

## **PRE-AGREEMENT STATEMENT AND TERMS AND CONDITIONS OF YOUR OVERDRAFT CREDIT AGREEMENT**

The following sets out the rights and obligations between you and the Bank.

### 1. Statement of Account

The Bank will deliver a statement of account to you every month. The statement of account will be delivered to you by e-mail/ ordinary mail/ printable webpage to the addresses indicated in the Quotation or the most updated information available on our system. You may also request a statement from the Bank. Such requests may attract a fee.

### 2. Increase / Reduction of your credit limit

You may choose to increase or reduce the credit limit of your Credit Agreement at any time. Should you wish to do so, you must inform the Bank in writing or by calling the Bank's call centre on 087 575 9411 or you may apply via online banking at [www.rmbprivatebank.com](http://www.rmbprivatebank.com). In the case of a request for a credit limit increase the increase will be subject to an affordability credit assessment and may be agreed; rejected or agreed at a lower credit limit. The Bank will confirm your new credit limit in writing and advise you of the date on which it will take effect. When reviewing your Credit Limit the Bank will consider the following objective criteria (which may include positive and negative information):

- Whether you have exceeded the credit limit on your Overdraft Facility; and
- Whether your FRB or Non-FRB Accounts (any credit agreement with any credit provider) reflect any of the following consumer credit information on the credit bureaux:
  - Any changes to your payment profile (your payment history in respect of a particular transaction);
  - Adverse classifications of consumer behaviour (subjective classifications of consumer behaviour and include classifications such as 'delinquent', 'default', 'slow paying', 'absconded' or 'not contactable');
  - Adverse classifications of enforcement action (classifications related to enforcement action taken by the credit provider, including classifications such as 'handed over for collection or recovery', 'legal action', or 'write-off');
  - Civil court judgments;
  - Administration orders; and
  - Sequestrations.

Based on the review the Bank may adjust your Credit Limit, by decreasing it. You will receive written notice of the changed Credit Limit from the Bank no later than 30 (thirty) business days after the day the change takes effect.

### 3. Exceeding your credit limit

We may refuse to authorise transactions if you have exceeded your credit limit on your Credit facility. If we accept a transaction that results in you exceeding your credit limit, it does not mean that we have extended or increased your credit limit on any permanent basis and you are obliged to immediately bring your Credit facility in line with the credit limit we contracted at. We decide the credit limit on the Credit facility and you must ensure that you do not exceed this limit. You are responsible for managing the credit limit on your Credit facility. We may, at our discretion and at any time, reduce the credit limit on your Credit facility. We will notify you at least 5 (five) business days before we reduce your credit limit in terms of this agreement. However, in certain circumstances, we will reduce your credit limit and provide notice of the reduction simultaneously.

### 4. Bank may change the costs of credit

The Bank may change the interest, fees and charges (amount; frequency and time for payment) from time to time. You will receive at least 5 (five) business days written notice of the change from the Bank.

### 5. Acts that will place you in default

The following act will place you in default of this Credit Agreement if you do not rectify them within 15 (fifteen) calendar days of delivery of written notice from the Bank to do so

- Failing to pay any amount owing to the Bank when it is due.

- Exceeding your maximum credit limit.

6. Acts that will place you in breach

Any of the following acts will place you in breach of this Credit Agreement if you do not rectify them within 15 (fifteen) calendar days of delivery of written notice from the Bank to do so:

- Any breach of this Credit Agreement or any other Credit Agreement with the FirstRand Banking Group is committed or allowed by you or a surety (if applicable);
- A judgment is given against you and is not satisfied within 15 (fifteen) business days thereafter;
- You or any surety commit an act of insolvency mentioned in the Insolvency Act 24 of 1936, as amended;
- You or any surety have furnished information in your Credit Agreement application that is incorrect or you have failed to disclose material information that would have influenced the Bank's decision to grant any credit;
- You do or allow anything to be done that may prejudice the Bank's rights or interests;
- If your monthly income is not deposited to your primary RMB Private Bank transactional account linked to this Credit Agreement every month for the duration of your Credit Agreement;
- You or any surety are provisionally or finally sequestrated;
- You or any surety sell the whole or a major portion of your business or assets; or
- You or any sureties apply for assistance in terms of the Agricultural Credit Act 28 of 1966 as amended.

7. Steps the Bank can take if you default or in breach

- If you are in default or breach of this Credit Agreement, the Bank may take the steps set out in Part C of Chapter 6 of NCA.
- If you are in default or breach of this Credit Agreement, then without affecting the Bank's other rights in contract or law, the outstanding principal debt plus interest (where applicable) and other fees and charges will become immediately payable as from the date of default or breach.
- The Bank can also at any time when you commit an act of default or breach terminate this Credit Agreement and claim the full outstanding amount you owe under this Credit Agreement immediately without affecting any of its other rights.
- The Bank may place a hold on your credit facility without notice to you, which means that you will no longer have access to the credit facility.
- The Bank may reduce the credit limit on your credit facility and provide you with notice of the reduced limit.
- The following process will be followed if you are in default under this Credit Agreement:
  - The Bank will inform you of this in writing in the form of a section 129(1)(a) notice. The notice will give you at least 10 (ten) business days to do one of the following: a) rectify the default e.g. make the required payments; b) refer this Credit Agreement to a debt counsellor to develop and agree on a plan to bring the payments under this Credit Agreement up to date; c) refer the matter to a registered and accredited Alternative Dispute Resolution Agent, Consumer Court or Ombudsman with jurisdiction to resolve a dispute.
    - If you are in default for more than 20 (twenty) business days and you don't rectify the default or use the other options given to you in the section 129(1)(a) notice within the 10 (ten) business days, the Bank may take legal action against you, and if successful get a judgment against you.
    - If this Credit Agreement is being reviewed under Section 86 of the NCA (debt review) and 60 (sixty) business days after the date on which you applied for the debt review has passed and you are in default of this Credit Agreement, the Bank may give notice to terminate this Credit Agreement from the debt review process under section 86 (10). The Bank may not terminate this Credit Agreement from the debt review process if an application for the debt review has already been filed (meaning issued by the relevant court or National Consumer Tribunal, served on the Bank and filed) at court or in the National Consumer Tribunal.

8.

Default Administration Charges that will apply

Default Administration Charges are charged to you by the Bank to cover administration costs it paid or must pay because you did not pay on time or at all i.e. you defaulted on any of your payment obligations under this Credit Agreement. Default Administration Charges can be charged for each necessary letter written under Part C of Chapter 6 of the NCA (National Credit Act 34 of 2005) (Section 129(1)(a) default notice and Section 86(10) termination

notice). Default Administration Charges will be equal to the amount payable for a registered letter of demand in undefended actions under the Magistrates Court Act 1944 in addition to any reasonable and necessary expenses paid or payable to deliver such letter.

#### 9. Explanation of Collection Costs

Collection Costs are charged to you by the Bank to enforce a monetary obligation under this Credit Agreement. Collection Costs incurred by the Bank to collect the debt will be limited by Part C of Chapter 6 of the NCA and the Supreme Court Act 1959; the Magistrates' Court Act 1944; the Attorneys Act 1979 or the Debt Collector's Act 1998 whichever applies to the enforcement of this Credit Agreement. The Bank may claim legal costs from you on an attorney and client scale.

#### 10. How we share and obtain information with/from Credit Bureaux

The credit bureau provides a credit profile on persons and possibly a credit score on the credit worthiness of persons. You have the right to contact any credit bureau to ask for information about your credit record and to correct any information that is incorrect. You agree that the Bank can share the following with credit bureau and other divisions of the Bank:

- Information about your non-compliance with the terms and conditions of this Credit Agreement,
- Information about your application for credit; the opening of the account and your termination or our termination of this Credit Agreement.

You will receive at least 20 (twenty) business days written notice of the Bank's intention to submit adverse information about you to a credit bureau. We obtain and share information with the following credit bureaux:

- TransUnion ITC- Tel: 0861 482 482;
- Experian Bureau (Pty) Ltd- Tel: 0861 105 665;
- Expert Decision Systems (XDS)- Tel: 0860 937 000; and
- Compuscan - Tel: 0861 514 131.

For the Bank to consider your application for any RMB Private Bank products or services or continue a relationship with you, you agree that the Bank may - as part of the Bank's normal checking and account maintenance processes – do the following:

Get certain of your personal information from any other party (e.g. a credit bureau or a government agency).

Disclose some of your personal information to these parties to get the information the Bank needs. If the Bank does this the Bank will never disclose or ask for more information than the Bank needs. For more information about the RMB Private Bank Privacy Policy and practices please visit [www.rmbprivatebank.com](http://www.rmbprivatebank.com).

#### 11.

You and the Bank have the right to terminate the Credit Agreement

- You can end this Credit Agreement at any time by paying the Bank the full amount you owe ("the settlement amount").
- The Bank can terminate this Credit Agreement if you are in default of your agreement or if you breach any terms of this agreement, or if your estate is provisionally or finally sequestered or placed under administration or debt counseling.
- We may, at our discretion, end this agreement and/or your right to use the Overdraft Credit facility and we will inform you of the reason. We reserve the right to end the Overdraft Credit facility agreement if you do not pay us any amount due on time or at all.
- When your Overdraft Credit facility end, the full amount you owe us will immediately become due and payable.

#### 12. Early Settlement

You are entitled to terminate this agreement by settling the amount outstanding in full, in respect of your Credit Agreement at any time with or without advance notice to the Bank. The amount required to settle your Credit Agreement is the total of the following amounts:

- The total unpaid balance of your Credit Agreement at the time; and
- The unpaid interest charges and all other fees, charges and insurance premiums payable by you to the Bank up to the settlement date.

The Bank will give you a statement showing the settlement amount at no charge within 5 (five) business days of you requesting it. The statement of the settlement amount will be valid for 5 (five) business days after delivery.

#### 13 You have the right to make complaints

You have the right to:

- Refer any matter or dispute including those relating to allegations of reckless lending about the Bank to an ombudsman with jurisdiction;
- File a complaint about any alleged contravention of the NCA or alleged reckless lending with the National Credit Regulator;
- Make an application to the National Consumer Tribunal if allowed by the NCA.

The contact details to file complaints are:

- The Bank: Telephone Number: 087 343 1295 / 6 E-mail: [ClientServiceInterventions@rmbprivatebank.com](mailto:ClientServiceInterventions@rmbprivatebank.com) Webpage: [www.rmbprivatebank.com](http://www.rmbprivatebank.com)
- The Ombudsman for Banking Services: Telephone Number: 0860 800 900 Webpage: [www.obssa.co.za](http://www.obssa.co.za)
- The Credit Ombudsman: Telephone Number: 0861 662 837 Webpage: [www.creditombud.org.za](http://www.creditombud.org.za)
- The National Credit Regulator: Telephone Number: 0860 627 627 Webpage: [www.ncr.org.za](http://www.ncr.org.za)
- The National Consumer Tribunal: Telephone Number: 012 294 1450 Webpage: [www.nct.org.za](http://www.nct.org.za)

14. You have the right to pay early

You may prepay any amount you owe the Bank under this Credit Agreement. The Bank will accept any payment under this Credit Agreement when it is made even if that is before the date on which the payment is due. The Bank will credit each payment made under this Credit Agreement or in terms of a judgment granted based on the Credit Agreement as follows: firstly to cover any interest charges owing; secondly to pay any fees or charges owing and thirdly to reduce the amount of the outstanding principal debt. Payments and early payments made and allocated will not be refunded. All funds deposited into the Overdraft Credit Facility will only be made available once it has been cleared.

15. You have the right to apply for Debt Review

You have the right to apply to a debt counselor for Debt Review in the prescribed manner and form to have yourself declared over-indebted. The debt counsellor may require you to pay a prescribed application fee. The debt counsellor will notify all your Credit Providers and every registered credit bureau of the application for debt review. The debt counsellor must determine in the prescribed manner and within the prescribed time whether you appear over-indebted and upon your request whether any of the Credit Agreements appear to be reckless. The debt counsellor's assessment may reveal that you are not over-indebted; experiencing or likely to experience difficulty in paying what you owe under Credit Agreements in a timely manner or are over-indebted. If the debt counsellor rejects your application for debt review then you may, with the permission of the Magistrates' Court, apply to the Magistrates' Court to be declared over-indebted.

16. Addresses where you and the Bank will receive legal and other notices

You agree that the Bank may send you any communication, which includes any document, form or notice by hand, ordinary mail, prepaid registered mail; fax; e-mail; sms; mms; RMB Private Bank Online notification; RMB Private Bank App notification; printable webpage and/or any other electronic communication method. A section 129(1)(a) default notice or section 86(10) termination of debt review notice will be delivered to you by prepaid registered post and/ or by hand. Documents, forms, notices or processes that the Bank must by law serve on you will be served at your physical address as recorded in the Quotation. (This is your *domicilium citandi et executandi* address, your chosen address to receive legal documents.)

Any legal notice, form, document or process you want to send to the Bank must be delivered to the following address: 3<sup>rd</sup> Floor; 1 First Place; Bank City; Corner Simmonds and Pritchard Streets; Johannesburg; 2001. Either you or the Bank may change the above addresses (to another address by giving each other written notice (by hand or prepaid registered mail) of the new address. Notice must be given of the change at least 10 (ten) business days before the change will apply.

A document; form; notice or process will be treated as having been received by the party to whom it was sent:

- If delivered by hand during normal hours – on the date it was delivered.
- If posted by prepaid registered mail – at 10h00 on the fourth day after the post office issued the registration receipt.
- If posted by ordinary mail – at 10h00 on the fourth day after the document is posted.
- If sent by fax – on the date shown on the receipt the fax machine generates.
- If sent by e-mail or printable webpage – on the date on which the notice was e-mailed.

17. Changes to the Credit Agreement must be recorded and agreed to by both parties

No changes to the terms or conditions of this Credit Agreement will be legally binding unless it is recorded, signed by both parties or voice-logged. A change to an existing Credit Agreement, or a deferral or waiver of an amount under

an existing Credit Agreement, is not to be treated as creating a new Credit Agreement if the change, deferral or waiver is made according to the NCA or this Credit Agreement.

18. Your and our right to cede and delegate our rights and duties under the Credit Agreement  
You may not cede any rights or delegate any obligations in terms of your Credit Agreement without the Bank's prior written consent. The Bank may, at any time and without notice to you, cede, delegate or assign any of its rights or obligations in terms of this Credit Agreement.

19. You agree that the Magistrates Court will have jurisdiction  
Under section 45 of the Magistrates Court Act 1944 you consent to the Bank enforcing this Credit Agreement in a Magistrates' Court that has jurisdiction. The Bank may still at its discretion enforce this Credit Agreement in the High Court of South Africa or any other court with jurisdiction.

20. Bank does not waive its rights  
While the Bank may allow you extra time to comply with your obligations under the Credit Agreement or decide not to exercise some or all of the Bank's rights under the Credit Agreement, the Bank can still insist on the strict application of any or all of the Bank's rights at a later stage. You must not assume that this means that the Bank's Credit Agreement with you has been changed or that it no longer applies to you.

21. Bank's rights to Set-Off your debts  
If the law allows, the Bank has the right, if necessary where you are in default or breach of this Credit Agreement, to do any of the following: Place any of your funds (credits) on hold until it has a discussion with you about any amount you owe the Bank; or Set-off any outstanding amounts that are due and payable against funds (credits) available in other accounts you have with the Bank. The Bank will notify you if it Sets-off funds in any of your accounts.

22. Evidence of what you owe  
A certificate signed by any authorised employee of the Bank (whose appointment; authority or signature the Bank does not have to prove) will be evidence of this Credit Agreement with you, your account, what you owe the Bank, the interest rate (where applicable) that applies and any other matter arising from this Credit Agreement with you, unless you can prove otherwise.

23. Affordability and Credit Assessment  
Under the NCA the Bank must assess if you can afford this Credit Agreement. To do this you agree that the Bank will rely on the information you gave it or the information which you confirmed as correct when you applied for this Credit Agreement. If you did not give the Bank all the information it required or if you lied or withheld information or confirmed incorrect information, the Bank has a complete defence against an allegation of reckless credit.

24. Consequences of a court finding portions of this agreement are not lawful  
Each and every clause of this Credit Agreement is severable from the others. This means that if any one or more of the clauses are held to be invalid, the rest of the agreement will still apply to the extent that the NCA allows for this.

25. Definitions:

NCA: The National Credit Act 34 of 2005.

Business Days: Excludes Saturdays, Sundays and official public holidays.

Available Balance: The credit balance less the amount of uncleared funds deposited and the amount of funds reserved for other purposes. (Note: that any funds reserved for point of sale transactions will only be processed against your transactional account when the merchant has successfully banked transactions with their bank. Until this occurs, it is your responsibility to monitor your transactional account, and not to use those reserved funds).

26. Headings

The headings in clauses are provided for convenience only and must not be used to interpret this Credit Agreement.