



THIS APPLICATION FOR CREDIT FACILITIES INCORPORATES STANDARD TERMS AND CONDITIONS OF SALE AND SURETYSHIP ACCEPTANCE.

SECTION A – Questionnaire

We, _____

(hereinafter referred to as “THE APPLICANT”) hereby make application for credit facilities for the opening of an account with **YUCCA HOLDINGS (PTY) LTD** registration number; **2001/028529/07** (hereinafter referred to as “THE CREDITOR”).

In support of this application, the following information is furnished: **payment terms specified and accept such terms.**

1. Legal entity type (please tick)

Sole Ownership	Partnership	Close Corporation	Private Co.	Public Co. (Ltd)
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2.1 Registered Name of “THE APPLICANT” _____

2.2 Trading name _____

2.3 Company Registration number (if registered) _____

2.4 Company VAT number _____

3.1 Postal Address _____
_____ Code _____

3.2 Physical Address of THE APPLICANT in terms of Section B, clause 1 of the Terms and Conditions of Sale

3.3 Delivery Address _____

3.4 Registered Office Address _____

3.5 Telephone Numbers Area Code (_____) _____

3.6 Telefax Number Area Code (_____) _____

3.7 Cellular Number _____

3.8 e-Mail address _____

3.9 Name, Address, and Contact number of landlord _____

3.10 Person responsible for account payment: _____

4.1 Date Business Commenced Trading

D	D	M	M	Y	Y	Y	Y
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5.1 Bankers _____

5.2 Branch _____

5.3 Account Number _____

5.4 Branch Code _____

5.5 Type of account _____

5.5 Date account opened _____

5.6 If account has been open for less than 3 years, please state details of previous account _____

6.1 Holding Company name _____

6.2 Percentage share holding _____

6.3 Name of Auditors / Accounting Officer _____

6.3.1 Street address _____

6.3.2 Telephone Number Code (_____) _____

6.4 Date of last audited financial statements _____

(please attach hereto)

7 Details of principals (Sole Owner / Partners /Members / Directors)

Full Name	ID Number	Home Address	Home Phone

8 Trade References

Company Name	Telephone Number
	Area Code ()
	Area Code ()
	Area Code ()
	Area Code ()
	Area Code ()

9. Details of property/ies owned by Principals (Sole Owner / Partners /Members / Directors).

Please indicate only properties owned in the personal name of the principal.

Principal name	Stand number and Township	Value	Bonded for	Bondholder
		R	R	
		R	R	
		R	R	
		R	R	
		R	R	

10 The following credit limit request is for assessment purposes only and does not form part of this contract:

- 10.1 Amount of credit required R _____
10.2 Estimated monthly purchases R _____

11. Dealership Justification

11.1 Nature of Business _____

SECTION B –Terms and Conditions of Sale

THE APPLICANT or its duly authorised agent hereby apply for a credit facility with THE CREDITOR and in consideration thereof THE APPLICANT hereby irrevocably accepts the following terms and conditions.

1. **Domicilium Citandi et Executandi**

THE APPLICANT and the signatory hereto chooses *Domicilium Citandi et Executandi* for all purposes arising out of this application at the Physical Address stipulated in Section A, clause 3.2 of this application.

2. **Proof of Claims**

A certificate signed by a manager or any director of THE CREDITOR reflecting the amount owing by THE APPLICANT to THE CREDITOR, in respect of the credit facilities granted to THE APPLICANT relating to THE APPLICANT'S dealings with THE CREDITOR, and of the fact that such amount is due, owing and unpaid shall be *prima facie* proof of the effects therein stated for the purpose of any action (whether by way of provisional sentence or otherwise), proof of debt on insolvency or for any purpose whatsoever where the amount of such claims is required to be established, and it shall rest with THE APPLICANT to prove that such amount is not owing and/or due and unpaid.

3. Defaulting in payment

In the event of THE APPLICANT defaulting in making payment of any amount that has become due and owing, then the full balance outstanding (whether due or not) will immediately become due and payable to THE CREDITOR without notice to THE APPLICANT.

4. Change of address

THE APPLICANT undertakes to notify THE CREDITOR within seven (7) days in writing of any change of address.

5. Objections to statement

5.1 If THE APPLICANT should fail to object to any item appearing on THE CREDITOR'S statement of account within ten (10) days of date of the dispatch of the statements the accounts shall be deemed to be in order.

5.2 THE CREDITOR'S liability (if any) shall be limited to the cost of replacement of the goods short delivered and THE CREDITOR shall not be liable for any damages whether consequential or otherwise arising out of such short delivery.

6. Change of ownership

THE APPLICANT undertakes to notify THE CREDITOR, in writing, within seven (7) days of any change in Ownership of THE APPLICANT'S business, or should THE APPLICANT be a company, of its share transactions whereby the majority shareholding is affected, failing which notice the entire balance owing, whether due or not, will immediately be deemed to be due and payable by THE APPLICANT to THE CREDITOR. In addition to the foregoing, THE APPLICANT acknowledges that immediately upon any change of Ownership in THE APPLICANT any outstanding amount whether due or not shall be deemed to be forthwith payable by THE APPLICANT to THE CREDITOR.

7. Reservation of ownership

Until such time as THE APPLICANT has paid the purchase price in full in respect of any purchase of goods, the ownership in and to all such goods shall remain vested in THE CREDITOR. THE CREDITOR shall, in its sole discretion, without notice to THE APPLICANT, be entitled to take possession of any such goods which have not been paid for and in respect of which payment is overdue, in which event THE APPLICANT shall be entitled to a credit in respect of the goods so returned being the price at which the goods are sold or the value thereof as determined by THE CREDITOR. THE APPLICANT hereby waives any right it may have for a spoliation order against THE CREDITOR in the event that THE CREDITOR takes possession of any goods.

8. Valid orders

In the event of any order being given to THE CREDITOR on an order form reflecting THE APPLICANT'S name as the entity from which the order emanates, such order shall be deemed to have emanated from THE APPLICANT, notwithstanding the fact that such order may have been given or signed by a person not authorised by THE APPLICANT and such order will be deemed to constitute valid delivery. It is further the sole responsibility of THE APPLICANT to determine that goods ordered are suitable for the purposes of the intended use. Each order provided to THE CREDITOR must clearly display THE CREDITORS quotation number.

9. Non-waiver of rights

Any condonation of any breach of any of the provisions hereof or other act or relaxation, indulgence or grace on the part of THE CREDITOR shall not in any way operate as or be deemed to be a waiver by THE CREDITOR of any rights under this contract, or be construed as a novation thereof.

10. Payment to CREDITOR

Invoices shall be e-mailed to THE APPLICANT. All payments shall be made directly to THE CREDITOR'S place of business from where the goods were ordered and into the bank account nominated by THE CREDITOR on each invoice.

11. Credit terms

The credit terms are, unless amended in writing by a director/manager of THE CREDITOR, **30 (thirty) days nett**, where such days are calculated from the date of statement. Settlement is effected only on receipt of cash or EFT or similar payment instrument. Any credit facilities granted to THE APPLICANT by THE CREDITOR is entirely at the discretion of THE CREDITOR, and may be withdrawn at any time.

12. Interest on overdue accounts

THE CREDITOR shall be entitled to charge (and THE APPLICANT will be obliged to pay) interest at Bank overdraft rate charged from time to time by THE CREDITOR'S Banker (without prejudice to any other rights it may have) on any amount outstanding as from date on which payment is due.

13. Consent to sharing information

THE APPLICANT consents to THE CREDITOR sharing information on his account with other credit grantors and credit information agents. Information shared with such credit grantors and agents is used to make credit granting decisions, to prevent fraud and manage risk.

14. Delivery

14.1 THE APPLICANT agrees that the signature of any agent, contractor, sub-contractor or employee of THE APPLICANT on THE CREDITOR'S official delivery note/invoice/waybill, or the delivery note of any authorised independent carrier will constitute delivery of the goods purchased.

14.2 Any delivery date stated on the order confirmation is approximate only and THE CREDITOR shall not be bound by that date, but will make all reasonable efforts to deliver by that date.

14.3 Whilst THE CREDITOR will endeavour to ensure that goods are delivered timeously, it shall not be responsible for any delays in the delivery of such goods, and THE APPLICANT shall not be entitled to refuse acceptance of such late deliveries. THE CREDITOR shall in any event not be liable to THE APPLICANT, or to any third party, for any loss of whatsoever nature as a result of goods not being delivered timeously.

14.4 THE CREDITOR shall not be liable for any direct or indirect loss arising from non-delivery or delay in delivery of any good sold from any cause whatsoever beyond THE CREDITOR'S control and THE CREDITOR shall

not be liable for any damages whatsoever (whether consequential or otherwise) sustained by THE APPLICANT and arising from such non-delivery.

- 14.5 THE CREDITOR shall not be liable for any loss or damage once the goods are delivered to the cartage contractors, the South African Transport Service, the Post Office or to THE APPLICANT. Delivery shall be deemed to have taken place against signature of THE CREDITOR'S documentation as referred to in clause 14.1. above.
- 14.6 In the event of THE CREDITOR acceding to any request by THE APPLICANT to postpone delivery of the goods, or in the event of THE APPLICANT failing to give THE CREDITOR sufficient information to enable it to process any order, THE APPLICANT will pay any costs and expenses thereby incurred by THE CREDITOR.
- 14.7 If the contract provides for delivery by instalments, each instalment shall be deemed to be the subject of a separate contract and non-delivery or delay in delivery of any instalment shall not affect the balance of the contract or entitle THE APPLICANT to cancel the contract,
- 14.8 In the case of orders, involving more than one delivery, and default is made in payment on the due date of any one of the deliveries, THE CREDITOR, shall be entitled to cancel the contract with immediate effect or may defer further delivery until payment is received without prejudice to any rights which THE CREDITOR may have.
- 14.9 In either event THE CREDITOR has the right to claim damages.
- 14.10 In the event of goods being non delivered THE CREDITOR must be informed within 10 (ten) days of receipt of THE CREDITORS official notice that the goods have been dispatched, failing which THE CREDITOR shall not be liable for any claim.
- 14.11 THE APPLICANT acknowledges all copyrights, patents, trade marks or designs, and indemnifies THE CREDITOR against any claims, costs or expenses arising out of the infringement thereof.

15. Warranties

- 15.1 New goods are guaranteed according to the Manufacturer's product specific warranties only.
- 15.2 THE CREDITOR does not make any warranties express or implied.
- 15.3 All tests conducted by THE CREDITOR and information furnished pursuant thereto to THE APPLICANT are in the nature of a recommendation only, and shall under no circumstances be construed as constituting a warranty furnished by THE CREDITOR.
- 15.4 All drawings, photographs, descriptive matter, weights, dimensions and shipping specifications submitted are intended merely to present a general idea of the goods described therein and their use shall not in any circumstances constitute a warranty of representation that the goods will conform to the description.
- 15.5 THE CREDITOR will make every endeavour to ensure that the goods sold are in accordance with THE APPLICANT'S requirements, THE CREDITOR gives no warranty , express or implied, nor any representation that the goods sold by THE CREDITOR are suitable for the purpose for which they have been ordered.

- 15.6 It is the sole responsibility of THE APPLICANT to ensure that the goods sold are compatible with THE APPLICANT'S product.
- 15.7 THE CREDITOR excludes liability for any loss or damage suffered (including consequential loss) arising either directly or indirectly from any chemical or physical incompatibility of whatsoever nature between any product manufactured or designed by THE CREDITOR and any product contained, bottled, packed, stored or transported therein.
- 15.8 Should THE CREDITOR have made tests with THE APPLICANT'S products to ascertain which of its products is best for the purpose intended, its advice to THE APPLICANT constitutes a recommendation only and not a representation.
- 15.9 Where THE CREDITOR supplies goods to the specifications furnished by THE APPLICANT, no liability for any loss or damage whatsoever shall attach to THE CREDITOR in the event of the goods sold failed to meet THE APPLICANT'S standard of quality.

16. Recovery of legal /collection costs

Should THE CREDITOR instruct its attorneys or collection agent to collect any overdue amounts, or to take any action against THE APPLICANT in the implementation or protection of THE CREDITOR'S rights, THE CREDITOR shall be entitled to the recovery of all legal or collection costs arising there from, on the scale as between attorney, and own client.

17. Responsibility for losses / damages or delays

THE CREDITOR will not be in any way responsible for losses, damages or delays caused by or arising from *vis major easus fortuitus* or acts of the State's enemies, riots, lockouts, cessation of labour, transport delays, shortened hours of labour, accidents of any kind, insurrection, war, whether declared or not, the imposition of any trade boycotts or sanctions of trade restrictions by any government, authority, company or organization or person or persons, whether within the Republic of South Africa or anywhere else, or any other cause or contingency whatsoever beyond the control of THE CREDITOR, whether eiusdem generis with the causes aforementioned or not.

18. Jurisdiction of Magistrate's Court

THE APPLICANT consents that at the option of THE CREDITOR (who shall be entitled but not obliged hereunder) THE CREDITOR shall be entitled to institute proceeding arising out of this contract in any Magistrates Court

19. Severability of clauses

Each clause of these conditions of sale is severable, the one from the other and if any one or more clauses are found to be invalid or unenforceable, that clause/clauses shall not affect the balance of these conditions of sale, which shall remain of full force and effect.

20. Suretyship

I, by my signature hereto (which appears below) do, in addition to the above, hereby bind myself in my private and individual capacity as surety and co-principal in solidum with THE APPLICANT in favour of THE CREDITOR for the

due performance of any obligation of THE APPLICANT and for the payment to THE CREDITOR of any amounts which may now or in the future or at any time be or become owing to THE CREDITOR by THE APPLICANT from whatsoever cause arising and including, but without limiting the generality of the foregoing, any claims and actions against THE APPLICANT. This suretyship shall be a continuing covering guarantee/surety which may only be cancelled in writing by THE CREDITOR and then only, in the event that the sums then owing by THE APPLICANT (whether due or not) to THE CREDITOR have been paid in full. I hereby renounce the benefit that the CREDITOR must first recover any outstanding amount firstly from THE APPLICANT and thereafter from me. THE CREDITOR may claim any outstanding amount firstly from me before claiming it from THE APPLICANT as a result of my suretyship. I furthermore bind myself irrevocably to all of the terms and conditions set out in this agreement.

21. Cession of book debts

- 21.1 THE APPLICANT does hereby irrevocably and *in rem suam* cede, pledge, assign, transfer and make over unto and in favour of THE CREDITOR all of its right, title, interest, claim and demand in and to all claims/debts/book debts of whatsoever nature and description and however arising which THE APPLICANT may now or at any time hereafter have against all or any persons, companies, firms, partnerships associations, syndicates and other legal personae whomsoever (the Applicant's debtors") without exception as a continuing covering security for the due payment of every sum of money which may now be due or at any time hereafter be or become owing by THE APPLICANT to THE CREDITOR from whatsoever cause or obligation howsoever arising which THE APPLICANT may be or become bound to perform in favour of THE CREDITOR.
- 21.2 Should it transpire that THE APPLICANT at any time entered into prior deeds of cession or otherwise disposed of any of the right, title and interest, in and to any of the debts which will from time to time be subject to this cession, then this cession shall operate as a cession of all the Applicant's reversionary rights. Notwithstanding the terms of the foregoing cession, THE APPLICANT shall be entitled to institute action against any of its debtors provided that all sums of money which THE APPLICANT collects from its debtors shall be collected on THE CREDITOR'S behalf and provided that further THE CREDITOR shall at any time be entitled to terminate THE APPLICANT'S rights to collect such monies/debts.
- 21.3 THE APPLICANT agrees that THE CREDITOR shall be entitled at any time or times hereafter to give notice of this cession to all or any of THE APPLICANT'S rights.
- 21.4 THE APPLICANT further agrees that THE CREDITOR shall, at any time , be entitled to inspect any of THE APPLICANT'S books or records and in addition shall be entitled to take possession of such books and records (of whatsoever nature) to give effect to the terms of this cession.

22. Cancellation

- 22.1 Should THE APPLICANT (being a company) be placed in liquidation or under Judicial Management or should there be an application made against such order or should it convene a meeting of shareholders for the purpose of passing resolution to wind itself up or should it compromise with its creditors, or being an individual to be sequestered or should an application be made against him for an order of sequestration or should he give notice of his intention to apply for the surrender of his estate as an insolvent or should any judgment be obtained against THE APPLICANT and not be satisfied immediately or should THE APPLICANT commit a

breach of any of these Conditions of sale, then THE CREDITOR without prejudice to any other rights which it may have, be entitled to:

22.1.1 Cancel this and any other outstanding contracts; and

22.1.2 Refuse to make any further deliveries of goods to THE APPLICANT, whether under this or any other contract

22.2 THE APPLICANT nor his judicial manager or his trustee will have any claim of any nature whatsoever against THE CREDITOR arising out of such cancellation.

22.3 In the event of THE APPLICANT cancelling the order after its acceptance by THE CREDITOR, THE APPLICANT shall be liable for the cost of preparation of the origination work (including the cost of trail materials used prior to manufacture) and for the cost of all raw materials purchased on its behalf by THE CREDITOR without prejudice to any rights which THE CREDITOR may have.

23. Origination Work

23.1 Unless otherwise agreed in writing, THE CREDITOR and all other proprietary rights in all designs, sketches, artwork engraving, negatives, stereos, dies, moulds and other special origination work, produced by or for THE CREDITOR for the purpose of manufacturing goods for THE APPLICANT will remain the property of THE CREDITOR whether or not any charge is made to THE CREDITOR in connection with such origination work.

23.2 THE CREDITOR reserves the right to charge THE APPLICANT for any designs, stereos, moulds, dies, engravings, art layout and sketches submitted to THE APPLICANT at the APPLICANT'S request even where no order is placed with THE CREDITOR.

24. Indemnity

24.1 THE APPLICANT hereby indemnifies THE CREDITOR against all claims brought against THE CREDITOR by third parties and all other costs incurred by THE CREDITOR in defending or settling such claims arising from any cause whatsoever in connection with this agreement, in respect of any services rendered by THE CREDITOR to THE APPLICANT or in respect of goods sold to or manufactured for THE APPLICANT.

24.2 The indemnity shall inter alia include but shall not be limited to any claims for damages for personal injury, or arising out of an infringement of the proprietary rights of any person.

25. Quotations

Quotations are subject to acceptance within 21 days and are subject to confirmation on receipt of the order.

26. Storage

26.1 Notwithstanding the provisions of clauses 7 and 14, THE CREDITOR may from time to time agree to store on its premises certain quantities of finished goods ordered by THE APPLICANT, which storage shall be at THE APPLICANT'S risk.

26.2 The maximum duration of storage shall be no longer than three months from the delivery date specified and any goods not called off during the aforesaid period shall be invoiced and despatched to THE APPLICANT on the expiry of this period,

26.3 THE CREDITOR may charge THE APPLICANT its customary gee for the storage of any product retained at the APPLICANT'S request.

27. Entire agreement

This contract contains the entire agreement between the parties and any other terms thereof whether express or implied or excluded here from and any variations, cancellations or additions to this contract shall not be of any force or effect unless reduced to writing and signed by the parties or their duly authorised signatories. This agreement shall be governed by the laws of South Africa.

THE APPLICANT warrants that the information submitted in this application is true and correct in all respects and that THE APPLICANT is entirely familiar with the terms and conditions contained herein. THE APPLICANT further warrants that he/she has read and understood the contents of this agreement.

Thus signed by THE APPLICANT or its duly authorised agent/signatory who hereby warrants that he/she is authorised to sign on behalf of THE APPLICANT.

Signed at _____ on this _____ day of _____ before the undersigned witnesses.

Name: _____

Designation _____

Signature: _____

Date: _____

As Witness: _____

For and on behalf of THE CREDITOR:

Name: _____

Designation _____

Signature: _____

Date: _____

As Witness: _____