



This sets out the Terms and Conditions Agreement applicable to all Cards and Card Facilities issued by Nedbank, which cards are issued and credit facilities are granted by us, in our sole discretion to You as the Cardholder. Our dispatch of the card to you constitutes our acceptance of the Agreement between yourself and Nedbank. You shall be deemed to have unconditionally agreed to; consented to and accepted this Agreement by: requesting / electing a Card to be issued to You with the signing of your Account opening of your Nedbank Account; acknowledging receipt of the Card in writing, by signing on the reverse of the Card, or by performing a transaction with the Card. These Terms and Conditions (T&C's) in conjunction with the applicable account opening documentation for using any service / account and/or product of Nedbank, shall apply to all the respective services / accounts and/or products the Account Holder may hold with Nedbank. These T&C's should be read in conjunction with any/all other T&C's applicable to specific products and services (including but not limited to for example the Online / Electronic Banking services; Merchant services; Banking Facilities etc).

**Nedbank will explain the terms and conditions contained herein to you in plain English language and simple terms. Should you not understand English you are hereby informed that you have the right and opportunity to provide an interpreter of your choice to assist us in explaining the content and substance of these terms and conditions to you. You are hereby further afforded with the right and opportunity to read, understand and negotiate, if necessary, the substance of this agreement, within five (5) business days from date of receipt and wish to exercise this right.**

**1 INTERPRETATION**

In this Agreement:

- 1.1 clause headings are for convenience and are not to be used in its interpretation;
- 1.2 unless the context indicates a contrary intention, an expression that denotes
  - 1.2.1 any gender includes the other genders;
  - 1.2.2 a natural person includes a juristic person and vice versa; and
  - 1.2.3 the singular includes the plural and vice versa; and
- 1.3 any number of days will be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next business day.

**2 DEFINITIONS**

In this Agreement, unless the context indicates otherwise, the following expressions bear the meanings assigned to

them below and cognate expressions bear corresponding meanings:

- 2.1 **“Account or Card Account”** means any Nedbank bank Account or Facility held or to be held with Nedbank in the name of the Cardholder or in the Additional Cardholder's name;
- 2.2 **“Account currency”** means the currency in which the Account is denominated.
- 2.3 **‘Additional Card’** is a card that includes a duplicate card, applied for by the Cardholder and the Additional Cardholder of any Nedbank Account, issued by Us at our discretion for use by the Additional Cardholder, for which the Cardholder and Additional Cardholder accept joint and several liability *in solidum (being liable for the whole amount due and owing)*.
- 2.4 **‘Additional Cardholder’** means the holder of an Additional Card and includes a person / employee duly authorised to be in possession of the Card, issued under the responsibility of the Cardholder, who is subject to this Agreement
- 2.5 **‘Agreement’** means this Agreement concluded between the Cardholder (and where applicable the Additional Cardholder), including any application form for the card facilities, which Agreement is governed by the Laws in the Republic of Namibia and is subject to the General Terms and Conditions of Nedbank.
- 2.6 **‘Annual Interest Rate’** means the maximum interest rate not exceeding the maximum interest rate as prescribed in the Usury Act, Act 73 of 1968.
- 2.7 **“Application”** means the written application completed by you in respect of any Card;
- 2.8 **‘ATM’** means an automated teller machine.
- 2.9 **‘Authorised Representative’** means the service establishment or supplier who is stated on the Application form as an authorised representative;
- 2.10 **‘Card’** means any of the following:
  - 2.10.1 a Nedbank Visa International magnetic strip, chip and pin and tap and pay card: Green Debit Card, Cheque Card, Gold Cheque or Credit Card, Business Cheque or Credit Card, or Platinum Cheque or Credit card;;
  - 2.10.2 a **Fleet Corporate Card**: for use by the Cardholder's duly authorised employee named on the Card alternatively for the benefit of the Cardholder's vehicle referenced on the Card through means of a registration number;
  - 2.10.3 any other Card issued in the name of the Cardholder for use in connection with any Nedbank Account or facility, including any renewal or replacement Card;

- 2.11 **“Card Facility”** means the facility, which we may decide to make available to the Cardholder that is operated by means of the Card or the Card Number on the Account.
- 2.12 **“Credit Facility”** means a facility, subject to this Agreement, which Nedbank at its sole discretion may make available to You. The purpose of this credit facility is to cover the full amount used by You on your Account for purchases or services, or for an amount withdrawn by You from your Account by means of your PIN, in circumstances where sufficient (cash) funds are not available in your Account.
- 2.13 **‘Card Number’** means the number that
  - 2.13.1 is embossed on the Card and by which the Card is identified; or
  - 2.13.2 is issued to you and which may be furnished to suppliers or service establishments to effect Card Transactions.
- 2.14 **‘Card Transaction’** means any commercial transaction, including but not limited to: any purchases, services, cash advances, cash withdrawal or payment made using the Card or any refund arising in connection with the use of the Card in any authorized manner for debit or credit to the Account:
  - 2.14.1 With the card from or to the Account by using an ATM or other electronic or other device; or
  - 2.14.2 by furnishing the card number to a merchant or supplier.
- 2.15 **“Cardholder”** means **“you”, “your”** the / a **“Business”** or Card User who is the holder of an Account or duly authorised person in possession of the Card and where applicable includes the holder of an Additional Card;
- 2.16 **‘Card user’** means you, the Additional Card Holder, any director, member, partner, employee, agent or other person whose use of the Card is authorised by the Cardholder;
- 2.17 **‘Chip’** means the integrated circuit that is embedded in a plastic card and which is designed to perform processing and/or memory functions.
- 2.18 **‘Chip and PIN card’** means a plastic card, commonly called a chip card, with an embedded Chip that communicates information to a point-of-transaction terminal and/or other electronic devices.
- 2.19 **“Chip and Tap and Pay Card”** means a card embedded with a Near Field Communication (NFC) chip that allows short-range data transfer without the need to touch the point of sale (PoS) device by inserting a PIN (contactless payments).
- 2.20 **“Contract Rate”** means the maximum interest rate as prescribed by law from time to time;
- 2.21 **“Common Monetary Area”** means South Africa, Namibia, Lesotho and Swaziland

- 2.22 **'Credit Bureau'** means the Namibian and South African bureaus used for credit rating:  
 (1) Experian (Pty) Ltd  
 (2) TransUnion ITC  
 (3) Expert Decision Systems (XDS)
- 2.23 **'Individual Interest Rate'** means the variable interest rate that we offer you, which appears on the statement and, is applicable to this Agreement and is based on the Annual Interest Rate discounted by your risk profile where applicable, and can be changed at our sole discretion from time to time.
- 2.24 **"Nedbank"** means Nedbank Namibia Limited with registration number 73/04561 and includes the Nedbank Group of Companies, our employees; officials and directors; **"Bank"**; **"we"** or **"us"** or **"our"** and includes our duly authorised representatives.
- 2.25 **"PIN"** means a personal identification number, which is a secret number issued to the Cardholder, which number is encoded and is used as a means of user identification.
- 2.26 **"Parties"** means the parties to this Agreement and "Party" shall mean either one of them;
- 2.27 **'Principal Debt'** means all amounts owing in terms of this Agreement.
- 2.28 **"Usury Act"** means the Usury Act, Act 73 of 1968
- 2.29 **"Quotation"** means any written quotation given in respect of this Agreement.

### 3 RECITAL

Should you accept these Terms and Conditions, we agree to extend the Card Facility to you and you agree to utilise such Card Facility, subject to the terms and conditions hereof. The agreement between you and us will come into being at the moment when we open an account in your name. Your signature to the Application Form and/or use of the Card constitutes acceptance of the Terms and Conditions, as amended from time to time.

### 4 CARD FACILITY

- 4.1 The Card Facility is made available to the Cardholder subject to these Terms and Conditions in the amount as agreed to between Nedbank and the Cardholder;
- 4.2 The Card Facilities are granted to the Cardholder at our sole discretion;
- 4.3 In the event that there are age criteria for a specific product or account, we reserve the right to migrate the Cardholder to a more suitable product, once the age limitation has been reached.
- 4.4 Should the Cardholder wish to increase the Card Facility, a written request to that effect must be directed to Nedbank;
- 4.5 Should the Cardholder have elected an automatic annual increase in writing, with respect to the Card Facilities, we reserve the right to unilaterally increase the Card Facilities accordingly as indicated.

- 4.6 The Card Facility may not be exceeded, unless our written approval has been obtained first. If we accept any sales voucher or other evidence of a purchase, resulting in the Card Facility being exceeded, this will not mean that we have increased the Card Facility permanently.
- 4.7 If the Card Facility is exceeded, it will constitute a breach of this Agreement and all amounts owing to or claimable by us in terms of this Agreement will, at our option, become immediately due and payable without notice, in the event that the Cardholder fails to pay on demand any sum or sums of money owing to or claimable by us in respect of any facility granted to the Cardholder.
- 4.8 We may increase the Credit Limit upon written notification to you.

### 5 USE OF THE CARD

- 5.1 The Card remains the property of Nedbank and it must be returned to Nedbank immediately upon request or when the Account is closed for whatever reason;
- 5.2 Any authorised officer, servant, employee, associate or agent of Nedbank may retain the Card, require the Cardholder to return the Card or suspend the use of the Card at any time in its absolute discretion and Nedbank shall not be liable for any loss suffered by the Cardholder as a result thereof.
- 5.3 The Cardholder must, immediately when the card is received, sign the card in the space provided thereon with a ballpoint pen;
- 5.4 If you do not want the Card issued to you, it must be destroyed immediately without being used and you must notify us thereof immediately.
- 5.5 You must ensure that all Cards issued to Additional Cardholders or Card Users are recovered from the said person(s) upon termination of employment or upon the Cardholder not being duly authorised to use the Card. It is your responsibility to ensure that the Card is destroyed by cutting the card in two through the magnetic strip.
- 5.6 With regard to the authorisation and use of Fleet Cards:  
 5.6.1 the Card may be used only by the natural or juristic person whose name appears thereon alternatively solely for the vehicle stipulated on the Card.  
 5.6.2 The Fleet Card may only be used for vehicle related expenditure.
- 5.7 With regard to the authorisation of any other Card:  
 5.7.1 the Card may be used only by the natural or juristic person whose name appears thereon, except in the case of the Duplicate Card, which may be used only by the Authorised Representative for the purposes of signing for you and on your behalf for goods and services provided.  
 5.7.2 An Additional Cardholder is subject to the Terms and Conditions of this Agreement;
- 5.8 You may not cede or delegate any of your rights or obligations in respect of the Card or its use.

- 5.9 The Card is valid from the time it is issued or from the first day of the 'valid from' date on the card, as the case may be, until it expires or until your account is closed by any of the Parties for whatever reason. When the Card expires it must be cut in half through the magnetic Chip. If we allow a card transaction after the card has expired or has been cancelled, this does not mean that we have extended the validity term of the card. Payment of any amounts owing relating to these transactions remain your liability and responsibility.
- 5.10 The Cardholder must take all reasonable steps to prevent any authorised use of the Card by:  
 5.10.1 doing everything that is necessary to prevent it from being lost, stolen and/or used wrongfully;  
 5.10.2 ensuring that any record of the PIN is kept separate from the Card in a safe place; and  
 5.10.3 not allowing anybody, unless specifically authorised by you thereto to obtain knowledge of the PIN
- 5.11 If the Card, Card Number or PIN:  
 5.11.1 is lost, stolen and/or used wrongfully; or  
 5.11.2 is used by any person other than the Cardholder or Card User so authorised by you;  
 We must be notified immediately at our Nedbank Card Division in Windhoek on the telephone numbers provided from time to time (on the monthly statement). We must also be notified immediately if you or the Card User has reason to believe or suspect that this has happened. The Cardholder will be provided with a reference number during the telephone call. It is important that the Cardholder keep a record of this reference number, as the Cardholder must be able to provide it to us whenever the Cardholder is requested to do so. The Cardholder must confirm the verbal notification by sending us written confirmation thereof, stating the reference number, within 24 (twenty-four) hours after the verbal notification. It is your responsibility to ensure that the Nedbank Card Division receives every written notice.
- 5.12 Except where a transaction is made by means of a PIN or is requested by mail or telephone order, the Card User must sign a sales voucher or a refund voucher, as the case may be, every time the Card User uses the Card or gives the Card Number to a merchant or supplier. By signing the voucher the Card User confirms that the information on it is correct and the Card user will be liable for and must repay us all amounts we pay or have to pay in respect of Card Transactions. If the Cardholder does not sign the relevant voucher(s), the Cardholder will still be liable to us.
- 5.13 The Cardholder must comply with all the applicable exchange control regulations when the Cardholder uses the Card outside the common monetary area. Card Transactions made in foreign currencies will be shown on the statement in Namibian dollar.
- 5.14 When the Cardholder uses an ATM, they do so at their own risk and we will not be liable for any loss or theft resulting

- from the use of an ATM or an SST or other electronic device.
- 5.15 When making withdrawals at ATMs outside the borders of Namibia, the daily withdrawal limit will be different from the daily withdrawal limit at ATMs inside the borders of Namibia.
- 5.16 You authorise us to debit your Account (which authorisation may not be cancelled or withheld):
- 5.16.1 to pay for any purchases and/or services in respect of which the Card or the Card Number is used and to debit the amount concerned to the Card Account;
- 5.16.2 to debit the Card Account with the amount of the sales voucher or cash advance voucher or any other cash amount withdrawn;
- 5.16.3 to debit the Card Account for any payments made to a merchant for any purchase or cash withdrawal;
- 5.16.4 to make the necessary entries to do the above and to reverse these entries when appropriate, and
- 5.16.5 to make all deductions as set out in clause 6 herein.
- 5.16.6 All payments made to a merchant for any transaction are final and irreversible unless the reversal is allowed or authorised by us in terms of the Visa Card rules.
- 5.17 We will not in any way be liable to the Cardholder if any merchant or supplier does not accept the Card or the Card Number, or if we refuse to authorise any Card Transaction.
- 5.18 We determine the amount of your Credit Facility at all times and will notify you thereof. You may not exceed the amount of your credit facility unless you have first obtained our approval. If we accept any sales voucher, cash advance voucher or other evidence of withdrawal of cash and/ or purchase resulting in your credit facility being exceeded, this will not mean that we have exercised our discretion to increase your credit facility permanently.
- 5.19 If you exceed your credit facility, we may close your Account. If we do close your Account, you must repay us all amounts you owe us in respect of your Account and we will not authorise any further Account or Card transactions.
- 5.20 If we are instructed in writing to stop a transaction, we will attempt to do so. However, we shall not be liable for any loss incurred, whether direct or consequential, if we are unable to do so or fail to do so.
- 5.21 You shall have the right to chargeback a transaction during the normal course of business. In the event that we are, for whatever reason, unsuccessful in the chargeback of a transaction, you will still be liable to us for the amount owing on your Card Facility. However, an unsuccessful chargeback does not detract from your right to claim directly from the merchant.
- 5.22 If a merchant or supplier gives the Cardholder a refund, it will be credited to the Card Account only once we have received a properly issued credit/ refund voucher from the merchant or supplier.
- 5.23 You do not have the right to stop any payment we are making or which we are about to make to a merchant or supplier in respect of any transaction, nor does the Cardholder have the right to instruct us to reverse a payment in respect of a transaction that has already been made, except as may be provided otherwise by statute.
- 6 ADDITIONAL CARDS**
- 6.1 Additional Cards can be issued and linked to your Account.
- 6.2 If we issue an additional card to you, you and the additional cardholder will be **jointly and severally** liable to us as **co-principal debtors in solidum (being liable for the whole amount due and owing)** for all amounts due and payable to us as a result of the use of the additional card and for all obligations resulting from it.
- 6.3 Additional Cards will not amend your Card Facility; and
- 6.4 It is the Cardholder's responsibility that the Additional Cardholder adheres to the Terms and Conditions contained in this Agreement.
- 6.5 When the Additional Card is returned to us and all amounts due and owing to us have been settled, we will upon written request from the Cardholder cancel the Additional Card. Upon cancellation you will no longer be liable to us for future debt in respect of the Additional Card, on the condition that we notify you in writing that this the cancellation has been effected and the card has been destroyed.
- 6.6 You hereby give up the benefit of the legal exceptions and/ or defences of excussion, division, cession of action , no cause of debt , no value received or revision of accounts which you can or may plead to defend any claim we bring against you or both you and the third party named on the additional card, and you hereby acknowledge that you are familiar with and fully understand the meaning and effect of all the benefits, exceptions and defences mentioned above.
- 7 FEES, COSTS, INTEREST PAID AND RECEIVED AND OTHER CHARGES**
- 7.1 We pay interest on the average daily credit balances on the Card Account at the rate of which we will notify you from time to time on the monthly statements. This interest is credited to the Card Account monthly on the statement date.
- 7.2 You will be liable to pay interest to us in respect of each transaction, calculated monthly on daily balances as set out in the statements, which interest will not exceed the maximum permissible annual finance charge rate allowed under the Usury Act.
- 7.3 Interest on all amounts you owe us is capitalised each month in arrears and the amount you owe us is shown on each monthly statement.
- 7.4 The Individual Interest Rate that we may offer you and which applies to this Agreement is based on the Annual Interest Rate/ Contract Rate, discounted by your risk profile
- where applicable, which rate may change from time to time, at our sole discretion by giving you notice thereof.
- 7.5 If you pay the outstanding balance on the account in full on or before the due date reflected on the monthly statements, we may decide not to charge interest in respect of Card Transactions. If we decide not to charge interest, this will not mean that we have waived our right to charge interest, and we reserve the right to charge interest at any time.
- 7.6 The following transactions will immediately, from date of transaction, attract interest (unless there is sufficient funds on the Account) to the transaction amount:
- 7.6.1 cash advances/ withdrawals,
- 7.6.2 electronic transfers or foreign exchange,
- 7.6.3 casino chip or fuel purchases
- 7.7 If you fail to pay any amount owing to us on the due date, you will be liable for penalty interest at a rate equal to the maximum rate of interest prescribed, on the full amount due but unpaid, including interest.
- 7.8 You will be liable for and must pay to us the fees, costs and charges specified in this clause 6 as part of the cost of credit. We will be entitled at any time, and from time to time, at our discretion to vary any fees, costs or charges, provided that no fees or charges exceed the maximum amount prescribed from time to time. To the extent that value-added tax is payable in respect of any fees, costs or charges such fees, costs or charges will be inclusive of value-added tax payable by you;
- 7.9 In addition, you must pay any:
- 7.9.1 default administration charge imposed by us to cover administration costs incurred as a result of you defaulting on an obligation under this Agreement; and
- 7.9.2 collection costs that may be charged by us in respect of enforcement of your monetary obligations under this Agreement (other than a default administration charge), provided that such charges and costs do not exceed the maximum default administration charges and collection costs prescribed from time to time.
- 7.10 Subject to the provisions of this clause 6, all fees, costs and charges will be calculated and payable in the manner set out in this clause 6. The Annual Interest Rate will be charged in respect of any fees, costs or charges not paid on or before the due date for payment thereof and this will not prejudice, restrict or in any manner detract from our rights pursuant to an act of default.
- 7.11 To the extent that you are required to pay or reimburse any costs, fees, expenses or disbursements pursuant to this Agreement you agree that such obligation includes the payment or reimbursement of value-added tax, where applicable as legislated.
- 7.12 All applicable government levies that you must pay in respect of the use of the Card Account will be debited to the Card Account monthly and paid over to the relevant government bodies by us.
- 7.13 We have the right to debit the Card Account with our standard service and other fees and charges payable from

- time to time, which will be reflected on the monthly statements. These include, but are not limited to, an annual/ monthly service fee (which will be debited for each year or part of a year), a Card replacement fee, a lost-Card protection fee, a returned-payment fee, a late-payment fee, an over-facility fee and a copy document fee in respect of the issue of and use by you of the card.
- 7.14 Where the Account does not have sufficient funds to deduct any fees as set out herein, we reserve the right to deny any further Transactions on the Account.
- 7.15 If any debit order is effected / credited against your account, and there are insufficient funds available in your account to satisfy the said debit order, you hereby expressly authorise Nedbank to present the debit order for payment from time to time with the amount of monies due under or in terms of the debit order, until the debit order has been successfully completed / executed.
- 7.16 In case of the Account being classified as overdrawn, the Cardholder will have to rectify the Account balance position immediately and you hereby consent that we may use any credit balance on your Accounts you may have with us at any time to set-off any money you owe us for whatever reason, without notifying you thereof.
- 7.17 You will be liable to pay all legal costs we incur in exercising any of our rights in terms of these terms and conditions of use, including all legal charges as between attorney and client, counsel's fees, tracing fees and collection charges.
- 7.18 A currency Conversion Fee will be charged for transactions concluded outside the common monetary area.
- 7.19 We will notify you of any variation in the Individual Interest Rate.
- 8 STATEMENT, PAYMENT, DEPOSITS AND SETTLEMENT**
- 8.1 We will send you a statement each month to the address (postal or electronic) selected by you setting out each entry as prescribed by law in respect of all transactions on the Card Account in the preceding month, as well as the total debit or credit balance, as the case may be, on the Card Account at the statement date and also, where applicable, the minimum amount that must be paid and the date on which it must be paid.
- 8.2 You must pay us not less than the minimum amount shown on the statement and the payment must reach us at our Nedbank Card Division in Windhoek during banking hours on or before the date that is stated on the statements as the due date.
- 8.3 You must check that you receive the monthly statements. If a monthly statement is not received, this will not give you the right or be a reason not to pay any amount that is due and payable to us. We must be informed in writing if you do not receive a monthly statement.
- 8.4 Any record of a deposit into your Account may be checked and confirmed by us and, if there is a difference between

- your record and our records, our records will be binding on you.
- 8.5 If any negotiable instrument is deposited into the Card Account, the proceeds will be provisionally credited to the Card Account, but you will be entitled to the proceeds of the instrument only once it has been honoured. If the negotiable instrument is dishonoured, your account will be debited accordingly and, provided you are not the drawer or maker, we will send back the negotiable instrument to you at your risk.
- 8.6 All payments received from you will be credited to the Card Account and we will apply this money firstly to due and unpaid interest charges, then any applicable government levies, then any fees and other charges we levy on the Card Account, then any legal costs, and finally the Principal Debt. No conditions whatsoever may be attached to any payment made to us. If any conditions are attached, we will have the right to accept the payment and exercise our rights in terms of these terms and conditions of use as if no condition has been attached.
- 8.7 All payments in terms of this Agreement must be made in Namibian dollar, without set-off or deduction of any kind and free of exchange, bank costs and other charges, either at a Nedbank branch or by means of electronic transfer (EFT) Division or wherever else we may at any time in writing direct. If arrangements are made to pay the monthly instalment by way of debit order or automatic payment order, this will not detract in any manner from your obligations to make each payment on or before the due date for payment.
- 8.8 You may at any time prepay any amount owed to us in terms of this Agreement or settle this Agreement, provided our prior written consent is obtained. Any consent by us for this purpose may be given unconditionally or subject to such conditions as we at our sole discretion determine.
- 8.9 If our consent is obtained as contemplated in clause 7.8 above, the amount required to be paid by your Business to us in order to settle this Agreement is the total of the following amounts:
- 8.9.1 the principal debt or the balance thereof outstanding at the time of settlement;
- 8.9.2 any unpaid interest and all other fees and charges owing to or claimable by us in terms of this Agreement up to the settlement date; and
- 8.9.3 if the interest rate applicable to this Agreement at the time of settlement is a fixed rate, an early-termination charge determined by us at such time.

## **9 LIABILITY**

- 9.1 Save where we have been grossly negligent or acted in breach of contract, we will not be liable to you for any damage or loss suffered if:

- 9.1.1 any person gains unauthorised access to your information, card, your account, your PIN or your facility or any information in respect thereof;
- 9.1.2 incorrect information is given by us in good faith to any person, including any credit bureau;
- 9.1.3 we process any information incorrectly received;
- 9.1.4 there is a delay, failure or malfunction of any system, ATM or other device (electronic or manual);
- 9.1 For purposes of this clause, unauthorised access shall be taken to mean that the Card was used by a person other than an authorised Cardholder and that the usage of the card was possible because of a potential PIN compromise.
- 9.2 You will be liable for and must repay us all amounts we pay or have to pay if the Card, the Card Number or the PIN is used, unless payments were processed after the Cardholder has reported it as lost, stolen or being used wrongfully, as set out in clause 8.2 above.
- 9.3 Any wrongful use occurring as a result of a PIN compromise will not deviate from the your liability as set out in clause 8.2 above.
- 9.4 The Cardholder will be solely liable for all unauthorised acts and transactions, save where we have been grossly negligent or in breach of contract.

## **10 CERTIFICATE AND OTHER DOCUMENTARY EVIDENCE OF INDEBTEDNESS**

- 10.1 The nature and amount of your indebtedness to us in terms of this Agreement, as well as the interest rate payable in respect thereof, will at any time be determined and proved by a written certificate purporting to have been signed by a manager for the time being of any branch or at our head office, whose capacity or authority it will not be necessary to prove, which certificate will on the mere production thereof be binding on you and be prima facie proof of the contents of such certificate 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 in any competent Court.
- 10.2 We shall be entitled to use microfilm and/or copies of any other relevant records or documents as proof of your/ indebtedness to us in any legal proceedings instituted against you by us.

## **11 DISCLOSURE OF INFORMATION AND CREDIT BUREAU INFORMATION**

- 11.1 We reserve the right, and you hereby agree to us having the right, to disclose and share with and receive any information whatsoever relating to your personal particulars, accounts, transactions, or dealings with us with any person, including credit referencing bureaus, agencies, statutory, executive, judicial and regulatory authorities.
- 11.2 You authorise us to check, verify and confirm any information on your Account and that of any Additional Cardholder or Vehicle (for Fleet Cards) and to make any enquiries we deem necessary;

- 11.3 You authorise us to furnish any information relating to any account that you may have with us to any person and/or juristic person as we may, at our sole discretion, as we deem fit, subject to Banking Standards and Practice pertaining to Confidentiality.
- 11.4 You hereby authorise us to disclose at any time and for any purpose information to the Credit Bureau's pertaining to:
- 11.4.1 Your application for and opening and termination of an Account by you and the transmission of any data pertaining thereto;
- 11.4.2 The non-compliance with these terms and conditions of this Agreement.
- 11.5 the Credit Bureaus may provide credit profiles and possible credit scores on your creditworthiness, subject to the credit record;
- 11.6 You have the right to have the credit record disclosed and to correct inaccurate information.
- 11.7 You may contact the Namibian and South African Credit Bureaus via our offices.
- 11.8 You authorise Nedbank to search, update or place your records at credit reference bureaus and government agencies in order to verify your identity, assess your ability to obtain credit or to provide collateral of any kind, including guarantees or suretyships, and may, on request from another credit provider with whom you have applied for credit, provide my personal information, including my credit reference data, to such credit provider and also make any enquiries that it deems necessary to confirm your details for marketing purposes and to assess your creditworthiness design and offer financial services or related products which may be of interest to you and undertake its credit validation models.
- 11.9 You hereby authorise Nedbank to use your personal information for debt enforcement, including but not limited to recovery, collection, repayment, surrender, enforcement and cession of debts.

## 12 ACKNOWLEDGEMENT, CONFIRMATION AND CONSENT

- 12.1 You warrant that you have furnished us with authenticated information and documentation pertaining to the Account and Card Facilities.
- 12.2 You confirm that you understand and appreciate the risks and costs inherent in this Agreement, and your rights and obligations under this Agreement. **It is specifically recorded that you understand the risks associated with the sharing of a PIN number and the likelihood of a PIN compromise occurring and that in such instances, no liability in respect of any loss and/or damage suffered by you will be placed with us.**
- 12.3 You confirm that we shall neither be required to enquire into the authority of any person who uses/has used any password, PIN or accessed your Account and that once we have received an instruction and implemented the said instruction, that you shall not be entitled to countermand or

amend such instruction but shall be obligated to follow procedures as prescribed herein or elsewhere from time to time.

## 13 JURISDICTION

This Agreement shall be construed in accordance with and governed by the laws of the Republic of Namibia. You hereby agree and give consent that a Magistrate's Court will have jurisdiction in respect of any legal steps we take against you, even if the amount we claim exceeds the jurisdiction of the magistrate's court. We will, however, have the right to approach a Higher Court if we wish to do so.

## 14 PRIVACY CONSENT

14.1 You hereby provide your consent to Nedbank to process your personal information, including fingerprints, biometric personal identification details, photographs and identity verification, for purposes of providing financial services and for detecting and preventing fraud and money laundering, and to send your personal information to third parties in order to provide a service to you, and also to send such information to foreign countries, when necessary, by electronic or other means for processing. You understand that such countries may not have specific data privacy laws and that where that is the case, Nedbank will enter into appropriate confidentiality agreements with the service providers in the foreign countries.

14.2 Nedbank may undertake identity and fraud prevention checks and share information with relevant Namibian and South African Fraud Prevention Services.

## 15 NOTICES AND DOMICILIUM

- 15.1 The physical addresses given by you on your Account application will always be the address you have chosen where summonses, legal documents and notices may be served on you ('*domicilium*'). The postal; fax or e-mail addresses given by you on your Account application will be the addresses to which we will send all other notices, correspondence, Card Account statements and documents addressed to you.
- 15.2 You may change your addresses to any other addresses in Namibia if a written notice thereof is sent to us. If you change your *domicilium*, this change will be effective only 14 (fourteen) days after the date that our Nedbank Card Division in Windhoek receives the written notice.
- 15.3 Either party to this Agreement may change its address for the purposes of this clause by delivering to the other party a written notice of the new address by hand or registered mail.
- 15.4 A notice, order or other document that must be served on either party to this Agreement will have been properly served when it has been either delivered to a particular party to that party's last known address.
- 15.5 You may send any legal notices to the Legal Department, Nedbank Namibia Limited, Nedbank Campus, Freedom Plaza, Erf 8764, Corner of Fidel Castro & Reverend Michael Scott Street, P.O. Box 1 Windhoek, Namibia. All notices or

communications sent to us must be in writing and sent by prepaid registered post to our Card Division in Windhoek.

15.6 Unless the contrary is proven, any legal notice:

- 15.6.1 if by way of e-mail or fax sent to the e-mail address or fax number provided for, will be deemed to have been received on the first business day following the date of transmission provided that the fax is received in legible form and the e-mail has been accompanied by a delivery and/or read receipt;
- 15.6.2 if sent by ordinary mail in a correctly addressed envelope to the other party's chosen address will be considered as having been received on the 7<sup>th</sup> (seventh) day after posting; or
- 15.6.3 if delivered by hand, to the physical address provided for above be deemed to have been received at the time of delivery; and
- 15.6.4 if by way of courier service to the to address provided for above, be deemed to have been received on the seventh (7<sup>th</sup>) business day following the date of such sending,
- 15.6.5 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.

## 16 DEFAULT/ SUSPENSION AND TERMINATION

- 16.1 We may suspend the Card Facility at any time you are in default under the Agreement, or close the Card Facility by giving written notice of termination to you of at least 10 (ten) business days before the Card Facility is to be closed.
- 16.2 Despite the suspension or closure of the Card Facility, any liability which you may have in respect of this Agreement and/or any Credit provided in respect thereof will not be affected by the above action, and this Agreement will remain in force to the extent necessary until you have paid all amounts lawfully due by you.
- 16.3 We may close, restrict, decrease or suspend access to your Card Facility if we in any way suspect or have established that your Card Facility is being used negligently or for illegal activities, or if it is to comply with a law. The closure, restriction, decrease or suspension will become effective on delivery of written notice to you.
- 16.4 We will have the right, when you breach any term of this Agreement, to: suspend, close and/or cancel the Card Account and Facility and demand that you repay us the full amount outstanding on the Card Account and immediately give the Card and the Additional Card(s), if applicable, back to us.
- 16.5 Any liability that you may have in respect of these terms and conditions of use and any facility granted to you previously will not be affected by the above action.
- 16.6 The full amount you owe us will immediately become due and payable if:
- 16.6.1 we close the Account; and/or
- 16.6.2 we cancel the Card/ Credit Facility; and/or
- 16.6.3 we demand that the Card be given back to us; and/or
- 16.6.4 any of these terms and conditions of use are breached; and/or

- 16.6.5 the estate of the Cardholder is provisionally or finally placed under curatorship, sequestration or liquidated; and/or
- 16.6.6 the Cardholder (in Business instances) dissolves; and/or
- 16.6.7 you do not or cause to be done anything that, in our reasonable opinion, affects or prejudices your ability to meet the obligations in terms of this Agreement.
- 16.6.8 You die.
- 16.7 You hereby agree that we may inform any merchant, supplier or other person that we have closed the Card Account and/or have cancelled the Card/ Credit Facility, and you will not have any claim against us because we have disclosed this information.
- 16.8 The Cardholder may not use the Card after it has expired and, if we cancel the Card before the expiry date, the Cardholder may not use it after the date on which it was cancelled.
- 16.9 You may terminate this Agreement and all your rights herein by giving us written notice to that effect and  
By cutting-up and sending the cut-up card to us stating that that you want to terminate your rights herein. The Card and/or the Card/ Credit Facility will then be cancelled on the day we receive the notice and the cut-up Card.
- 16.10 Any termination of the Card Account and/or the Card/ Credit Facility and/or the Card will not affect the liability of you 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.
- 16.11 Should you breach any condition contained in this Agreement, or should you breach a condition of any other agreement with us (which breach will constitute a breach of this Agreement), we will have the right to claim repayment of all amounts owing to or claimable by us in terms of this Agreement, together with interest thereon.
- 16.12 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 in the event that 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 you from whatever cause arising. Any failure by you to effect payment as aforesaid will constitute a breach of this Agreement.

## 17 AMENDMENTS TO TERMS AND CONDITIONS

- 17.1 You confirm and agree that we may, at our sole discretion, amend these terms and conditions at any time by furnishing you with notice of any amendments by way of statement messages or any other means of communication we may deem necessary.
- 17.2 Such a notice of any amendments to these terms and conditions, will be binding from the date of receipt thereof and the notice will be deemed to have been received on the

seventh (7th) day after the date on which it was delivered in terms of clause 27 herein.

- 17.3 If you disagree with any amendments to the terms and conditions, you will have the right to immediately cancel the Agreement before the terms and conditions become operational ('operational date').
- 17.4 You acknowledge and agree that, if you decide not to cancel the Agreement before the operational date of the amendments to the terms and conditions, the terms and conditions will be binding on you. If you decide to use the Card Facility after the operational date of the amendments, it would be deemed that you have accepted the amendments to the terms and conditions of use and they will be binding on you.
- 17.5 If we change or replace the terms and conditions of use, this will not mean that the change or replacement is a novation of this agreement or of any of your previous obligations to us.
- 17.6 The Terms and conditions will be published on the Nedbank website and any should any conflict arise between versions the version on the Website will take precedence.

## 18 DISPUTE RESOLUTION

- 18.1 If there are any claims or disputes between you and any merchant or supplier in respect of the nature, quality or quantity of any goods or services obtained from the merchant or supplier or in respect of any other matter or thing, our right to receive payment from you will not be affected in any way, nor will it give anyone a right of setoff or counterclaim against us. You hereby acknowledge that no merchant or supplier is our agent. In the event that you did not receive merchandise you paid for or the services you paid for was not rendered, you must contact the merchant to attempt to resolve this dispute.
- 18.2 It is important that the monthly statements be checked to determine if they are correct. If any item or entry or charge on any monthly statement is disputed, you—must notify us in writing 30 (thirty) days from the date of the statement, recording the dispute so that we can investigate the complaint properly, obtain the relevant documents pertaining to the disputed entry and make the necessary enquiries, failing which it will be construed that all charges are acceptable and in order. The relevant documents are available for a limited time only.

## 19 FATCA POLICY

- 19.1 FATCA is an acronym for the United States (US) Foreign Account Tax Compliance Act ("the FATCA Act").
- 19.2 The purpose of FATCA is to prevent US persons from using banks and other financial institutions to avoid taxation from income generated outside of the US.
- 19.3 The FATCA Act and any Rules pertaining thereto forms part of this Agreement and you are hereby bound by the terms and Rules of the FATCA Act. Should there be any conflict or inconsistency between the Act and the Agreement, the contents of the Act shall prevail.
- 19.4 In terms of the FATCA Act you herewith agree to co-operate with us to ensure compliance with the FATCA Act; and

- 19.5 You herewith waive any claim that you may have against us and you herewith indemnify us against any damages, claims, losses or otherwise, as a result of any actions, omissions as a result of adherence to the FATCA Act or Rules.

## 20 THE FINANCIAL INTELLIGENCE ACT (FIA) AND ANTI-MONEY LAUNDERING AND SANCTIONED TRANSACTIONS

- 20.1 The Financial Intelligence Act, 2012 (Act No 13 of 2012) (the "FIA Act") and all other applicable legislation pertaining to Anti-Money Laundering forms part of this Agreement.
- 20.2 You are hereby bound by the FIA Act and you herewith agree to co-operate with us during the Know Your Client (KYC) process by identifying and ascertaining the Cardholder's identity and any source of income or transaction and consequently you undertake to furnish us with all documentation and information required in terms of the FIA Act and any other legislative requirements.
- 20.3 In addition to the above you agree not to use the Card Facilities for the purpose of any sanctioned or illegal activity.

## 21 GENERAL

- 21.1 If we allow you any latitude or extension of time, this is not and must not be understood as a novation or waiver of our rights in respect of these terms and conditions of use, and will also not be, or be the cause of, an estoppel against us.
- 21.2 You hereby give consent that we may combine any or all accounts you may have with us, without notifying you thereof. However, if we combine only some of these accounts, we will still have the right to claim from you any amount in respect of an account, which is not part of the other combined accounts.
- 21.3 This Agreement constitutes the whole of the agreement between the parties relating to the subject matter thereof, and no amendment, alteration, addition, variation or consensual cancellation will be of any force or effect, unless it is reduced to writing. To the extent that there is any conflict between the provisions of this Agreement and any provision of the security the provisions of this Agreement will prevail and apply.
- 21.4 The parties agree that no other terms or conditions, whether oral or written and whether express or implied, apply.
- 21.5 No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose, unless it is expressed in writing and signed by the party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 21.6 You will not be entitled to cede any right or any part thereof. If we have agreed to lend moneys to you on condition that repayment is made from the Card Facility then, on execution of the security or on the date on which the Card Facility will be

- advanced, so much of the Card Facility that is required to repay the moneys lent to you will be set-off against the Card Facility. To the extent that such payment to us is, for whatever reason, not made we will be entitled to withdraw from the Agreement, whether or not any security has been provided by you/ the Business, in which event you will have no claim of whatsoever nature against us.
- 21.7 We will have the right at any time and from time to time, without the consent of you, to cede, assign and transfer all or any of our rights, title and interest in and to this Agreement and/or the security, as well as any other security of whatsoever nature held by us in respect of the indebtedness of you in terms of this Agreement, 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 Agreement and/or the security or other security *mutatis mutandis*. To the extent that any aforementioned cession, assignment, transfer or delegation constitutes or results in a splitting of claims that requires the consent of you, you hereby consent thereto.
- 21.8 In the event that you comprise more than one entity, whether natural or otherwise, all such entities will be liable to Nedbank jointly, severally and *in solidum* for the performance by you of its obligations in terms of this Agreement.
- 21.9 The Cardholder must, on request, furnish us with such information and/or documents as we from time to time require in respect of the Cardholder's spouse, and you on request, furnish us with such information and/or documents as we from time to time require in respect of any person having an interest, whether direct or indirect, in you, and of any surety, guarantor or other person who has provided security in respect of the indebtedness of you.
- 21.10 Should there be any change in the directorship and/or shareholding or, where applicable, membership of the Cardholder, all amounts owing to us in terms of this Agreement, together with interest thereon, will immediately become due and payable, unless our prior written consent has been obtained. Should such change in the directorship or membership, as the case may be, take place in terms of the provisions hereof, all such new or additional directors or members, as the case may be, must enter into a deed of suretyship on such terms and conditions as we require to bind them to and in favour of us, *in solidum* and as co-principal debtors for the due repayment by the Business to us of all amounts owing to us, whether in terms of this Agreement or otherwise howsoever.
- 21.11 Every provision (including this provision) of these terms and conditions is deemed to be separate and severable, and should any provision be found to be defective or unenforceable for any reason, that provision will be severed from the remaining provisions and the validity of the remaining provisions will continue to be of full force and effect.
- 21.12 Should there be any conflict between the provisions of these Terms and Conditions and the General Terms and Conditions adopted by Nedbank Namibia, the provisions of the General Terms and Conditions shall prevail, but only to the extent of the conflict.
- 21.13 You acknowledge that the bank is bound by the customer-banker confidentiality principle and hereby waive such right in favour of the Bank and consent to the Bank disclosing such confidential information to other companies in its Group for marketing cross-selling and other related purposes.
- 21.14 This Agreement may be executed in counterparts, each of which shall be deemed an original, which read and taken together shall constitute one and the same instrument.
- 21.15 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.
- 22 USURY ACT**
- 22.1 It is recorded that, for the purpose of section 3 of the Usury Act, the following information is not known or cannot be determined beforehand, namely:
- 22.1.1 the cash amount you or anyone on your behalf actually receives;
- 22.1.2 the nature or amount of other charges;
- 22.1.3 the amount of the principle debt;
- 22.1.4 the amount of the interest or other charges in dollars and cents;
- 22.1.5 the amount of each payment and the date on which each payment must be made.
- 22.1.6 any fee that must be paid in the case of a money lending transaction, as mentioned in the Usury Act; but always on the condition that the total amount of interests we receive or which you owe to us does not exceed the maximum annual interest permitted in the Usury Act, except where this is allowed by law.
- 23 SMS SERVICE**
- 23.1 You acknowledge and understand that you will automatically receive a transactional SMS on your cell phone in respect of purchases for amounts that are predetermined by us.
- 23.2 You confirm that the use of the SMS service is at your own risk.
- 23.3 We do not warrant that:
- 23.3.1 the SMS service will meet your requirements;
- 23.3.2 the service will be uninterrupted, timely or secure;
- 23.3.3 the SMS will be accurate and correct or will arrive at the supplied cell phone number, and/ or
- 23.3.4 the SMS received can be reconciled with the activity on your Card Account.
- 23.4 We shall not be held liable for any direct or indirect loss or damage resulting from the use of the 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 for whatever reason.
- 24 BALANCE TRANSFER OPTION (WHERE APPLICABLE)**
- 24.1 We, at our sole discretion, may grant you a facility, the amount of which we alone will determine, to facilitate the transfer of balances from one or more accounts to the Card Account where:
- 24.1.1 you have properly maintained the account(s) from which the balance is to be transferred;
- 24.1.2 we have issued you with a Card;
- 24.1.3 you have applied for the balance transfer option and have indicated the account(s) from which the balance(s) is/ are transferred.
- 24.2 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).
- 24.3 You will be responsible for closing the account(s) from which the balances(s) is/ are transferred.
- 24.4 You must pay any amount outstanding on the account(s) from which the balances(s) is/ are transferred.
- 24.5 The repayment period for the transferred amount can be from 3 (three) to 36 (thirty-six) months.
- 24.6 The preferential interest rate will apply to the transferred amount and for the agreed term only.
- 24.7 The balance transfer amount cannot be revised or revoked once the Application has been processed.
- 24.8 The amount so transferred to the Card Account and the details of such transfer will be shown on your statement.
- 24.9 You must continue to pay your current minimum payment on the account(s) on which you have requested a balance transfers until you receive the statement showing that the balance(s) has/ have been transferred.
- 24.10 You understand that we may decline your transfer request.
- 24.11 We will from time to time notify you of the interest rate, which we alone will determine, and which will be charged on the balance transferred and any balance thereof.
- 24.12 In addition to the provisions of clause 22.6 and 22.7, you agree to pay us at least the minimum amount shown on the monthly statement in respect of the balance transferred. You further agree that, should you default with any payment or should your repayment period be extended beyond the interest concession period notified to you when your balance transfer request is approved, any balance outstanding is to be consolidated with any amount outstanding on the card, and the interest rate then applicable to the latter amount will be charged.
- 25 BUDGET FACILITY (WHERE APPLICABLE)**
- Subject to the following additional terms and conditions of use and our approval beforehand:
- 25.1 you may make Card Transaction payments over an extended period;

- 25.2 the principal sum of goods purchased over the extended period together with other charges must be paid for in monthly payments and the amount of these payments will be stipulated by us; and
- 25.3 you may at any date earlier than the date stipulated repay more than the amount stipulated by us.

**26 BALANCE PROTECTION PLAN AND CONSENT POLICY (IF/WHERE APPLICABLE: CREDIT CARD FACILITIES)**

- 25.1 Nedbank Balance Protection Plan, a credit life insurance policy underwritten by NedNamibia Life Assurance Company Ltd that pays to us the amount owing by you on your account in the event of your death.
- 25.2 You hereby apply for the aforesaid credit life insurance with NedNamibia Life Assurance Company Ltd in the amount stated in the Application form and hereby declare that you:
- 25.2.1 you have exercised that choice without any coercion or inducement and that you do not have an existing policy for this purpose;
- 25.2.2 have not waived the insurance policy proposed by us;
- 25.2.3 have been informed by us of the cost to you of such insurance as well as the amount of any fee, commission, remuneration or benefit receivable by us in relation to such insurance;
- 25.2.4 have been or will be provided with a copy of the insurance policy arranged by us on your behalf;
- 25.2.5 have had the terms and conditions of the said policy explained to you;
- 25.2.6 are currently gainfully employed, in good health and not aware of any decisions reached or proceedings instituted that may lead to the termination of your employment;
- 25.2.7 agree and understand that the full terms and conditions of the policy are contained in the master policy document and that a summary of the master policy will be supplied to you by NedNamibia Life Assurance Company Ltd, which full master policy is available on request;
- 25.2.8 authorise Nedbank to debit your account with the monthly premium as mentioned below;
- 25.2.9 authorise NedNamibia Life Assurance Company Ltd to obtain from any person, doctor or institution any information that NedNamibia Life Assurance Company Ltd deems necessary to facilitate the consideration of any claim for any benefits, and you hereby authorise any such person, doctor or institution to provide such information; and
- 25.2.10 cede, transfer, assign and make over to Nedbank all your right, title and interest in and to the policy as collateral security for the amounts which you owe to Nedbank.

**26 THE PREMIUM AND COMMISSION CONTENT (IF & WHERE APPLICABLE: CREDIT CARD FACILITIES)**

- 26.1 The costs of the insurance for which you are liable are based on the premium on your Quotation. The premium is variable as it is determined on the highest outstanding balance during the statement month.
- 26.2 The commission payable in relation to insurance policy equals 22,5% of the premium calculation referred to above (Clause 25).

[version November 2022]



**NEDBANK NAMIBIA LIMITED**  
**TERMS AND CONDITIONS: CARD FACILITIES**