



**If this is to be an Instalment Sale Agreement, clauses 19 and 22 will not apply. If this is to be a Financial Lease Agreement (lease), clause 21 will not apply.**

## 1 Delivery

- 1.1 The Bank will buy the goods which have been chosen by the Customer from a supplier. The Bank does not know the purpose for which the goods will be used.
- 1.2 The Customer understands that he will be holding the goods for the Bank and that the Bank is the owner of the goods until the Bank has been paid in full.
- 1.3 The Customer must inspect the goods before accepting them. By accepting the goods, the Customer accepts that the goods are not faulty and that they can be used for the reason he bought them.
- 1.4 If the Credit Agreements Act does not apply to this agreement, then the Bank makes no promises regarding the condition of the goods. If the goods are faulty and the Customer accepts the goods, the Customer will have to pay to repair them and carry any losses.
- 1.5 The Customer is not allowed to act as the Bank's agent except to inspect the goods and accept delivery of the goods on the Bank's behalf so that the Bank becomes the owner of the goods. The Customer must ensure that the supplier is the owner of the goods and will have no claim against the Bank if the supplier is not.
- 1.6 If the Bank or the supplier offers delivery of the goods to the Customer within thirty (30) days of signing this agreement, this will be regarded as delivery of the goods by the Bank to the Customer.

## 2 Payment

- 2.1 The Customer shall pay to the Bank all the amounts due in terms of this agreement, on the due date without deducting anything from the amounts for any reason. Payment must be made at the address chosen by the Bank.
- 2.2 The Customer may not delay or withhold any payment due to the Bank arising out of any claim that he may have against the Bank.
- 2.3 If the Bank cancels the agreement and the Customer disagrees with the cancellation, and remains in possession of the goods, the Customer must continue making all payments that become due, to the Bank, as if the agreement had not been cancelled by the Bank. The Bank's acceptance of these payments will not in any way affect the cancellation of the agreement or any other claim that the Bank may have against the Customer. Whatever payments have been made after the cancellation shall be kept by the Bank as compensation for its losses arising out of the Customer not returning the goods to the Bank after the Bank cancelled the contract.
- 2.4 The Customer authorises the Bank to deduct from his bank account, even if the account is at another Bank, all payments due in terms of this agreement.
- 2.5 If the capital requirements for Banks, in terms of the Bank's Act of 1990, increases at any time during this agreement causing the Bank's costs to increase, the Bank may increase the AFCR and/or 'c' in 2.6 below in order to recover the increase from the Customer. A certificate signed by the Bank's auditors will be all that is required to prove the increase that is required in the AFCR and/or 'c' to recover the Bank's increased costs.
- 2.6 Where the Customer has opened an AccessFinance transaction account (AccessFinance Account) the Bank will during each month that finance charges are levied, recalculate the AFCR in accordance with the formula:  $a - abc/d$  where:

a = the AFCR as it was on the first day of the previous calendar month

b = subject to 5.3 of the AccessFinance Account terms and

## Finance Agreement (Direct) Terms and conditions

conditions, the average daily balance of the AccessFinance Account as calculated from the first to the last day of the previous month;

c = the factor referred to in the schedule

d = the average capital balance outstanding on this agreement excluding any arrear payments, calculated from the first to the last day of the previous calendar month.

The AFCR will be recalculated on the day that the Bank issues its monthly statements to the Customer. If there is any difference between 'a' and recalculated AFCR, this difference will be deducted from the next payment after the recalculation. The Customer may only claim an adjusted AFCR and/or reduced payments if his payments in terms of this agreement are paid by debit order into the AccessFinance Account, "b" is at least R500-00 and if the Customer complies with the terms and conditions of this agreement and with the AccessFinance Account terms and conditions.

## 3 Ownership

- 3.1 The Bank will at all times remain the owner of the goods.
- 3.2 If this is an instalment sale agreement, the Customer will become the owner of the goods once the Customer has paid all instalments in full and has performed all his duties in terms of this agreement.
- 3.3 The Customer will not attach the goods to any movable or immovable property or allow the goods to be attached so that the goods and the property become one and cannot be separated or identified separately. If the goods are attached to any property then the Customer must obtain a letter from the owner of the property stating that the owner of the property has no claim to the goods.

## 4 Risk

The Customer will carry all the risk in the goods from date of signing this agreement or when the supplier no longer bears the risk, whichever date is earlier. If this is a lease agreement, the Customer will carry all the risk until the goods are returned to the Bank.

## 5 Use

- 5.1 The Customer shall use the goods carefully and shall follow the manufacturer's specifications. The Customer shall not change or alter the goods without the written permission of the Bank.
- 5.2 The Customer shall at his own cost obey all laws relating to the purchase, possession, operation, licensing, registration, insurance and use of the goods.
- 5.3 The Customer shall not remove the goods from the RSA unless the Bank gives its permission in writing. This permission may have conditions attached to it.
- 5.4 The Customer shall not sell the goods, give up the goods, legally transfer the goods or give to anyone else rights in the goods or allow the goods to be legally burdened in any way or let go of the goods in any way. Should the goods become legally burdened, the Customer shall immediately attend to having the goods released.

## 6 Maintenance and repair

- 6.1 The Customer will at all times properly service and maintain the goods as required by the manufacturer at the Customer's own cost.
- 6.2 All parts and accessories that are replaced or added will become the Bank's property and the Customer will not be compensated for it.
- 6.3 The Bank may inspect the goods at any reasonable time, wherever they are kept.

## 7 Insurance

- 7.1 The Customer shall insure the goods for all risks and for third party claims until the end of this agreement, with a registered insurer chosen



by the Customer under a separate insurance policy. The insurance shall be for the cash price or the market value of the goods. The cash price or market value is shown on the schedule and the Customer agrees that this is the reasonable value of the goods. The Bank's rights and the Customer's rights in the goods shall be written into the policy.

- 7.2 The Customer shall pay all insurance premiums on time and must prove in writing, if the Bank asks to see proof, that the goods are insured and that all premiums have been paid. If the Customer fails to pay any premium the Bank may pay the premium on the Customer's behalf, but does not have to do so.
- 7.3 If the Customer does not insure the goods or requests the Bank to insure the goods, the Bank can insure the goods but does not have to do so.
- 7.4 The Customer will ensure that the Customer complies with the terms, conditions and warranties of the insurance policy. The Customer will deliver the policy to the Bank, if asked to do so by the Bank.

## **8 Damage to the goods**

- 8.1 If the goods are damaged, destroyed or lost, the Customer must immediately advise the Bank in writing and must thereafter claim from the insurance company asking the insurance company to pay the Bank.
- 8.2 If the Bank requires, the Customer must repair or replace the goods and continue paying for them.
- 8.3 If the Bank decides that the damaged goods cannot be repaired, this can be taken as a breach in terms of clause 11 of this agreement.

## **9 Notification to landlord**

If the Customer stores the goods on premises that he does not own, he must immediately advise the Bank in writing of the name and address of the owner of the premises. The Customer must also inform the owner of the premises that the Bank owns the goods that have been stored on the premises.

## **10 Cession by the Bank**

The Bank may without informing the Customer, transfer all its rights, duties and/or ownership in the goods to any person. If the Bank does this then any reference in this agreement to the Bank shall apply to whoever the Bank transfers its rights, duties and ownership to.

## **11 Breach**

- 11.1 The Customer will have breached this agreement if he:-
- does not pay on time any money that is due to the Bank;
  - does not obey any term of this agreement, or of the AccessFinance Account (if this applies to the Customer) or any other agreement which exists between the Bank and the Customer (all of which are agreed to be material);
  - acts in a way which is referred to as an act of insolvency in the Insolvency Act,
  - has a court judgement against him and he does not pay the amount of the judgement within seven (7) days unless the Customer has appealed against the judgement;
  - compromises (ie asks or agrees with his creditors to delay any payment or pay less than is due) or delays any payments owing by him to any of his creditors; or
  - dies or if the Customer is a partnership, the partnership breaks up or if a private company or a Close Corporation there is a change in the shareholders or members;
  - is provisionally or finally liquidated or sequestrated or placed under judicial management; or
  - generally does anything which may harm the Bank's rights or cause

# **Finance agreement Terms and conditions (continued)**

the Bank to suffer any loss or if the Bank's rights under any security given is lessened, lost or harmed in any way.

- 11.2 Should any one of the above events happen or should the goods be lost, destroyed or damaged, the Bank may if it chooses and without harming any of the rights it may have:-
- after due demand, claim from the Customer all amounts outstanding which includes amounts presently outstanding and amounts which would have become due in the future provided, however, that if the Customer does not make immediate payment the Bank may, notwithstanding the election to claim immediate payment in terms of this sub-clause, claim the relief set out in 11.2(b) below; or
  - after due demand, cancel this agreement, take the goods back and recover from the Customer all amounts presently outstanding and those amounts which would have become due in the future (together with the present value of the book value, if any, of the goods on date of cancellation, if this is a lease) less the value of the goods as at the date on which the Bank obtains possession or the proceeds of any insurance policy paid to the Bank in terms of the goods. The Bank may also claim VAT on this amount.

For the purposes of clause 11(2)(a) and (b), the Bank is entitled to demand immediate payment, unless the Customer is entitled to notice in terms of S11 of the Credit Agreements Act (CAA), in which event, demand will be in terms of S11 of the CAA.

- 11.3 If this agreement is cancelled in terms of clause 11, the Bank will be allowed to choose a sworn appraiser to determine the value of the goods. The Customer will accept this valuation. The Bank will deduct all costs of transportation, storage, valuation and improvements to the goods, from the value of the goods. If the Bank is unable to recover the goods, the value will be considered to be nil.
- 11.4 If the goods are returned to the Bank or repossessed by the Bank, the Bank shall be allowed to dispose of the goods in any manner.
- 11.5 The Customer shall pay to the Bank finance charges at the AFCDR on any amount (including liquidated damages) due by the Customer to the Bank and unpaid. These finance charges will be calculated from the date the Bank acquires the right to claim from the Customer. If the finance charges are not paid before the next payment is due, such charges may be included in the principal debt.
- 11.6 If the Customer does not fulfil any duty in terms of this agreement, the Bank may (but does not have to) fulfil the duty on the Customer's behalf and claim the cost of this from the Customer.
- 11.7 The Customer cedes to the Bank as security all rights, that he may have now or in the future to claim any amount from the Bank arising out of or in connection with this agreement on expiry or termination.

## **12 Jurisdiction and costs**

- 12.1 The Customer agrees that any court action can be instituted out of the Magistrate's Court even if the amount of the claim does not fall within the authority of the Magistrate's Court. The Bank however is not forced to institute action in the Magistrates Court.
- 12.2 In the event that the Bank takes legal action against the Customer, the Customer agrees to pay the Bank's legal costs on an attorney-client scale, together with collection commission.
- 12.3 This agreement shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

## **13 Appropriation**

- 13.1 The Bank may at any time before or after this agreement has ended, take any payments that the Customer has made towards any debt that he may have with the Bank and apply this money towards another debt that he may have with the Bank.
- 13.2 The Customer gives up his right to identify the debt or account to which any payment will be made.

## 14 Domicilium and notices

- 14.1 The Customer chooses the address set out in the schedule as the street address at which he will accept delivery of legal notices. Should the Customer wish to change this address, the Bank must be notified in writing. The notice must be hand delivered or sent by registered post.
- 14.2 If a legal notice has been sent to the Customer by hand, the Customer is deemed to have received it on the date of delivery. If it is sent by registered post, he is deemed to have received it seven days after posting.
- 14.3 Where there is no street delivery of post to the Customer's chosen address, then the Bank is allowed to send the legal notices to the Customer's postal box.

## 15 Linked rates

- 15.1 The 'prime rate' means the publicly quoted rate of interest at which the Bank will lend money on an overdraft from time to time. Any Manager of the Bank (whose authority does not have to be proved) may certify what the prime rate is.
- 15.2 On or after the date of any change in the prime rate, the Bank will recalculate the payments which will become due by the Customer, based on the new rate.

## 16 Non-Variation

- 16.1 This agreement and the terms and conditions of the AccessFinance account (if it applies) forms the whole and only agreement between the Bank and the Customer regarding the goods.
- 16.2 The schedule was fully and correctly completed before this agreement was signed. However, if the Bank was unable to give the Customer an AccessFinance account number before the debit order authorisation and the AccessFinance application was signed, the Bank may insert the account number after the Customer has signed.
- 16.3 Any agreement to change this agreement in any way or any agreement not to enforce any rights or any agreement by the parties to cancel this agreement must be written and signed by both parties.

## 17 Statutes

- 17.1 Neither the Usury Act 73 of 1968 nor the Credit Agreements Act 75 of 1980 will apply to this agreement unless these Acts by their terms do apply.
- 17.2 The Customer gives up any benefits that he may have in terms of the Agricultural Credit Act 28 of 1966.
- 17.3 If the Customer cancels the agreement in terms of S13(1) of the Credit Agreement Act, the Customer will pay the Bank for the use of the goods and any damage to the goods while the goods were with the Customer.

## 18 General

- 18.1 A certificate signed by any Manager of the Bank (whose position as Manager need not be proved) showing any amount owing by the Customer in terms of this agreement shall be sufficient proof unless the contrary is proved of any amount due and for all purposes.
- 18.2 If more than one Customer signs this agreement, all those that sign will be jointly and severally liable (this agreement applies to the Customers individually and in combination together). If this agreement is not signed by all the Customers who are named in the agreement or by all the partners, (if the Customer is a partnership), this agreement shall be binding on those that have signed the agreement.
- 18.3 Headings of clauses in the agreement are for information purposes only and shall not be taken into account in the interpretation of this agreement.
- 18.4 Where the singular is used, this shall also mean the plural and where "he" has been used, this shall include "she" and "it".
- 18.5 The Customer shall pay all stamp duty, taxes, licence fees and other fiscal charges connected directly or indirectly with this fiscal charges

# Finance agreement Terms and conditions (continued)

fagreement. These amounts may be included in the Principal Debt.

- 18.6 The Principal Debt may vary from the amounts in the Schedule, if the Bank pays any amount which is allowed to be part of the Principal Debt for the Customer. The Customer agrees that such amounts may be included in the Principal Debt, to pay finance charges calculated at the AFCR on such amounts and to pay any increased payments, which may result.
- 18.7 If a competent court finds any terms of this contract to be unenforceable, that term will be deleted and the remaining terms will not be affected.
- 18.8 The Customer allows the Dealer to obtain settlement figures from the Bank and agrees to the Bank supplying the Dealer with the settlement figure on this agreement. The Customer indemnifies the Bank against any losses that may result from the Dealer providing the Customer with a settlement figure that is different to the figure the Bank gave to the Dealer.

## 19 Expiry (applies only if this is a lease)

At the end of the lease, the Customer must return the goods to the Bank at its own expense. The Bank will sell the goods and refund the Customer the balance after deducting the cost of the sale and book value. The Customer must disclose this balance to the Receiver of Revenue. The Customer may choose to buy the goods from the Bank or enter into a new lease, provided that the law allows this.

## 20 Eviction

If any person claims to be the owner or to have greater rights to possess the goods than the Customer, the Customer agrees that the amounts already paid by the Customer is the payment for the Customer's use and enjoyment of the goods until the date of repossession, regardless of whether the Customer in fact used and enjoyed them.

## 21 Early settlement for Instalment Sale Agreement

If the Usury Act applies to this agreement, the Customer may pay the Bank the total outstanding balance in one amount before the date such amounts become due if:-

- 21.1 The Customer informs the Bank ninety (90) days before the Customer wishes to settle the account, that the Customer is going to settle the account in full. The Customer may not give this notice until ninety days have passed since the Customer signed the agreement and;
- 21.2 the principal debt set out in the schedule is less than R250 000-00 or such other amount that may be set by law.

## 22 Early settlement for Lease

This agreement shall run until the expiry date stated in the schedule. The Bank may allow the early payment of the full amount on any condition that the Bank may set.

## 23 Advertising campaigns

The Customer is entitled to participate in the benefits of any campaigns or loyalty schemes offered by the Bank from time to time if the Customer qualifies for the Scheme and/or chooses to participate in the Scheme, provided that the rules that apply are met by the Customer.

## 24 Credit consent

The Bank may give information as to how the Customer pays or manages his account to the credit bureaux, who may in turn give this information to other credit grantors. The Bank may also give the Customer's information to any person who the Bank believes needs the information to do anything in relation to the agreement or any law pertaining to the products requested by the Customer. The Customer agrees that this clause will not stop the Bank from using its other legal rights of sharing of Customer's information.



**Standard  
Bank**

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The Standard Bank of South Africa Limited Reg. No. 1962/000738/06 Registered Bank  
Die Standard Bank Van Suid-Afrika Beperk Reg.-no. 1962/000738/06 Geregistreerde bank

## **Declaration**

### **1 Insurance :**

- (i) Section 44 of the Long Term Insurance Act 52 of 1998
- (ii) Section 43 of the Short Term Insurance Act 53 of 1998

The Customer understands that in the event of the Customer required to provide a short or long-term insurance policy as security for the amount owed to the Bank, the Customer may use an existing policy or take out a new policy or do both.

If the Customer decides to take out a new policy, the Customer has the freedom to choose:

- (i) the insurance company and/or broker.
- (ii) to take cover only for death and disability if it is a long term policy.
- (iii) to take cover to the value of the amount owed to the Bank.

The Customer understands that if he uses a policy that he already has:

- (i) he may choose the broker (if any)
- (ii) With a long term policy, he only has to change the policy to show that the benefits are to be paid if he dies or is disabled. The value of the benefits must not be less than that owed to the Bank.

The Customer understands that the benefits listed above cannot be used where the Customer uses a short term insurance policy as security for money he owes the Bank where the Bank has lent him money upon the security of the mortgage of immovable property.

The Customer declares that he was advised of the above before using an existing policy or before taking out a new policy, and that he exercised a free choice.

## **Acknowledgement**

The Customer declares that he has read and understood the terms and conditions of this agreement with the schedule that applies and agrees to obey the terms and conditions that apply.