



## **CREDIT APPLICATION**

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PREMIER RAINWATERGOODS (PTY) LTD

APPLICATION FOR CREDIT FACILITIES COMPRISING THE TERMS AND CONDITIONS OF SALE (INCORPORATING A DEED OF SURETYSHIP BY THE SIGNATORY/IES AS WELL AS A GENERAL CESSION OF DEBTORS BETWEEN PREMIER RAINWATERGOODS (PTY) LTD ("PREMIER") AND THE APPLICANT AS REFERRED TO BELOW ("THE APPLICANT"))

Applicant's Trading Name : \_\_\_\_\_

Applicant's Registration Number : \_\_\_\_\_

Applicant' VAT Number : \_\_\_\_\_

Nature of Business : \_\_\_\_\_

Date established : \_\_\_\_\_

Private company: \_\_\_\_\_ Public Company: \_\_\_\_\_ Close Corporation: \_\_\_\_\_

Partnership: \_\_\_\_\_ Sole Trader: \_\_\_\_\_ Other: \_\_\_\_\_

Postal Address : \_\_\_\_\_

\_\_\_\_\_ Code: \_\_\_\_\_

Physical Address : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: : \_\_\_\_\_

Fax Number : \_\_\_\_\_

Cellular Number: : \_\_\_\_\_

Directors / Partners / Members : \_\_\_\_\_

Full Names	ID Number	Residential Address	Tel No

Estimated monthly purchases : R \_\_\_\_\_

Details of Premises: Owned: \_\_\_\_\_ Rented: \_\_\_\_\_

\_\_\_\_\_

Name of owner or landlord (if rented) : \_\_\_\_\_

Credit limit required : \_\_\_\_\_  
 (It is agreed that Premier shall not be bound or prejudiced by the amount of the credit limit requested or should Premier allow the amount thereof to be exceeded at any time).

Payment terms required : \_\_\_\_\_  
 (If differing from the terms stipulated in clause 1 below)

Trade references:

Company:	Tel No:	Contact Person:

Banking details:

Bank where account is held : \_\_\_\_\_

Branch where account is held : \_\_\_\_\_

Account number : \_\_\_\_\_

Auditors:

Name and address : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number : \_\_\_\_\_

Contact Person : \_\_\_\_\_

#### APPLICANT INFORMATION

Applicant's Trading Name : \_\_\_\_\_

Applicant's Registration Number : \_\_\_\_\_

Applicant's VAT Number : \_\_\_\_\_

Nature of Business : \_\_\_\_\_

Date established : \_\_\_\_\_

Postal Address : \_\_\_\_\_  
 \_\_\_\_\_ Code: \_\_\_\_\_

Delivery Address : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Telephone Number: : \_\_\_\_\_

Fax Number : \_\_\_\_\_

Cellular Number: : \_\_\_\_\_

Owner : \_\_\_\_\_ : Tel No: \_\_\_\_\_  
 \_\_\_\_\_  
 Cellphone: \_\_\_\_\_  
 E-mail address: \_\_\_\_\_

**ALL SALES OF GOODS / RENDERING OF SERVICES / FINANCIAL ASSISTANCE TO THE APPLICANT BY PREMIER  
 ARE AND SHALL BE CONCLUDED IN TERMS HEREOF**

1. Terms of payment are 30 (THIRTY) DAYS FROM DATE OF INVOICE unless where otherwise stipulated in the application particulars above. Payment terms are strictly to be adhered with as agreed with no prior demand being required, **the Applicant agreeing that punctual payment is an express and material term of this Agreement.** It is expressly recorded that time is of the essence in as far as payment by the Applicant to PREMIER is concerned. Should PREMIER agree to grant a trade - or settlement discount, such discount shall only apply where full payment is received in accordance with the terms and conditions thereof and, should payment be made by cheque, such cheque is subsequently cleared for payment in the normal course and without undue delay, upon first presentation. Should PREMIER, either by cession or by any other arrangement, accept- or agree to accept payment from any third party for credit the account of the Applicant, then no failure by PREMIER to procure payment from such third party, either by not complying with any prescribed/agreed procedure or otherwise whatsoever, shall result in the release of the Applicant from the Applicant's payment obligations towards PREMIER.
2. The Applicant hereby acknowledges that should any amount not be paid on due date, the full amount owing by the Applicant to PREMIER shall immediately become due and payable without any notice of whatsoever nature, notwithstanding that any amount may, as at that date, not otherwise yet be due. Should the National Credit Act, 34 of 2005, not apply to this Agreement by virtue of the provisions / exemptions of Section 4(1) (a) and/or (b) of the National Credit Act, then the Applicant shall pay interest on all overdue amounts at 2,5% per month, compound, calculated and capitalized monthly in arrears. The Applicant further agrees that in the event of its default in any respect whatsoever towards PREMIER, PREMIER shall be entitled, without prejudice to any of it's other rights, to cancel or suspend further supply of goods or services without any notice.
3. The Applicant acknowledges that notwithstanding any sale of its business and notwithstanding due notice of the sale in terms of the Insolvency Act, the Applicant shall remain liable to discharge it's debts to PREMIER in full.
4. In the event of PREMIER instructing its attorneys to collect any amounts or to institute any form of legal action, application or arbitration (including for interim relief) against the Applicant based upon any cause of action whatsoever, all legal fees, collection charges, tracing agent's fees, party and party costs as well as attorney and own client costs (including the fees of any counsel employed by PREMIER and such advocate's preparation costs and costs of preparing pleadings) shall be borne by the Applicant from the date of such instruction whether legal proceedings are commenced or not, and all payments made shall firstly be allocated towards such fees, costs and charges, thereafter to interest and finally to capital; the intention being that PREMIER be fully indemnified.
5. PREMIER may, at it's option, institute proceedings against the Applicant for the recovery of any amounts owing to PREMIER in the Magistrates Court otherwise having jurisdiction, notwithstanding that the amount of that claim may exceed the normal jurisdiction of the Magistrates Court, this document constituting the required consent by PREMIER and the Applicant to the jurisdiction of the Magistrates Court in accordance with Section 45 of the Magistrates Court Act, should PREMIER elect to proceed in the Magistrates Court
6. In the event of the Applicant disputing any amounts due by it to PREMIER, which dispute must be *bona fide*, then the Applicant shall only be entitled to withhold payment of the amount in dispute and shall not be entitled to withhold any other payments then due by the Applicant to PREMIER.
7. A certificate issued by an accountant of PREMIER will be sufficient proof of all amounts owing by the Applicant and, should the Applicant dispute such certificate, the Applicant shall bear the onus of proof.
8. All goods remain the sole and absolute property of PREMIER until full payment has been received by PREMIER in respect of any such goods supplied to the Applicant, the Applicant hereby irrevocably consenting- and authorising PREMIER or the duly authorised representative of PREMIER to take and remove any such goods wherever same may be found should the

Applicant fail to comply with the provisions of this application. Risk in and to the goods shall pass over to the Applicant upon delivery thereof. All quotations, offers, sales and deliveries are subject to the express condition that PREMIER shall not be liable for any consequential loss, damage or delay to the Applicant or any other person arising from *vis maior, casus fortuitous*, act of State, breakdown of equipment, labour dispute, war, riot, civil commotion, transport delay or any other cause/s beyond the control of PREMIER. Goods correctly despatched for delivery are not returnable unless where the goods delivered to the Applicant does not in all material respects and characteristics correspond to any description or sample provided by PREMIER upon which the Applicant has solely agreed to purchase such goods and the Applicant shall inform PREMIER of such failure to correspond within 24 (twenty four) hours from the date of delivery of the goods to the Applicant. Where PREMIER in its sole discretion agrees to goods being returned for credit in any other instance, the Applicant shall be liable for a 10% (ten percent) handling charge; and only goods returned which PREMIER approves as fit for the purpose manufactured will be credited to the Applicant's account.

9. No amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation of these terms and conditions, or any of them (including this clause), whether consensual or unilateral or bilateral shall be of any force and effect unless reduced to writing and signed by an authorised representative of PREMIER. No agreement, whether consensual or unilateral or bilateral, purporting to obligate PREMIER to sign a written agreement to amend, alter, vary, delete, add or cancel these terms and conditions shall be of any force and effect unless reduced to writing and signed by an authorised representative of PREMIER. However, PREMIER shall at any time or times by written notification to the Applicant at the Applicant's domicilium address in terms hereof ("the notice") be entitled to amend and/or vary and/or alter and/or delete and/or add to and/or cancel these terms and conditions with regards to transactions concluded after the date of receipt of the notice and should the Applicant decide not to accept any such amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation, the Applicant shall be entitled, within 7 (seven) days after the receipt of the notice, in writing to PREMIER at its business address to cancel this agreement and, failing which cancellation, the Applicant shall be bound by any such amendment and/or alteration and/or variation and/or deletion and/or addition and/or cancellation. No warranties, representations or guarantees have been made by PREMIER or on its behalf which may have induced the Applicant and/or the surety/ies to sign this document. An expression in this document which denotes the singular shall include the plural and vice versa; the male shall include the female and vice versa; natural persons shall include legal persons and vice versa.
10. For all purposes under this agreement including giving of any notice, the service of any process and for all other purposes arising from this agreement, the Applicant hereby chooses *domicilium citandi et executandi* at the physical address of the Applicant as stipulated on the application for credit facilities and/or any place of business or residence of the Applicant, hereby undertaking to notify PREMIER in writing within 7 days of any such change of address.
11. No relaxation or indulgence granted by PREMIER to the Applicant and/or the surety/ies shall be deemed to be a waiver of any of the rights of PREMIER in terms of this agreement and such relaxation or indulgence shall not be deemed to be a novation of any of the terms and conditions of this agreement.
12. The signatory/ies to this agreement **warrants, guarantees and represents** firstly that the Applicant is legally entitled to conclude this agreement and secondly that the signatory/ies is/are duly authorised by the Applicant to conclude this agreement on its behalf and thirdly that all information furnished in this document, and in support thereof, is true and correct, being the basis upon which PREMIER will consider this application for approval; the Applicant undertakes to notify PREMIER in writing, delivered by hand or registered post, immediately any change to the information in this document comes into effect.
13. In the event of an order being given to PREMIER on the official order form of the Applicant the Applicant shall be estopped from denying the validity of such order notwithstanding the fact that such order may have been signed by a person not authorised to do so.
14. The Applicant consents that PREMIER may use the services and records of any registered credit bureau and other suppliers of information required in the original and future assessment of credit facilities for the Applicant, the Applicant further agreeing that PREMIER may disclose information regarding the Applicant's credit worthiness and conduct of the Applicant's account with PREMIER to any registered credit bureau and other information suppliers.
15. Should the Applicant be a legal entity or other artificial person, then it undertakes to advise PREMIER immediately in writing of any agreement concluded for the change of its shareholding, membership or ownership and, in such event or, if the Applicant fails to advise PREMIER as required in terms hereof, PREMIER reserves the right to suspend its credit terms on written notice to the Applicant until all requirements of PREMIER as a consequence of such change have been met in full.
16. These terms and conditions of sale shall apply to all transactions between PREMIER and the Applicant, notwithstanding that any part or parts of this document may not be completed and/or signed by any person or may be partially completed and/or signed by certain persons.

#### **GENERAL CESSION OF DEBTORS**

17. The Applicant hereby irrevocably cedes, assigns, transfers and makes over unto and in favour of PREMIER all its rights, title and interest in and to all its claims against debtors both present and future and from whatsoever cause arising, as security for all or any amounts which it presently owes to, or may at any time in the future owe to PREMIER. Should it transpire that the Applicant entered into prior deeds of cession or otherwise disposed of the right title and interest in and to any of the debts subject to this cession, then this cession shall operate as a cession of the reversionary rights. The Applicant irrevocably and in rem suam authorises PREMIER in its absolute discretion to give notice to all or any of the debtors, both present and future, of this cession, to claim from all or any of the said debtors the whole of any portion of the indebtedness; to take action in its name in any Court of competent jurisdiction and to proceed to execution thereunder against all or any of the said debtors; to cede, transfer, negotiate, pledge or otherwise deal with all or any of the bills of exchange, promissory notes, cheques, agreements, documents of title or any other security referred to above. The security created by this cession shall be a continuing one notwithstanding any fluctuation in the amount of the indebtedness to PREMIER or even the extinction of such indebtedness. The Applicant hereby undertakes that on demand it shall furnish PREMIER with all such information concerning the debtors as may reasonably be required by it to enable it to recover amounts owing by such debtors.

#### **SURETY**

18. In the event of the Applicant being a legal entity or trust, then the signatory/ies, in addition to so representing the Applicant, hereby bind himself/themselves jointly, and severally as **surety/ies and co-principal debtor/s** in solidum with the Applicant unto and in favour of PREMIER, its order or assigns, for the due and proper fulfilment of all the obligations of and for the punctual payment of all sums which are or may become due by the Applicant to PREMIER in terms of, or in connection with or arising in any way whatsoever out of the purchase by the Applicant from PREMIER of any goods and/or the rendering of services and/or the provision of monetary loans or arising out of any the provisions of this document or arising

from any other cause of action whatsoever, either contractually or delictually, and further upon and subject to the following terms and conditions:

- a.- No act of indulgence, relaxation or grace by PREMIER to the Applicant (including any act of accepting payment after due date or accepting a lesser sum than the amount due) shall prejudice or affect PREMIER's rights in terms hereof.
- b.- PREMIER shall be entitled, without prejudice to its rights and without detracting from the signatory/ies liability hereunder, to release any securities or other sureties given to it or to give time to or compound with or make any arrangements with the Applicant in regard to the fulfilment of any of the Applicant's obligations as PREMIER in its absolute discretion deems fit.
- c.- The Suretyship shall remain in force as a continuing covering security until such time as all the obligations of the Applicant to PREMIER have been duly and properly fulfilled and shall remain in full force and effect notwithstanding any fluctuation in or even the temporary extinction of such indebtedness.
- d.- The Suretyship shall be in addition to and without prejudice to any other suretyship or securities now or hereafter held by PREMIER from or on behalf of the Applicant.
- e.- The amount of the signatory/ies indebtedness hereunder and that of the Applicant to PREMIER at any time, shall be determined and proved by a certificate signed by PREMIER (or by one of PREMIER's Directors or Managers whose appointment, qualification and/or authority need not be proved) and a certificate in terms hereof shall be binding on the signatory/ies, shall be *prima facie* proof of the amount of the signatory/ies indebtedness hereunder and shall be valid as a liquid document against the signatory/ies in any competent court for the purpose of obtaining provisional sentence or judgement against the signatory/ies thereon.
- f.- Should PREMIER cede its claims against the Applicant to any third party, then this suretyship shall be deemed to have been given by the signatory/ies to such cessionary who shall be entitled to exercise all rights in terms of this Suretyship as if such cessionary were PREMIER.
- g.- The signatory/ies hereby: renounce the benefits of *excussionis*, *divisionis* and cession of action, the full meaning and effect whereof the signatory/ies declare to know and understand; choose *domicilium citandi et executandi* at the address of the Applicant in terms hereof: confirm that PREMIER may, at it's option, institute proceedings against the signatory/ies for the recovery of any amounts owing to PREMIER in the Magistrates Court otherwise having jurisdiction, notwithstanding that the amount of that claim may exceed the normal jurisdiction of the Magistrates Court, this document constituting the required consent by PREMIER and the signatory/ies to the jurisdiction of the Magistrates Court in accordance with Section 45 of the Magistrates Court Act, should PREMIER elect to proceed in the Magistrates Court.
- h.- If the Applicant is placed under provisional or final winding up, or sequestration, the signatory/ies liability hereunder shall not be affected in any way.
- i.- If any payment which has the effect of reducing or discharging the signatory/ies liabilities hereunder is set aside under the insolvency laws or by order of Court for any reason whatsoever or if such payment is refunded to the Applicant or the Applicant's trustee or liquidator by agreement, or should any security be set aside by the Court or be released by agreement, the signatory/ies shall be liable to PREMIER in the amount of the Applicant's indebtedness to PREMIER, arising from or revived by the setting aside and/or refund of such payment or the setting aside or release of such security, notwithstanding that the same may take place after termination of the signatory/ies liability hereunder in other aspects and all reference herein to the obligations of the Applicant shall include the indebtedness arising from or revived by the setting aside and/or refund of such payment or the setting aside or release of such security.
- j.- A signatory who is married warrants, guarantees and represents to PREMIER that no consent from such signatory's spouse is required in terms of the Matrimonial Property Act, No 88 of 1984 (as amended) or any other legislation to this effect alternatively such signatory agrees and warrants, guarantees and represents that the signing of this suretyship is performed by such signatory as part of the ordinary course of such signatory's profession, trade or business. Such signatory acknowledges that he/they knows and understand the full meaning and effect of the foregoing.
- k.- The Suretyship shall continue to bind the signatory/ies irrespective of any reconstruction or amalgamation that may be effected by PREMIER with any other company, person or entity, or any change in PREMIER's name or any complete or partial transfer of PREMIER's business and shall survive additionally for the benefit of any new entity so created and for the time being, continuing PREMIER's business or any part thereof as successor or assignee to PREMIER whether or not such new entity has a different name, objectives, character, or constitution from PREMIER. It is the express intent that this Suretyship shall continue to be valid and effectual for all purposes and in all respects in favour of any such new entity or other of PREMIER's successors or assigns as well as PREMIER and may be enforced in the same way to all intents and purposes as if such new entity or other of PREMIER's successors or assigns had been explicitly named and referred to in this Suretyship instead of PREMIER.
- l.- This Suretyship constitutes the entire agreement between the signatory/ies and PREMIER and no cancellation or variation thereof shall be of any force or effect unless it is in writing and signed by both PREMIER and the signatory/ies.
- m.- The signatory/ies acknowledge that no representations whatever have been made to the signatory/ies in order to induce the signatory/ies to sign this Suretyship.
19. PREMIER shall at any time or times be entitled to demand that any other of the directors/members/partners/trustees of the Applicant bind himself/themselves as surety/ies and co-principal debtor/s, *mutatis mutandis* in accordance with clause 18, for the obligations of the Applicant and, failing or refusing which, PREMIER shall be entitled to immediately withdraw all credit facilities and, upon which withdrawal, all amounts then due to PREMIER by the Applicant shall immediately be due and payable.
20. The Applicant and the surety/ies hereby irrevocably records and agrees that the terms and conditions herein set out are fair, reasonable and just in all respects.
21. In the event of any of the provisions herein contained being found to be contrary to the provisions of the National Credit Act or the Consumer Protection Act or otherwise void, voidable, *contra bonos mores* or otherwise unlawful, then any such affected provision shall be divisible from the remainder of the provisions hereof which shall remain of full force and effect.

**I/WE ACKNOWLEDGE HAVING READ THE ABOVE TERMS AND CONDITIONS, AND WITHOUT LIMITING THE GENERALITY THEREOF, ESPECIALLY CLAUSE 17 AND 18, AND AGREE TO BE BOUND BY ALL SUCH TERMS AND CONDITIONS.**

FULL NAME (1): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

PLACE: \_\_\_\_\_

AS WITNESS: \_\_\_\_\_

FULL NAME (2): \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**AS WITNESS:** \_\_\_\_\_

**FULL NAME (3):** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**AS WITNESS:** \_\_\_\_\_