through our verification process;
- 6.9.3 debiting your account on the last Business Day preceding your normal debit order date where your normal debit order date falls on a Saturday, Sunday or official public holiday;
- 6.9.4 if there are insufficient funds available in your bank account to satisfy your repayment obligations to us fully, continuing to present the payment instruction to your bank until such time as your outstanding obligations are fully satisfied;
- 6.9.5 issuing and delivering payment instructions to your bank in addition to the payments stipulated above in respect of any amount that may be in arrears, including arrear interest, costs and charges that may have accrued as a result of default of your obligations under this Agreement; and
- 6.9.6 subject to the provisions of the Act, applying the debit order to any bank account that you may have with us, should your account be closed, inaccessible or have insufficient funds to service the debit order.
- 6.10 We will notify you of any variation in the interest rate.
- 7.5 If any negotiable instrument is deposited into your account, the proceeds will be provisionally credited to your account, but you will only be entitled to such proceeds once the instrument has been honoured.
- 7.6 All payments received from you will be credited to your account and we will apply this money firstly to the unpaid interest charges, then any fees and other charges we levy on your Card Account, then any legal costs, and finally the Principal Debt. You may not attach any conditions to any payment made to us.
- 7.7 All payments in terms of this Agreement will be made in South African currency without setoff or deduction and free of exchange, bank costs and other charges at the branch or at Nedbank Card in Sandton or wherever we may direct in writing. If arrangements are made to pay the monthly instalment by way of debit order or automatic payment order, this will not detract from your obligation to effect payment on the due date for payment.
- 7.8 You may prepay any amount owed to us in terms of this Agreement or settle this Agreement.
- 7.9 To the extent that the Act is applicable to this Agreement the amount required to be paid by you to us in order to settle this Agreement is the total of the following amounts:
- 7.9.1 the amount outstanding at the time of settlement; and
- 7.9.2 any unpaid interest and all other fees and charges claimable by us in terms of this Agreement up to the settlement date.

## 8 SUPPLEMENTARY CARDS

- 8.1 If we issue a Supplementary Card, you and the Supplementary Cardholder will be jointly and severally liable to us as coprincipal debtors for all amounts due and payable to us as a result of the use of the Supplementary Card. You give up the benefits and/or the legal exceptions and/or defences of excussion, division or cession of action, which you can or may plead to defend any claim we bring against you or the third party named on the Supplementary Card.
- 8.2 When the Supplementary Card is given back to us and after all amounts owing to us in respect of the use of the Supplementary Card have been paid, when requested to do so, we will cancel the Supplementary Card.

## 7 STATEMENT, PAYMENT, DEPOSITS AND SETTLEMENT

- 7.1 We will send you a monthly statement to the address selected by you, setting out, among other things, the balance on your account and the minimum amount you must pay on the due date.
- 7.2 You must pay us not less than the minimum amount and your payment must reach us at Nedbank Card, in Sandton, during banking hours on or before the due date. If you pay us by posting a cheque or postal order, you will bear all risk.
- 7.3 It is important that you check your monthly statement. If you dispute any entry, you must write to us within 30 (thirty) days of the date of the statement recording your dispute so that we can investigate.
- 7.4 Not receiving a monthly statement does not give you the right not to pay any amount that is due and payable and you must inform us in writing if you do not receive a monthly statement.

amount and interest owing by you on your account in the event of your death.

## 9 BALANCE TRANSFER OPTION

- 9.1 We, at our discretion, may grant you a facility, the amount of which we alone will determine, to facilitate the transfer of a balance(s) from one or more accounts to the Card Account where:
- 9.1.1 you have properly maintained the account(s) from which the balance(s) is/are to be transferred;
- 9.1.2 we have approved your application for the Card; and
- 9.1.3 you have applied for the balance transfer option and have indicated in the Application the account(s) from which a balance(s) is/are to be transferred.
- 9.2 You authorise us to verify the status and balance of the account(s), and you authorise us to effect payment on your behalf into the account(s).
- 9.3 You will be responsible for closing the account(s) from which the balance(s) is/are transferred.
- 9.4 You must pay any amount outstanding on the account(s) from which the balance(s) is/are transferred.
- 9.5 The repayment period for the transferred amount can be from 3 (three) to 36 (thirty-six) months.
- 9.6 The balance transfer amount cannot be revised or revoked once the Application has been processed.
- 9.7 You must continue to pay your current minimum payment on the account(s) on which you have requested a balance transfer(s) until you receive the statement showing that the balance(s) has/have been transferred. We may decline your transfer request.

## 10 CONSENT

- 10.1 You confirm and agree that we may amend these terms and conditions by giving you notice by way of statement messages or any other means.
- 10.2 You agree that we will not be obliged to obtain your written consent to such amendments, but if you disagree with these amendments, you may cancel the Agreement before the terms and conditions become operational.
- 10.3 You agree that if you decide not to cancel the Agreement before the amendments become operational, they will be binding on you. Your use of the Card after our amendment of the terms and conditions signifies your acceptance of the amendments.
- 10.4 You consent to us processing your personal information for purposes of providing financial services and preventing fraud and money laundering and to us sending your personal information to third parties in order to provide services to you, and also to us sending such information to foreign countries for processing.
- 10.5 We supply consumer credit information to credit bureaus and:
- 10.5.1 you confirm that we may transmit data about the application for and opening and termination of an account by you to credit bureaus;
- 10.5.2 you acknowledge that information on non-compliance with this Agreement is transferred to the credit bureaus;
- 10.5.3 the credit bureaus provide credit profiles and possibly credit scores on your creditworthiness.
- 10.6 You have the right to have the credit record disclosed and to correct inaccurate information. The contact details of the credit bureaus to whom we provide consumer credit information are:
- 10.6.1 Experian [telephone number +27 (0)86 110 5665];
- 10.6.2 TransUnion ITC [telephone number +27 (0)861 482 482]; and
- 10.6.3 Expert Decision Systems (XDS) [telephone number +27 (0)11 645 9100].
- 10.7 Further, you consent to us disclosing any information about fraudulent activity by you to the South African Fraud Prevention Services and/or any similar organisation.
- 10.8 You consent that, if you possess a Nedbank Balance Protection Plan, a credit life insurance policy underwritten by Nedgroup Life Assurance Company Limited pays us the

## 11 LIABILITY

- 11.1 If you exceed the credit limit, it will constitute a breach of this Agreement and all amounts owing to or claimable by us from you in terms of this Agreement will, at our option, become immediately due and payable without notice if you fail to pay on demand any money claimed by us.
- 11.2 We will not be liable to you for any damage or loss that you suffer if:
- 11.2.1 any person gains unauthorised access to your Card, your Card number, your account, your PIN or your Card Facility or any information in respect thereof;
- 11.2.2 there is a delay, failure or malfunction of any device you use to make Card Transactions; or
- 11.2.3 any person gains unauthorised access to any information or data.
- 11.3 We will not be held liable for any loss or damage resulting from the use of the SMS service or the inability to use the service or any delays in the service or any fraudulent transaction taking place when the service is unavailable.

## 12 JURISDICTION

- 12.1 In terms of section 45 of the Magistrates' Court Act, 1944, you consent to the magistrate's court having jurisdiction in respect of any claim arising under this Agreement. We will, however, have the right to approach a higher court if we wish to do so.
- 12.2 You agree that the residential address you provided in the Quotation or the address provided to us is the address to which all legal notices must be sent.
- 12.3 Cards are issued and credit facilities are granted to the Cardholder by us in our sole discretion. The Application is approved at Nedbank Card in Sandton. The dispatch of the Card from Nedbank Card to the Cardholder constitutes our acceptance of the Application and/or Quotation, subject to these terms and conditions.
- 12.4 In defended matters you may send any legal notices to The General Manager: Nedbank Group Legal; Fax number: 011 295 2173; Physical address: 135 Rivonia Road, Sandown, Sandton, 2196.

- 12.5 A party may change its address by delivering a written notice of the new address to the other party. If you have not advised us of a change of address or any of your other contact details, we will continue to use the last address provided, even though the information may be incorrect.
- 12.6 Any document actually received by a party will be adequate written notice or communication to that party, even though it was not sent to or delivered at the chosen address.
- 12.7 We may use your personal information for debt enforcement, including but not limited to recovery, collection, repayment, surrender, enforcement and cession of debts.
- 15.3 You agree that we may inform any person that we have closed your Card Account and/or have cancelled your Card Facility, and you will not have any claim against us for doing so.
- 15.4 If you want to terminate your right to use the Card and/or Card Facility, you must cut up the Card and send it to us, together with a written notice that you want to terminate your right. The Card and/or your Card Facility will then be cancelled on the day we receive your notice and the cut-up Card at Nedbank Card in Sandton.
- 15.5 Any termination of your Card Account and/or Card Facility and/or the Card will not affect your liability to us in respect of the use of the Card and these terms and conditions of use before that termination or before we receive back the Card, whichever happens last.

### 13 COMPLIANCE

- 13.1 You must comply with all legislative, regulatory and supervisory requirements.
- 13.2 You must comply with all exchange control regulations and may be charged a currency Conversion Fee for transactions concluded.
- 13.3 You may not participate in lotteries organised abroad, or purchase foreign exchange to participate in any gambling activities, including internet gambling. Furthermore, you may not use your credit and/or debit cards to facilitate payments for these activities.

### 14 ALTERNATIVE DISPUTE RESOLUTION

- 14.1 If you are in default, and the Act applies, we will give you written notice and propose that you refer the Agreement to a debt counsellor, an alternative dispute resolution agent, the consumer court or the ombudsman with jurisdiction, with the intention of resolving any disputes or develop and agree on a plan to bring the payments up to date.
- 14.2 To the extent that the Act is applicable to this Agreement you have the right (provided that any such right is exercised in accordance with the Act) to:
- 14.2.1 resolve a complaint by way of alternative dispute resolution;
- 14.2.2 file a complaint with the National Credit Regulator;
- 14.2.3 make an application to the tribunal; or
- 14.2.4 apply to a debt counsellor for assessment and debt review in terms of the Act, pursuant to which:
- 14.2.4.1 the debt counsellor may make an appropriate proposal to you and us regarding (among other things) a rearrangement or recalculation of your obligations to us, a postponement of your obligation to repay the amount outstanding under this Agreement and an extension of the term of this Agreement; or
- 14.2.4.2 you may be found to be overindebted, in which case the debt counsellor may make an appropriate recommendation to the relevant magistrate's court regarding (among other things) whether this Agreement constitutes reckless credit for the purposes of the Act.
- 14.3 The National Credit Regulator can be contacted at 0860 627 627.
- 14.4 The National Consumer Tribunal can be contacted at 012 394 1450.
- 14.5 The Ombudsman for Banking Services can be contacted at 0860 800 900.

### 15 DEFAULT BY THE CLIENT/TERMINATION/BREACH

- 15.1 We have the right when you breach any term of this Agreement to close your account, cancel the Card Facility and demand that you repay us the full amount outstanding and interest on your account and immediately return the Card and any Supplementary Card to us.
- 15.2 Any liability that you may have in terms of this Agreement will not be affected by this action. If you are in default, we may suspend the Card Facility. Furthermore, at our discretion, we may close the Credit Facility by giving you 10 (ten) Business Days' written notice.

- 15.6 All amounts owing to or claimable by us from you in terms of this Agreement will, at our option and to the extent permitted by the Act, become immediately due and payable without notice if you fail to pay on demand any sum or sums of money owing to or claimable by us in respect of the facility granted to you or any other indebtedness of yours, from whatever cause arising. Any failure by you to effect payment as aforesaid will constitute a breach of this Agreement.
- 15.7 You must, on request, furnish us with such information and documents as we require in respect of your spouse and any person having an interest in you or, if you are not a natural person, such information and documents in respect of any surety, guarantor or other person who has provided security in respect of your indebtedness.

### 16 PROCESS ON DEFAULT

- 16.1 If you applied for debt review under section 86 of the Act and the review is not finalised within 60 (sixty) Business Days after you applied for it, we may send a notice terminating the debt review in terms of section 86(10) of the Act.
- 16.2 We can only approach the court for an order enforcing the Agreement if, at the time, you have been in default for at least 20 (twenty) Business Days and at least 10 (ten) Business Days have elapsed since the default letter or notice referred to above has been delivered [which 10-day (ten-day) period may run concurrently with the 20-day (twenty-day) default period] and you have failed to respond to the default letter or have rejected our proposal.

- 16.3 You will be liable to pay all legal costs we incur in exercising any of our rights in terms of this Agreement, including all legal charges as between attorney and client, counsel's fees, tracing fees and collection charges.
- 16.4 We have the right at any time and from time to time, without your consent, to transfer any of our rights, title and interest in and to this Agreement and/or any other security held by us in respect of your indebtedness to us and transfer any obligations to any third party. Should any cession, assignment, transfer or delegation result in a splitting of claims, you consent thereto.
- 16.5 The nature and amount of your indebtedness to us and the interest rate payable as well as the current terms and conditions applicable to your relationship with us will at any time be determined and proved by a written certificate signed by a manager or accountant employed by us, whose capacity or authority will not be necessary to prove, which certificate will on the face of it be binding on you in respect of its contents and of the fact that such amount is due and payable in any legal proceedings against you and will be valid as a liquid document against you.
- 16.6 Whenever we take any legal steps against you, we will have the right to use microfilm and/or copies of any other relevant records.

## **17 THE PREMIUM AND COMMISSION CONTENT**

- 17.1 The costs of the insurance for which you are liable are based on the premium on the Quotation. The premium is variable as it is determined on the Quotation and on the highest outstanding balance during the statement month.
- 17.2 The commission payable to us in relation to the insurance policy equals 22,5% of the premium calculation referred to above.

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