



## APPLICATION FOR CREDIT FACILITIES

### COMPANY DETAILS ("the Customer")

Registered Company			
Trading name			
Company type			
Registration Number:		VAT Registration number:	

### TRADING TERMS

Credit limit applied for		Trading terms	
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### CONTACT DETAILS

Company phone number			
Primary contact person			
Telephone number		Email:	
Billing contact person			
Telephone number		Email:	

### ADDRESS DETAILS

Postal address	
Physical address	
Landlord contact details	

### DISCLOSURE IN TERMS OF SECTION 4 OF THE NATIONAL CREDIT ACT, 2005 ("NCA") AND THE CONSUMER PROTECTION ACT, 2008 ("CPA") IN THE EVENT OF THE CUSTOMER BEING A JURISTIC ENTITY

The Customer's annual turnover/asset value on the date of signing this application for credit:	The Customer's annual turnover/asset value on the date of signing this agreement:
Exceeds R1 million Yes/No	Exceeds R2 million Yes/No
If No the NCA will be applicable to this agreement	If No the CPA will be applicable to this agreement

### BANKING DETAILS

Account holder name	
Bank name	
Branch name	
Branch code	
Account number	
Account type	





#### TRADE REFERENCES

Trading name	Contact person	Contact details	Average spent p/m

Directors/Trustees or Partners/Members			
Full name	Identity number	Address	Cell

#### FINANCIAL INTELLIGENCE CENTRE ACT ("FIC act")

Please note that as the FIC act is applicable to credit suppliers, the attached form applicable to the specific business of the Customer needs to be completed in full and attached to this application together with all documents relating to your identification and proof of address such as:

1. Identity documents (Individuals and directors and members);
2. Proof of address of all individuals and legal entities not older than 2 months;
3. Registration documents of all legal entities as issued by CIPC.

#### SIGNATURE PROVISIONS

I/We the undersigned, warrant that the information given above is true and correct and that I/we have the authority to represent the Customer. I/We have read and understood the Good Morning Oil and Minerals (Pty) Ltd's (hereinafter "Supplier") terms and conditions, which terms and conditions will govern all transactions between the Customer and the Supplier.

In the event that a notification is received purporting to communicate that the Supplier has changed its banking details (even if it purports to emanate from the Supplier), the Customer will be responsible for validating the correctness of the communication directly with the Supplier. Any payments made into a banking account other than the Supplier's bank account, will be at the sole risk of the Customer and will not be credited to the account of the Customer.

Upon approval of the Customer's application for credit the attached terms and conditions will become applicable to every transaction between the Customer and the Supplier.

Signed at _____ on this the _____ day of _____ 20	
As witnesses:  1. _____  2. _____	Full name of Customer's representative:  _____  Signature: _____ Duly authorised to sign on behalf of





	theCustomer.
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Signed at _____ on this the _____ day of _____ 20	
Full Names _____	
ID/Passport No: _____	
Domicile ( <i>Physical address of surety required under domicile</i> )   	
Signature for Surety: _____	
Witnesses:	1. _____
	2. _____





We,

\_\_\_\_ (hereinafter referred to as "THE APPLICANT") hereby make application for credit facilities for the opening of an account with **Good Morning Oil and Minerals (Pty) Ltd t/a Evolution Oils t/a Evolution Oils Registration Number 2016/372955/07** (hereinafter referred to as "THE SUPPLIER").

We acknowledge that in terms of Section 29 (1) of the Financial Intelligence Centre Act, No. 38 of 2001 ("FICA") businesses are required to report any suspicious or unusual transaction or series of transactions to the Financial Intelligence Centre and in particular where THE SUPPLIER has received, or is about to receive, the proceeds of suspected unlawful activities in payment of THE APPLICANT'S indebtedness to THE SUPPLIER.

Suspected Unlawful Activities specifically include for THE APPLICANT declaring that the proceeds of the sale of any of the goods or services provided by THE SUPPLIER to THE APPLICANT:-

1. are not received from unlawful activities, or
2. are not linked to an offence of terrorist financing, or
3. have not been used for money laundering purposes, or
4. have not been used to assist an offence being committed that relates to money laundering or terrorist financing.

It is further noted that THE SUPPLIER is an Accountable Institution in terms of the FIC Act. Any cash transaction in excess of R50 000 will be reported to the Financial Intelligence Centre without any further reference to THE APPLICANT.

We indemnify or hold THE SUPPLIER harmless against any claim of whatsoever nature instituted against THE SUPPLIER for any damage or harm suffered by the Customer or a third party arising from any action taken by THE SUPPLIER in discharging its obligations in terms of FICA.

We further provide you with the following information to give effect to the above:

1. Details of principals (Sole Owner / Partners /Members / Directors/ Trustees) - SA CITIZENS and FOREIGN NATIONALS

Full Name	ID Number (SA Citizens only)	Residential Address	Residential Phone
Full Name	Passport Number & Date of Birth (Foreign Nationals Only)	Residential Address	Residential Phone



Initial here	
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2. Details of beneficial owners of THE APPLICANT - SA CITIZENS and FOREIGN NATIONALS

Full Name	Nationality	ID Number / Passport Number	% Share-holding

3. Details of Shareholders of THE APPLICANT

Full Name of individual/entity	ID Number / Entity Registration Number	Nationality	Registered / Physical Address

Signed at this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Full Name of Authorised Signatory: \_\_\_\_\_

Identity No: \_\_\_\_\_

(who hereby warrants that he/she is duly authorised to act on behalf of and sign for THE APPLICANT, and bind THE APPLICANT to the terms and conditions attached hereto)

Signature: \_\_\_\_\_

Duly authorised

Capacity: \_\_\_\_\_

**AS WITNESS:**

1. \_\_\_\_\_

\_\_\_\_\_  
FULL NAMES OF WITNESS:





ADDRESS OF WITNESS:

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2. 

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FULL NAMES OF WITNESS:

ADDRESS OF WITNESS:

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**DEED OF SURETYSHIP  
GOOD MORNING OIL AND MINERALS (PTY) LTD  
("the Supplier")**

I, the undersigned, do hereby irrevocably bind myself as surety and co-principal debtor in solidum and in favour of Good Morning Oil and Minerals (Pty) Ltd, (hereinafter "GOOD MORNING OIL AND MINERALS"), its successors in title and assigns, for the due fulfilment by the Customer of all of its obligations to GOOD MORNING OIL AND MINERALS, its successors in title and assigns, howsoever arising, whether already incurred or which may from time to time hereafter be incurred.

1. This is a continuing suretyship, and my liability hereunder shall not be affected by any indulgence granted to the Customer by GOOD MORNING OIL AND MINERALS and shall remain of full force and effect notwithstanding any fluctuation in, or temporary extinction of the Customer's indebtedness to the Supplier. It may not be withdrawn, revoked or cancelled by the Customer without the Supplier's prior written consent. Any consensual cancellation or withdrawal of this suretyship by the Customer and the Supplier shall only be valid and effective if reduced to writing and signed by both parties thereto.
2. I hereby choose my *domicilium citandi et executandi* address for all purposes at the address set out under my signature hereunder. I agree to pay all legal costs on the scale as between attorney and client in the event that GOOD MORNING OIL AND MINERALS, its successors in title and assigns having to enforce the terms of this Suretyship.
3. This Suretyship is not conditional upon the happening of any event, including without limitation, either the signature of any other surety or the granting of any credit facilities.
4. The terms and conditions of the Credit Agreement shall apply *mutatis mutandis* (in precisely the same manner), to the Suretyship.
5. The Sureties further waive the benefits of excussion and division (by renouncing these benefits, the Supplier becomes entitled to sue any one Surety for the full amount owing without first proceeding against or suing the Customer or any other Surety) and of the legal exception *non numeratae pecuniae* (by renouncing this benefit the Surety is precluded from raising the defence that no money of equivalent thereof has passed between the Customer and the Supplier) and *non-causa debiti* (by renouncing this benefit a Surety is precluded from raising the defence that there was no cause of action or reason for the Customer's indebtedness to the Supplier) and acknowledges himself to be fully acquainted with the meaning of these terms.
6. Any admission of liability by the Customer shall be binding upon the surety.
7. A certificate under the hand of any director or manager of the Supplier (whose appointment need not be proved) as to the existence and the amount of the Customer's indebtedness and the surety's indebtedness to the Supplier at any time, as to the fact that such amount is due and payable, the amount of mora interest accrued thereon and as to any other fact, matter or thing relating to the Customer's indebtedness to the Supplier and the surety's indebtedness to the Supplier, shall be sufficient and satisfactory proof of the contents and correctness thereof for the purpose of provisional sentence, summary judgment or any other proceedings of whatsoever nature against the Customer and/or the surety in any competent court and shall be valid as a liquid document for such purpose.
8. I/ We hereby guarantee in favour of and on behalf of the Supplier, the payment of all and / or any debts which are the subject matter of this deed of suretyship.
9. I/ We hereby furnish a guarantee to the Supplier as a principal obligation and assume liability for such principal obligation.
10. I/We guarantee payment to the Supplier of any amount which may still be owing to the Supplier subsequent to the Supplier having received any amount from the Customer by way of reduction of the Supplier's claim against the Customer, whether having received the amount by way of compromise, settlement or pursuant to any business rescue plan as provided for in the Companies Act No.71 of 2008, irrespective of whether the plan provides for the release of the Customer, or under any circumstance of whatsoever nature.









## STANDARD TERMS AND CONDITIONS OF SALE

- 1.1. These are the terms and conditions of sale which apply to all goods sold and/or services rendered by the Supplier to the Customer. These terms and conditions shall take precedence over any terms and conditions which may be contained in the Customer's order or other documentation and may only be altered with the express written agreement of the Supplier.
- 1.2. NOTICE TO CUSTOMER WITH REGARD TO LIMITATION OF LIABILITY OF SUPPLIER, ASSUMPTION OF LIABILITY BY CUSTOMER, INDEMNIFICATION BY THE CUSTOMER AND ACKNOWLEDGEMENT OF THE FACT BY THE SUPPLIER:

To the extent that the Customer is a natural person, or a juristic person as defined in the Consumer Protection Act 68 of 2008 ("CPA") whose asset value and annual turnover is, at the time of the conclusion of this agreement, both less than the threshold determined by the Minister in Section 6 of the CPA (currently R2 million) then the Customer's attention is drawn to the following specific conditions of GOOD MORNING OIL AND MINERALS (PTY) LTD T/A EVOLUTION OILS T/A EVOLUTION OILS's Terms and Conditions of Trade as required by Section 49 of the CPA. **CLAUSES: 7.1, 7.6, 7.8, 8.3, 8.4, 8.6 & 12.6.**

## 2. DEFINITIONS

- 2.1. "Customer": means the Applicant as reflected in the credit application;
- 2.2. "Defective": means, in relation to goods, goods that cannot be used for the purposes it was intended to be used for;
- 2.3. "Goods": means fuel and/or lubricant and/or tanks and/or pumps sold by the Supplier and ordered by the Customer and includes delivery or transport services where these services are also rendered;
- 2.4. "The Order": means the written and verbal orders received from the Customer to which these terms and conditions apply;
- 2.5. "Supplier": means Good Morning Oil and Minerals (Pty) Ltd t/a Evolution Oils t/a Evolution Oils, Registration number: 2016/372955/07 and VAT number: 4240293367;
- 2.6. "Terms and conditions": mean these terms and conditions of sale, the contents of the Customer's orders and any written acceptance of the Customer's orders by the Supplier.

## 3. GENERAL

- 3.1. All goods supplied by the Supplier shall be supplied subject to these terms and conditions only. These terms and conditions shall take precedence over any terms and conditions which may be contained in the Customer's order, or other Customer documentation, and may only be altered with the express prior written agreement of the Supplier.
- 3.2. Any conflicting statements or special terms contained in any acceptance order or other documentation issued by the Customer shall not be effective unless such conflicting statement or special terms have been expressly agreed to in writing by the Supplier.
- 3.3. The Customer undertakes to notify the Supplier forthwith in writing of any change of address or change in ownership of the Customer.

## 4. ORDERS

- 4.1. The Supplier will only accept written orders. In the event of an incorrect written





order, the Supplier will not be responsible for any errors or misunderstandings occasioned by the Customer's failure to place a correct written order.

- 4.2. Orders placed by the Customer shall constitute irrevocable offers to purchase the goods or render the services in question at the usual prices of the Supplier applicable on the date when the Customer places the order for the goods or services.
- 4.3. Once a Customer's order has been accepted by the Supplier, a binding contract on the items, subject to the conditions contained herein, will have been entered into by and between the Supplier and the Customer, which contract shall not, without the consent of the Supplier be capable of variation and/or cancellation.

## 5. PRICES

- 5.1. The prices payable by the Customer to the Supplier for the goods or services shall be the ruling prices communicated and where required by a Customer, a written quotation will be valid for a period of 5 (five) working days.
- 5.2. Where a definite price has been expressly confirmed by the Supplier for execution of an order, such price shall nevertheless at all times be subject to an increase in the Supplier's list price ruling at the immediate time of delivery or part delivery of the order or during the order.  
  
However, the Customer shall be notified of any such increase and the Customer shall be entitled to terminate the order on 5 days written notice to the Supplier.
- 5.3. Neither party having any claim against the other arising from the price increase or in consequence of such termination.
- 5.4. All prices communicated and quoted are exclusive of Value Added Tax and delivery costs.
- 5.5. Should the Supplier agree to deliver or install the goods to the Customer, then, in addition to the purchase price payable for the goods, the Customer shall pay to the Supplier all costs of installation and/or delivery of the goods to the address stipulated in the Customer's order, including, without limiting the generality of the foregoing and the cost of insurance, if applicable.
- 5.6. Alternatively, the Customer can collect the goods from the Supplier's premises by prior arrangement recorded in writing.

## 6. TERMS OF PAYMENT

- 6.1. Unless otherwise agreed in writing by the Supplier, the purchase price for the goods together with the cost of delivery of the goods, if applicable, shall be paid by the Customer to the Supplier into a bank account to be nominated by the Supplier to the Customer in writing from time to time. Payment of the purchase price for the goods and/or services shall be made within the credit terms as agreed between the parties in writing. Save as aforesaid, all payments will be made without set-off or deduction, and free of exchange. The terms of payment set out above, shall apply equally to price variation claims.
- 6.2. The Supplier will not make any exception to clause 5.1. in respect of invoices in dispute or under query. The balance of payment due should be settled as per these terms and once invoices in dispute have been resolved, the amount overpaid will be refunded or credited to the Customer's account.
- 6.3. The Supplier shall be entitled to charge interest at 12.5% per annum in respect of any period during which payments are overdue from due date to date of payment of the outstanding amount.
- 6.4. The Supplier shall, at any time, in its sole discretion, be entitled to cede all or any of its rights in terms of this application for credit facilities and deed of suretyship to any third party without prior notice to the Customer.

## 7. DELIVERY

- 7.1. The Customer must inspect the goods immediately upon delivery to ensure that the goods which the customer will be entitled to return, can be returned within the terms





of this agreement as specified in paragraph 8 below.

- 7.2. The goods will be delivered by road and delivery shall be deemed to have been made when the goods are off- loaded at the Customer's premises, provided that when the carrier has been nominated by the Customer, delivery shall be deemed to have taken place at the time that the goods are handed to the nominated carrier. All risk in and to the goods shall pass to the Customer upon delivery as stated above. The Customer shall be obliged to accept the delivery of the goods on the date specified or requested by the Customer in writing in the order of the Customer referred to in clause 3 and which has been accepted by the Supplier in terms of clause 3.
- 7.3. Should the Customer fail to accept delivery on such date, the risk of loss or damage to the goods together with all and any expenses or damages pursuant thereto, including but not limited to insurance, storage and further delivery charges shall be borne by the Customer and paid to the Supplier by the Customer on request.
- 7.4. When delivery of the goods is spread over a period, each separate delivery thereof shall be invoiced when dispatched/delivered. Each statement shall be treated as a separate account and payable in terms of clause 5.
- 7.5. Where the goods so delivered are delivered in a damaged condition or is in the opinion of the Customer of a lower grade, the Customer shall give written notice to the Supplier of such damage or grade/standard difference within five (5) days of delivery to the Customer.
- 7.6. Should the Customer fail to give such notice, the Customer shall have no claim in respect of any alleged grade/standard difference or damages and the goods shall be deemed to be on standard and in an undamaged state.
- 7.7. The Supplier shall endeavour to deliver the goods at the earliest possible time but in no instance can the Supplier accept liability for any loss or damage arising from the late delivery of the goods and time shall not be of the essence of the contract. No liability shall attach to the Supplier as a result of the failure to deliver if such failure is due to circumstances beyond the Supplier's control.
- 7.8. It is recorded that delivery dates shall be regarded as indicative only and whereas the Supplier will do everything possible to keep to such dates, the Supplier cannot be held responsible for any failure to do so. Notwithstanding anything to the contrary in these terms and conditions, the Supplier's liability in respect of any failure by it to deliver the goods, or to deliver the goods timeously, shall be limited to an amount equal to the amount of the purchase price of such goods and, in any event, the Supplier shall not be liable for any consequential loss, loss of profit, special damages or any indirect loss of the Customer.
- 7.9. The Customer's or its representative's or agent's signature on the TAX Invoice or proof of delivery document upon receipt of goods verifies that products are received in good order and correct quantities were supplied and delivered.
- 7.10. **In the event that there are discrepancies between the amount/volume of goods charged and the goods delivered, the Customer must bring such discrepancies to the attention of the Supplier within 5 business days of date of delivery of the goods failing which it will be accepted that the correct amount/volume was delivered.**

## 8. RETURN OF GOODS

- 8.1. **The Customer must notify the Supplier within 5 business days, from date of delivery of the goods, in the event that the Customer may be entitled to return the goods as set out hereunder and all goods must be returned to the Supplier within 30 business days.**
- 8.2. The Customer must notify the Supplier's sales agent/representative, who will attend to the premises of the Customer and who will complete a pick-up-slip.





- 8.3. The Customer will be entitled to return goods which:
- 8.3.1. are proven to be defective after the Supplier has had a reasonable opportunity to inspect and test the goods AND the Supplier is unable to replace the defective goods. The goods must be returned to the Supplier within 30 business days after delivery of the goods to the Customer at the Supplier's risk and expense.
  - 8.3.2. were not ordered by the Customer. The goods must be returned to the Supplier after delivery of the goods to the Customer at the Supplier's risk and expense.
- 8.4. **In the event of 8.3.1 the liability of the Supplier in respect of any claim based on defective goods shall not exceed the replacement value of the goods against delivery of such goods to the Supplier.**
- 8.5. **Goods which were specifically ordered for the Customer, and NOT contemplated in Clauses 8.3.1 and 8.3.2 above, are not returnable.**
- 8.6. Should the Customer return goods for a reason other than those contemplated in Clauses 8.3.1 and 8.3.2 above, and the goods so returned are non-defective and the Supplier agrees to the return of such goods in writing, then Goods must be returned to the Supplier within 30 working days, after the Supplier has agreed thereto, at the Customer's risk and expense.
- 8.7. The Supplier will refund the Customer and/or a credit note will reflect on the Customer's account within 72 hours after return of the product to the Supplier.
- 8.8. **The Customer is required to take note of the fact that some of the Supplier's sales agents are independent representatives and not employees of the Supplier. The agent does not have authority to conclude agreements on behalf of the Supplier.**

## 9. VARIATIONS

The Supplier shall not be obliged to accept or act upon any changes, modifications or additions to the original Customer's instructions or if such changes, modifications or alterations were given subsequent to the Supplier's acceptance of the Customer's order. No variations of these terms and conditions or additions hereto shall be of any force or effect unless reduced to writing and signed by both the Supplier and the Customer.

## 10. LIABILITY

- 10.1. The Supplier shall not be liable to the Customer for any damages including, but not limited to, special, indirect, consequential loss and/or damages or loss of profits arising from the performance or non-performance, delict, breach of warranty, negligence or otherwise by the Supplier of its obligations in terms of these terms and conditions. This exclusion of liability shall relate to claims for breach of contract as well as for alleged negligence on the part of the Supplier.
- 10.2. The Customer acknowledges that in the event of it being a proprietorship, partnership, a company or a close corporation and converting from a proprietorship, partnership, a company to close corporation or from a proprietorship, partnership or close corporation to a company at any time hereafter, as the case may be, any surety / signatory in terms of this application for credit shall nevertheless still remain bound as surety.

## 11. BENEFIT, RISK AND OWNERSHIP

- 11.1. Notwithstanding delivery of the goods to the Customer in terms of this agreement, the Supplier shall retain ownership of the goods, in which event the ownership shall only pass to the Customer once the full purchase price has been paid. All risk in and to all goods shall pass to the Customer on delivery of the goods to the Customer;





11.2. The risk of damage to the goods shall pass to the Customer on delivery and whilst the goods are in possession of the Customer. If the goods are damaged whilst in possession of the Customer the Customer shall be liable for such damages and/or payment for the goods delivered to it.

11.3. When the Customer collect goods from the Supplier using its own or an agent's transport then such collection will be entirely at the risk of the Customer. Where transport is arranged by the Customer delivery and passing of risk in the goods shall be deemed to have taken place when the Customer's transport agent start to load the goods.

11.4 In the event that the Supplier transports the goods to the Customer, delivery and passing of risk in the goods shall be deemed to have taken place when the goods are offloaded at the delivery address.

11.5 If the Customer rents the premises where the goods are kept the Customer will inform its landlord of the Supplier's ownership of the goods.

11.6 If the Customer fails to take delivery of the goods, or delay the delivery of the goods, save where such delay is as a result of reasons beyond control of the Customer including, but not limited to, inability to secure transport, labour, power, materials, goods or supplies by reason of an act of God, war, civil disturbance, riot, state of emergency, strike, lockout or other disputes, fire, flood drought or legislation or any act or policy of any state or government or other authority having jurisdiction over the area, then the risk in the goods shall immediately pass to the Customer and the Customer shall be liable to pay the Supplier's costs of storing, insuring and handling the goods until delivery takes place.

## 12 WARRANTIES & LIMITATIONS OF LIABILITY:

12.1 The Supplier warrants that the goods are:

- 12.1.1 reasonably suitable for the purpose for which they are generally intended;
- 12.1.2 of good quality;
- 12.1.3 in compliance with any applicable standard.

12.2 The Supplier will, upon the selection of the Customer, either replace the goods which do not comply with Clauses 12.1.1 – 12.1.3 above or refund the Customer the price paid by the Customer in respect of the goods or any agreed compensation.

12.3 No warranty shall be effective unless the warranty is expressly provided by the Supplier and shall be limited to the extent thereof.

12.4 The Supplier makes no other warranty of any kind, either express or implied.

12.5 No liability for damages will be attributed to the Supplier resulting from unsuitable or improper use or handling of the goods by the Customer or a third party, improper or negligent handling or storage, chemical or other influences unless the Supplier is responsible for such influences.

**12.6 Neither party shall be liable to the other party for any consequential, incidental or indirect damages whether arising under contract or in delict.**

## 13. BREACH

13.1 In the event of the Customer committing any breach of these terms and conditions including, but not limited to, the failure to make payment of the purchase price as





agreed, the Supplier shall be entitled forthwith to claim repossession of the goods, for which purpose the Customer hereby irrevocably authorises the Supplier, through its duly authorised representative(s), to enter upon the premises where the goods are kept, to take possession of the unpaid goods. The exercise of this right shall not preclude the Supplier from its right to claim damages from the Customer occasioned by its breach. The Supplier shall, in the alternative, be entitled to enforce the provisions of these terms and conditions and claim payment of the full amount due by the Customer, any instalments of the price falling due in the future to become due and payable immediately.

13.2 In such event the Supplier shall at its discretion, be entitled to charge interest on overdue amounts as provided in clause 5.4 above.

13.3 If the Customer breaches these terms and conditions and the Supplier elects not to cancel the agreement of sale, the Supplier shall be entitled to suspend performance of any of its obligations until the Customer has

complied with its obligations. Any relaxation, leniency or indulgence which the Supplier may extend to the

Customer shall not in any way constitute a waiver of the Supplier's rights in terms hereof.

#### 14. DISPUTES

14.1 In the event of the Supplier or its agents instructing attorneys to collect from the Customer an amount owing to the Supplier, the Customer agrees to pay all costs on the scale as between attorney and own client, including that of an attorney and counsel, incurred by the Supplier in the event of (a) any default by the Customer (b) any litigation regarding the validity and enforceability of this agreement. The Customer will also be liable for any tracing, collection or valuation fees incurred as well as for any costs, for any form of security that the Supplier may demand.

14.2 Should the Customer be domiciled outside the Republic of South Africa, this Agreement and all contracts of sale between the Customer and the Supplier shall be governed and interpreted in accordance with the laws of the Republic of South Africa and the South African Courts shall have sole jurisdiction in respect thereof.

14.3 The Customer agrees that the amount due and payable to the Supplier may be determined and proven by a certificate issued by the Supplier or one of its agents and signed on its behalf by anyone purporting to be a duly authorised person, which authority need not be proven. Such a certificate shall be binding and shall be prima facie proof of the indebtedness of the Customer.

14.4 In the event of the Supplier or its agent instructing a Debt Collector to collect from the Customer an amount owing to the Supplier, the Customer agrees to pay collection commission in accordance with the terms of the Debt Collector's Act (Act. 114 of 1998).

14.5 The Customer undertakes to notify the Supplier in writing within 7 (seven) days of any intended change in ownership of the Customer's business, or should the Customer 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 become due and payable immediately by the Customer. In addition to the foregoing, the Customer acknowledges that the full outstanding amount, whether due or not, will immediately be deemed to be forthwith payable by the Customer to the Supplier.

#### 15. HEADINGS

The headings to the clauses in these conditions are for reference purposes only and shall not affect their interpretation.

#### 16. SUSPENSION OR CANCELLATION OF DELIVERY

16.1 The Supplier reserves the right to suspend, delay or cancel the delivery of some or all of the goods or to require advance payment for the goods or







- services if: The Customer is insolvent or is unable to pay its debts, or seeks to effect any compromise with any of its creditors or compound any of its debts; or The Customer is placed under an order of sequestration, business rescue or liquidation, whether such order be provisional or final; or The Customer is the subject of any resolution passed to enable it to be wound-up or dissolved; or Any judgement is given against it in any court of law and, if appealable, is not appealed against within the period allowed for the lodging of such an appeal or,
- 16.2 if not subject to an appeal, remains unsatisfied for a period of 10 (ten) days; or the Customer is in breach of any of its obligations to the Supplier.
- 16.3 Any suspension, delay or cancellation as a result of any of the foregoing events shall not affect any other rights which the Supplier may have against the Customer based on these terms and conditions of sale or otherwise.

#### **17 INABILITY TO SUPPLY OR DELIVER**

If the Supplier cannot deliver, cannot deliver timeously, some or all of the goods for any reason beyond its control, including but not limited to lack of instruction from the Customer, stock shortage, industrial dispute or break-down, production delays, government action, state of war, riot, or civil disturbance, natural pandemics, disasters or acts of God, the Supplier may, in its discretion, cancel the whole or any part of the agreement of sale forthwith. In the event of such cancellation the Supplier shall not be liable for any loss whatsoever (including any consequential loss of profits, special damages, or any indirect loss) thereby caused.

#### **18 GOVERNING LAW**

- 18.1 These terms and conditions shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.
- 18.2 The Customer consents to the jurisdiction of the Magistrates' Court in terms of Section 45 of the Magistrates' Court Act, No. 32 of 1944 as amended, having jurisdiction under Section 28 of the said Act, notwithstanding that the claim amount may exceed the normal jurisdiction of the Magistrate' Court.
- 18.3 The Customer nominates as its address for service of all notices or processes arising from this agreement as the address reflected on the face hereof under the heading 'Registered office/Physical address', for service upon the Customer of all notices and processes in connection with any claim for any sum due to the Supplier or any ceded claim.

#### **19 ACCEPTANCE OF ORDERS**

Acceptance by the Supplier of the Customer's orders shall only be binding if in writing and signed/issued by the Supplier. All Customer's orders are to be accompanied by such instructions from the Customer as, in the sole discretion of the Supplier, are necessary to enable the Supplier to supply the goods and/or render the services set out in the Customer's order. Should instructions not be timeously furnished, or be deficient in any respect, then the Supplier shall be entitled to increase the price set out in the Customer's order by such amount as may be necessary to cover the increase in costs occasioned by the delay in furnishing of the instructions.

#### **20 CONSENT**

The Customer specifically consents that the Supplier or its agents:- may carry out a credit enquiry in respect of the Customer; may access a Credit Bureau's data base before granting any credit to the Customer; may, where credit is granted, transmit details to a Credit Bureau





of how the Customer has performed in meeting with its obligations under the account, and share such information with other Creditors or Credit Bureaus for the purposes of assessing further applications for credit by the Customer (and its members, directors, or partners as the case may be) and for occasional debt tracing, debt collection and fraud prevention purposes; if credit is granted in favour of the Customer and the Customer fails to meet its financial commitments to the Supplier, the Supplier may record the Customer's default with a Credit Bureau; may refer information relating to the Customer's credit performance to a Credit Bureau for banking and credit assessment, statistical analysis, and credit scoring purposes and use such information to identify products (including those supplied by third parties) which may be relevant to the Customer; may record the existence of a Customer's account with the Supplier at a Credit Bureau(s).

## **21 BUSINESS RESCUE OR DEREGISTRATION**

- 21.1 The Customer warrants that, as at the signature date of this application, it is not in deregistration (provisional or final) OR in business rescue in terms of Chapter 6 of the Companies Act 2008 ("business rescue") and has not made any application to be placed under business rescue.
- 21.2 Furthermore, the Customer warrants that it does not have any intention of making application for business rescue and is not aware of any current or pending circumstances relating to the business that could give rise to an application for business rescue or liquidation.
- 21.3 The Customer agrees that in the event that the Customer is liquidated, deregistered or placed under business rescue, the conclusion of any compromise of the debt under such approved business rescue plan will not reduce the liability of any person or entity that has signed surety for the debts due by the Customer to GOOD MORNING OIL AND MINERALS and such surety shall remain liable for the full amount of the debt that was due before such compromise, notwithstanding that it is acknowledged, agreed and understood by the Customer that the surety may be entitled to have recourse against the Customer for amounts paid by the surety to GOOD MORNING OIL AND MINERALS pursuant to such suretyship.







**AGREEMENT REGULATING ACCESS, PROCESSING & STORAGE OF PERSONAL INFORMATION  
IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT ("POPIA")**

**Good Morning Oil and Minerals (Pty) Ltd t/a Evolution Oils t/a Evolution Oils** Registration Number  
2016/372955/07 ("GOOD MORNING OIL AND MINERALS")

is committed to compliance with the Protection of Personal Information Act.

No. 4 of 2013 ("POPIA"). For purposes of this agreement, the following words

bear the meanings associated with them below: "Personal Information"

means information relating to an identifiable, living, natural person, including:

1. Financial information related to a person, including information provided by the Customer, or information obtained from a Credit Bureau or from CIPC (the Companies and Intellectual Property Commission);
2. Any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person; and/or
3. The name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about that person.

"Data Subject" means each director of the Customer and each shareholder of the Customer that is a natural person.

**WHEREAS:**

In the course of GOOD MORNING OIL AND MINERALS' Customer verification and credit vetting processes, GOOD MORNING OIL AND MINERALS will collect, and process Personal Information related to Data Subjects. GOOD MORNING OIL AND MINERALS may also share such information *inter alia* with third parties that provide credit insurance, credit vetting services, collection services and finance.

GOOD MORNING OIL AND MINERALS is committed to ensuring that any processing of Personal Information related to Data Subjects are limited to the express purposes of opening and management of an account for the Customer and that such processing is compliant with POPIA.

**IT IS HEREBY AGREED THAT:**

1. The Customer consents to GOOD MORNING OIL AND MINERALS:
  - 1.1. performing a credit search on the Customer's record, as well as the record of Data Subjects, with one or more of the registered Credit Bureaus when assessing the Customer's Application for Credit (and at any other time in GOOD MORNING OIL AND MINERALS' discretion);
  - 1.2. recording the existence of the Customer's account with any Credit Bureau;
  - 1.3. transmitting any information pertaining to the Customer and to any Data Subject to:





- (a) any third party that provides credit vetting services, (b) credit guarantee insurance providers and brokers, (c) collection service providers; and (d) entities that provides financing to GOOD MORNING OIL AND MINERALS , (hereinafter referred to as “Approved Third Parties”), and to any such Approved Third Party in turn conducting its own Credit Bureaus and other credit vetting and debt collection processes; and/or recording and transmitting details of how the Customer has performed and how the account is conducted by the Customer in meeting its obligations on the account, including to a Credit Bureau and GOOD MORNING OIL AND MINERALS credit insurers.
2. The Customer acknowledges and agrees that any information regarding its credit worthiness, defaults in payment to GOOD MORNING OIL AND MINERALS, and details of how its account with GOOD MORNING OIL AND MINERALS is conducted may be disclosed to any other creditor of the Customer, to Approved Third Parties, and, to any registered Credit Bureau after 21 (twenty-one) days’ notice have been given to the Customer.
  3. The Customer consents to the collection, processing and storage of Personal Information by GOOD MORNING OIL AND MINERALS related to Data Subjects, for the purposes of both the opening and ongoing management of a customer account.
  4. The Customer warrants and represents that:
    - 4.1. it has concluded a contract with each Data Subject; and that in terms of such contract, the Customer has obtained the consent from such person to the processing of Personal Information by suppliers and Approved Third Parties, in the credit vetting process; and
    - 4.2. the processing of Personal Information by GOOD MORNING OIL AND MINERALS is necessary for the legitimate interests of GOOD MORNING OIL AND MINERALS *inter alia* in GOOD MORNING OIL AND MINERALS credit vetting, credit management and funding processes.
  5. The Customer warrants that all Personal Information supplied to GOOD MORNING OIL AND MINERALS is accurate, up to date, is not misleading and that it is complete in all respects.
  6. The Customer undertakes to immediately advise GOOD MORNING OIL AND MINERALS of any changes to the relevant Personal Information of a Data Subject, but not limited to, a change of ownership or control in the Customer.
  7. GOOD MORNING OIL AND MINERALS undertakes:
    - 7.1. to act in accordance with POPIA in relation to the collection, processing and storing of Personal Information related to the Customer. The processing of Personal Information by GOOD MORNING OIL AND MINERALS will be limited to the purposes set out herein and will not be excessive;
    - 7.2. not to disclose the Customer’s Personal Information unless: (a) it is legally or contractually required or for its legitimate business purposes, or (b) permitted in terms of this agreement, including to approved third parties; and
    - 7.3. to use reasonable efforts in order to ensure that Personal Information related to Data Subjects in its possession or processed on its behalf is:
      - 7.3.1. kept confidential;
      - 7.3.2. stored in a secure manner; and
      - 7.3.3. processed in terms of the provisions of POPIA, and, for the purposes for which GOOD MORNING OIL AND MINERALS has been authorised;
    - 7.4. to take reasonable steps to identify risks associated with the processing of the Customer’s information and establish safeguards against any such identified risks; and
    - 7.5. to take reasonable steps to ensure that the Customer is notified in the event of a breach of the confidentiality





of the Customer's Personal Information.

8. The Customer has a right to lodge a complaint with the information Regulator if the Customer is of the view that its rights in terms of POPIA have been breached. The contact details of the information Regulator are:

- Telephone Number: 012 406 4818
- Address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001
- E-mail Address: [POPIAComplaints@inforegulator.org.za](mailto:POPIAComplaints@inforegulator.org.za)

[enquiries@inforegulator.org.za](mailto:enquiries@inforegulator.org.za)

Signed at _____ on this the _____ day of _____ 20	
As witnesses:	Full name of Customer's representative:
1. _____	_____
2. _____	Signature: _____
	Duly authorised to sign on behalf of the Customer.

