

**Terms and Conditions of the Ackermans Account Card and Credit Facility facility  
with  
Tenacity Financial Services, a division of Pepkor Trading (Pty) Ltd.**

The credit facility is granted by Tenacity that shall be governed by the following terms and conditions to which you must always adhere, as they constitute a binding agreement between you and Tenacity.

**1. What we mean**

- 1.1. 'agreement' means, these terms and conditions as well as the pre-agreement quotation which together will constitute a credit agreement in terms of NCA;
- 1.2. 'accountholder' means the person who has applied for and has been granted a credit facility by Tenacity;
- 1.3. 'account' means the credit facility opened in the name of the accountholder;
- 1.4. 'credit facility' means the total amount of credit approved by Tenacity to be utilised by the accountholder for the purchase of goods from any participating branches by utilising the card as a method of payment;
- 1.5. 'card' means the A-Plus plastic card issued to you, the accountholder, by us, which you must use to access your credit facility;
- 1.6. 'A-Plus' means the card acceptance brand for the participating branches.
- 1.7. 'participating branches' means the branches of Ackermans, Dunns, Shoe City, Refinery and John Craig stores in Namibia that display the A-Plus acceptance sign;
- 1.8. 'Processing' means any uses of or activities relating to personal information, including (a) collecting, receiving, recording, organisation, storing, consulting, updating or changing information; (b) sending the information; (c) merging, linking, blocking, or deleting the information;
- 1.9. 'you' or 'your' includes the accountholder and any additional cardholder/s;
- 1.10. 'we' or 'us' means Tenacity who is the credit provider and duly registered as such in terms of NCA;
- 1.11. 'Tenacity' means Tenacity Financial Services, a division of Pepkor Trading (Pty) Ltd, Credit Provider NCRCP 13053, Address : 31 Industrie Street, Kuils River, 7579
- 1.12. 'TRR' means 'Tenacity Reference Rate' being the reference rate determined by Tenacity which shall be the maximum interest rate specified in the pre-agreement quote;
- 1.13. 'NCA' means National Credit Act, 2005 (Act No. 34 of 2005), and the regulations promulgated thereunder, as amended from time to time;

**2. Applying for a credit facility and the agreement**

- 2.1. Any application for a credit facility is subject to our normal credit approval criteria.
- 2.2. By making application for a credit facility you are applying to enter into an agreement that shall be governed by the terms of the agreement. We have no obligation to approve this application.
- 2.3. Only natural persons may apply for the credit facility.
- 2.4. We will ask you for certain information before we can consider your application for a credit facility. You must provide complete and accurate information.
- 2.5. We must verify your identity and may decline the application if you cannot give us satisfactory proof of your identity.
- 2.6. Upon your acceptance of the pre-agreement quotation, the pre-agreement quotation together with these terms and conditions shall constitute a binding contract between you and us and the pre-agreement quotation shall be deemed to form part of these terms and conditions as the payment schedule required pursuant to the NCA.

### **3. Your card**

- 3.1. Your card is the access to your credit facility.
- 3.2. You must sign your card in ink as soon as you receive it. Use the space provided at the back of the card.
- 3.3. The account holder may have additional cards linked to the account if application for these additional cards has been approved by us. The account holder will be liable for all amounts owing through the use of the main and additional cards.
- 3.4. The issue of additional cards will not increase the credit limit we allow on the credit facility.
- 3.5. Tenacity will always remain the owner of the card/s.

### **4. Your credit facility**

- 4.1. We decide the credit limit on the account (which may be varied from time to time) and you must ensure that you and any additional cardholders do not exceed this limit.
- 4.2. We have the right to reduce or cancel your credit facility at any time of which you shall be notified.
- 4.3. We may refuse to authorise purchases through using your credit facility for any reason whatsoever, including if you have exceeded your credit limit.
- 4.4. If we accept to process a transaction that results in you exceeding your credit limit, it does not mean that we have extended or increased your credit limit. Any such extension will be a temporary increase of your credit limit in order to allow the specific transaction.

### **5. Your credit limit**

- 5.1. You may, by written notice, ask us to reduce your credit limit.
- 5.2. You may by written notice authorise us to apply annual increases to your credit limit, or withdraw that authorisation. Any increase of your credit limit will be in our sole discretion.
- 5.3. You may not make any purchases or obtain any services that will cause you to exceed your allocated credit limit.
- 5.4. We may, within our sole discretion and at any time, reduce the credit limit allocated to your account.
- 5.5. Your credit limit will be reflected on your monthly statement.

### **6. Using your card**

- 6.1. Only the account holder in whose name the card has been issued may use the card.
- 6.2. The card may only be used at any participating branch. The list of participating branches may be changed from time-to-time, which will be communicated to you.
- 6.3. You may use the card to pay for goods and services at any participating branch. You must sign a transaction slip when making a purchase.
- 6.4. You may not use the card for any other transactions.
- 6.5. We will not be liable if any participating branch refuses to accept or honour your card when making a purchase.
- 6.6. Should you wish to return your purchase to any participating branch such return(s) will be subject to the participating branch's standard returns policy. Your account will be credited with the amount of the purchase returned provided such return is in accordance with the standard returns policy of and accepted by the participating branch.
- 6.7. You acknowledge and agree that your use of the card may be suspended and/or terminated at any time for any reason whatsoever and that we shall have no liability of whatsoever nature and howsoever arising in consequence of any such suspension and/or termination.

## **7. Safekeeping and unauthorised use of your card**

- 7.1. You are responsible for the safekeeping and proper use of your card.
- 7.2. Notify us immediately at the Tenacity Service Centre on 0860 900 100 or 021 9281040 if your card is lost or stolen. We will stop further transactions on the card as soon as is reasonably possible after being advised that the card is lost or stolen.
- 7.3. You will be responsible for all transactions made with the card before we stop future transactions on the card in terms of 7.2 whether or not you have authorised such transactions.
- 7.4. You will nevertheless be responsible for all transactions made with the card after you have reported your card as lost or stolen if –
  - 7.4.1. your signature appears on the voucher, sales slip or similar record of the participating branch; or
  - 7.4.2. other evidence, to our satisfaction, is obtained which indicates you authorised or were responsible for the particular use of the credit facility after the card was reported lost or stolen.

## **8. Malfunction of electronic facilities**

We are not responsible for any loss arising from any failure, malfunction or delay in any electronic point of sale device, EDC terminal, or our supporting or shared networks, where applicable, resulting from circumstances beyond our reasonable control.

## **9. Authority to debit your account**

- 9.1. Your account will be held with Tenacity and administered at our Cape Town offices.
- 9.2. You will remain liable for any amount owing on the account until it is credited by instalments actually received and cleared.
- 9.3. Any purchases made with your card, will be charged to the account, whether or not the transaction slip of the participating branch has been signed by you.
- 9.4. We will not be liable if a transaction processed at a participating branch is not authorised by you and you will remain liable for any amount that has been debited to the account as a result of a transaction of this nature.

## **10. Payment schedule**

The pre-agreement quotation which has been presented to you together with these terms and conditions, sets out the information relating to the credit extended to you, the frequency of payments, the number of payments, the date of the first and last payment, all of which assumes maximum utilisation of the credit facility granted to you.

## **11. Interest and other charges**

- 11.1. Subject to the provisions and limitations of the NCA, we will determine the monthly services fees and interest rate, which will apply to your account and show this detail on your monthly statement. We are entitled to levy services fees at the maximum annual or monthly rate as permitted in terms of the NCA. The initial monthly service fees will be disclosed at the time of your application for a credit facility.
- 11.2. The interest rate is a variable rate that is linked to the TRR and changes to that rate may result in changes to the rate at which interest is charged on your account.
- 11.3. You will be advised within 30 days through your statements of changes to the interest rate.
- 11.4. Interest will be calculated on a daily basis and compounded monthly on the full outstanding balance of your account from time to time. This interest is then added monthly to the outstanding balance of your account.

- 11.5. Tenacity reserves the right to charge an account initiation fee which will be disclosed to you upon application for a credit facility.

## **12. The monthly statement and payment**

- 12.1. We will send you a statement every month to your postal address or electronically if this delivery method has been selected by you. The statement will show all transactions made on the account up to the date of the statement.
- 12.2. The statement will show both the full and minimum amounts payable to us, on or before the due date shown on the statement.
- 12.3. You must advise the Tenacity Services Centre in writing or telephonically at the numbers referred to in 7.2 within 30 days of the date of the statement should you believe the statement to be incorrect. Otherwise it will be deemed that the statement is correct.
- 12.4. You should contact the Tenacity Service Centre should you not receive a monthly statement. Failure to receive a monthly statement will not entitle you to refuse or fail to pay any amount that is due on the account.
- 12.5. We may verify and confirm any record of a payment into the account. Our records will be taken as correct unless the contrary is proved by you.
- 12.6. The account will be credited immediately with any payment made into it, but the credit facility will only be increased once the payment has been cleared.
- 12.7. All payments to your account will first go towards the payment of interest, then to service fees and charges, and finally to the principal debt.
- 12.8. You must pay at least the minimum amount as well as any arrears reflected on your statement by the due date.
- 12.9. You may also repay any amount owing at any time, notwithstanding the instalment reflected on your statement.
- 12.10. You may pay at any participating branch, or any other facility that we communicate to you from time to time.
- 12.11. If you fail to comply with your payment terms or any other of the conditions of the agreement, or your estate is sequestrated, or you pass away, or you make false disclosures in the application process, then all amounts will, at our election, become due and payable immediately and your credit facility will be closed.
- 12.12. The method of payment that you choose will be at your own risk and we will only recognise the payment when we receive and process it and once it has been cleared.

## **13. Legal and other Costs**

- 13.1. If your account goes into arrears or if you are in breach of any other provision of the agreement then we may take any or all of the following actions:
- 13.1.1. you will be charged with default administration charges relating to any debt collection activities which will include letters and telephone calls made through the month whilst you are in arrears which will not exceed the limits allowed in terms of NCA;
- 13.1.2. your default status will be noted on the credit bureau which could negatively affect your credit record;
- 13.1.3. we will suspend your credit facility and give you notice that we intend to close your account on which your full balance will become immediately due and payable;
- 13.1.4. your account will be handed over to an external debt collection agency for the recovery of the arrear amount and you will be charged with these costs.

- 13.2. If we institute legal action against you, you will be liable for all legal costs, which will include but not be limited to legal costs on an attorney and client scale, all collection and tracing costs; revenue stamps and sheriff costs, and related value added tax charges. These will be debited to your account.
- 13.3. Judgement may also be taken against you.

#### **14. Certificate of Indebtedness**

A certificate signed by any of our managers whose appointment and authority need not be proven in which the amount of your indebtedness to us and the interest rate applicable to your credit facility is stated, shall be accepted as prima facie proof of your indebtedness in any legal proceedings and shall be regarded as correct unless you prove the contrary.

#### **15. Consent to Jurisdiction**

In terms of section 45 of the Magistrates' Courts Act, 32 of 1944, you hereby consent that we may institute any legal proceedings that have to do with this agreement or your account, in any Magistrate's Court, which in terms of section 28 of the Magistrates' Courts Act, has jurisdiction over you. We can however choose to institute action against you in any other courts having jurisdiction.

#### **16. Your options**

- 16.1. It is acknowledged that, in terms of your application for a credit facility you have been presented with a choice of selecting any of the following options –
  - 16.1.1. to decline an option of pre-approved annual credit limit increases as provided for in section 119(4) of the NCA;
  - 16.1.2. to be excluded from any –
    - 16.1.2.1. telemarketing campaign that may be conducted by or on behalf of us;
    - 16.1.2.2. marketing or customer list that may be sold or distributed by us, other than as required by the NCA;
    - 16.1.2.3. any mass distribution of email or sms messages.

#### **17. Information consent**

- 17.1. Unless you, the account holder, indicated otherwise on your application form, you consent to:
  - 17.1.1 the Processing of your personal information ("PI") by Ackermans and other companies in the Pepkor group, any of their operators, commercial partners, agents and sub-contractors (who may be outside South Africa) on the condition that they will keep such information confidential;
  - 17.1.2 the collection of your PI from any other source to supplement the PI which Ackermans has about you;
  - 17.1.3 the retention by Ackermans of your PI for as long as permitted for legal, regulatory, fraud prevention and marketing purposes;
- 17.2. If you have indicated on your application form that Ackermans, Pepkor group companies and its commercial partners may use your PI to communicate with you from time to time regarding products, services, research and special offers that may be of interest or value to you, but choose to be excluded from such direct marketing campaigns in the future, you must advise Ackermans in writing or register a block on any registry which Ackermans is bound by law to recognise. Ackermans will not charge you a fee to update this request on its systems. Ackermans will give effect to any changes requested by you as soon as reasonably possible.
- 17.3. Subject to applicable law, you may access the personal information Ackermans has about you by contacting 021 928 1040 and request that applicable corrections be made.

#### **18. Ending this agreement – by you (section 122 of the NCA)**

You may, at any time, end this agreement and pay the settlement amount to us. You must advise us in writing if you want to close and settle your account. You must destroy (by cutting through the magnetic stripe and account number) and return the card(s) to us with your letter. A card that is not destroyed correctly may still be used and should this happen you will be responsible for the payment of all transactions that may take place.

## **19. Ending this agreement – by Tenacity (section 123 of the NCA)**

- 19.1. If you are in default of this agreement, we may take the steps set out in the NCA (which concerns debt enforcement by repossession or judgement) to enforce and terminate this agreement.
- 19.2. In addition we may –
  - 19.2.1. suspend your credit facility;
  - 19.2.2. close the credit facility granted to you by giving written notice to you at least ten business days before the credit facility will be closed;
  - 19.2.3. revoke or suspend your card or close the account to protect our interests.
- 19.3. At our request you must immediately pay to us the total balance outstanding on the account, including accrued interest and outstanding service fees, if we revoke your card or close the account.
- 19.4. Even if this agreement ends, we will be entitled to rely on the rights acquired under this agreement before it ended.
- 19.5. Notwithstanding any suspension, cancellation and/or termination, this agreement shall remain in effect to the extent necessary until you have paid all amounts outstanding to us.
- 19.6. We may not close or terminate your credit facility solely on the grounds that –
  - 19.6.1. we have declined your request to increase the credit limit;
  - 19.6.2. you have declined an offer from us to increase the credit limit;
  - 19.6.3. you have requested a reduction in your credit limit, unless such a reduction reduces the credit limit to a level at which we would not ordinarily offer or establish credit.

## **20. Consequences of termination**

The unilateral termination of this agreement by us does not suspend or terminate any residual obligations we may have to you under this agreement.

## **21. Early settlement (section 125 of the NCA)**

- 21.1. You are entitled to settle the account by requesting us to close your account and cancel your card at any time with or without advance notice to us.
- 21.2. The amount required to settle the account would be the unpaid balance of the principal debt owing to us at that time together with the unpaid interest and all other service fees and charges payable by you to us up to the settlement date.

## **22. Amendments to terms and conditions**

Other than specifically reserved in terms of these terms and conditions, Tenacity may generally introduce amendments to these terms and conditions subject to the NCA of which you will be notified in writing. Any such amendments will be effective twenty one days after we have sent the proposed amendments to you. If you are dissatisfied with the amendments you may invoke the provisions of 18 above.

## **23. Addresses for notices**

- 23.1. The physical address you provide when applying for the credit facility will be regarded as your chosen address where notices may be given and documents in legal proceedings may be served. You must notify us in writing immediately if your chosen address changes. Such notification should be mailed to P O Box 140, Kuils River, 7579 or e-mailed to [ackermans@tenacityinc.co.za](mailto:ackermans@tenacityinc.co.za),
- 23.2. You should send any legal notice to us at our chosen address provided above.

## **24. General**

- 24.1. South African law governs these terms and conditions.
- 24.2. Any indulgence or concession we may give you will not affect any of our rights against you.
- 24.3. We monitor and record all our telephone calls and other interactions with you.
- 24.4. We may cede, assign or transfer our rights and obligations under this agreement or arrange for any other person to carry out any of our rights or obligations under this agreement without your consent and without notice to you.
- 24.5. You have the right to resolve a complaint by way of alternative dispute resolution as provided for in the NCA.
- 24.6. You have the right to apply to a debt counsellor for debt review or to be declared over-indebted. In this regard, the National Credit Regulator can be contacted for debt counsellors' details at: (contact number 0860 627627).
- 24.7. You must immediately tell us if you are under an administration order, become insolvent, or have any other form of legal disability.
- 24.8. You can file any credit related complaints with the National Credit Regulator (contact number 0860 627627) or make application to the National Credit Tribunal.